**The Wednesday, September 25th Planning Commission meeting has been cancelled**

LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION
CITY HALL, 6 EAST 6TH STREET, CITY COMMISSION MEETING ROOM
AGENDA FOR PUBLIC & NON-PUBLIC HEARING ITEMS
SEPTEMBER 23 & 25, 2013 6:30 - 10:30 PM

GENERAL BUSINESS:

PLANNING COMMISSION MINUTES

Receive and amend or approve the minutes from the Planning Commission meeting of August 26, 2013.

COMMITTEE REPORTS

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

COMMUNICATIONS

a) Receive written communications from the public.
b) Receive written communications from staff, Planning Commissioners, or other commissioners.
c) Receive written action of any waiver requests/determinations made by the City Engineer.
d) Disclosure of ex parte communications.
e) Declaration of abstentions from specific agenda items by commissioners.

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

REGULAR AGENDA (SEPTEMBER 23, 2013) MEETING
NON-PUBLIC HEARING ITEM:

ITEM NO. 1 PRELIMINARY PLAT FOR HOLCOM SCHOOL SUBDIVISION; 2600 W 25TH ST (SLD)

PP-13-00282: Consider a Preliminary Plat for Holcom School Subdivision, a 1-lot subdivision containing 8.763 acres, located on the east side of Lawrence Avenue and north of the Holcom Park
tennis courts. The property is currently addressed as 2600 W. 25th Street. Submitted BG Consultants, Inc., for USD 497, property owner of record.

PUBLIC HEARING ITEM on Variances Only:

ITEM NO. 2    MINOR SUBDIVISION VARIANCES FOR HASKELL PLACE NO. 4; 2035 BARKER (SMS)

MS-13-00341: Consider Minor Subdivision variances for Haskell Place No. 4, located at 2035 Barker. Variances requested include reducing minimum lot size and waiving requirements to dedicate right-of-way for Barker and construct sidewalk along Rhode Island. Submitted by Grob Engineering Services, LLC, for Architectural Consulting Source, property owner of record.

PUBLIC HEARING ITEMS:
Recess LDCMPC
Convene Joint Meeting with Eudora Planning Commission

ITEM NO. 3    CONDITIONAL USE PERMIT; WATER TREATMENT PLANT; ¼ MILE E OF E 1750 RD & N 1500 RD (MKM)


Adjourn Joint Meeting
Reconvene LDCMPC

ITEM NO. 4    CONDITIONAL USE PERMIT; SEASONAL CAMPING; 1478 N 1700 RD (MKM)

CUP-2-1-10: Consider a Conditional Use Permit to allow seasonal camping accessory to farm operations, on approximately 12 acres, located at and adjacent to 1478 N. 1700 Road. Submitted by Natalya Lowther, property owner of record. Deferred by Planning Commission on 5/26/10.

ITEM NO. 5    UR TO CO; 4.767 ACRES; 4930 OVERLAND DR (SLD)

Z-13-00319: Consider a request to rezone approximately 4.767 acres, including right-of-way, from UR (Urban Reserve) District to CO (Office Commercial) District, located at 4930 Overland Drive and 450 Wakarusa Drive. Submitted by Colliers International on behalf of EBRPH LLC, property owner of record.

ITEM NO. 6    RS7 TO RM12; 2.119 ACRES; 2518 RIDGE CT (MKM)

Z-13-00288: Consider a request to rezone approximately 2.119 acres from RS7 (Single-Dwelling Residential) District to RM12 (Multi-Dwelling Residential) District, located at 2518 Ridge Court. The portion of the property proposed to be rezoned is located on the east half fronting on Cedarwood Avenue. Submitted by Tenants To Homeowners, Inc., for Douglas County, property owner of record.

ITEM NO. 7    RM12D-UC TO CS-UC; .27 ACRE; 804 PENNSYLVANIA ST (MKM)

Z-13-00287: Consider a request to rezone approximately .27 acre from RM12D-UC (Multi-Dwelling Residential with Urban Conservation Overlay) District to CS-UC (Commercial Strip with Urban

**ITEM NO. 8A  IG TO RM32-PD; 1.3 ACRES; 900 DELAWARE ST (MKM)**

**Z-13-00286:** Consider a request to rezone approximately 1.3 acres from IG (General Industrial) District to RM32-PD Overlay (Multi-Dwelling Residential with PD Overlay) District, located at 900 Delaware St. Submitted by Bartlett & West, Inc., for Provident Family, LP, property owner of record.

**ITEM NO. 8B  PRELIMINARY DEVELOPMENT PLAN FOR 9 DEL LOFTS; 900 DELAWARE ST (MKM)**

**PDP-13-00299:** Consider a Preliminary Development Plan and associated modifications for 9 Del Lofts, a multi-dwelling residential development with 43 dwelling units, located at 900 Delaware St. Modification requests are related to the off-street parking requirements, and setback standards. Submitted by Bartlett & West Inc., for Provident Family, LP, property owner of record.

**MISCELLANEOUS NEW OR OLD BUSINESS**

Consideration of any other business to come before the Commission.

**ADJOURN**

**CALENDAR**

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

Sign up to receive the Planning Commission agenda or weekly Planning Submittals via email:  
http://www.lawrenceks.org/subscriptions
August 26, 2013 – 6:30 p.m.
Commissioners present: Britton, Culver, Graham, Josserand, Kelly, Liese, Rasmussen, Struckhoff, von Achen
Staff present: McCullough, A. Miller, Day, Larkin, Leininger, Ewert

MINUTES
Receive and amend or approve the minutes from the Planning Commission meeting of July 22, 2013.

Motioned by Commissioner Rasmussen, seconded by Commissioner Britton, to approve the July 22, 2013 Planning Commission minutes.

    Motion carried 6-0-3, with Commissioners Graham, Kelly, and von Achen abstaining.

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

Commissioner Culver said he attended his first MPO meeting last week and that they received some project memo updates. He said they also discussed the multi-modal transportation studies project and how that was progressing. He said they also made some changes to the metropolitan transportation plan to take into account the new design for the K-10 and US-40 interchange.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST
- No ex parte.
- Abstentions:
  Commissioner Kelly said he would abstain from Items 1A-1G due to his employment by USD 497.
  Mr. McCullough said the school district was part of the application for Items 1A-1G.
ITEM NO. 1A  UR TO RS7; 4.712 ACRES; N OF BOB BILLINGS PKWY & E OF K-10 (SLD)

Z-13-00251: Consider a request to rezone approximately 4.712 acres from UR (Urban Reserve) District to RS7 (Single-Dwelling Residential) District, located north of Bob Billings Pkwy and east of K-10. Submitted by Landplan Engineering PA, for Alvamar Inc., property owner of record.

ITEM NO. 1B  UR TO RS5; 2.674 ACRES; N OF BOB BILLINGS PKWY & E OF K-10 (SLD)

Z-13-00252: Consider a request to rezone approximately 2.674 acres from UR (Urban Reserve) District to RS5 (Single-Dwelling Residential) District, located north of Bob Billings Pkwy and east of K-10. Submitted by Landplan Engineering PA, for Alvamar Inc., property owner of record.

ITEM NO. 1C  UR TO RM12D; 3.195 ACRES; N OF BOB BILLINGS PKWY & E OF K-10 (SLD)

Z-13-00253: Consider a request to rezone approximately 3.195 acres from UR (Urban Reserve) District to RM12D (Multi-Dwelling Residential) District, located north of Bob Billings Pkwy and east of K-10. Submitted by Landplan Engineering PA, for Alvamar Inc., property owner of record.

ITEM NO. 1D  UR TO RM12; 3.349 ACRES; N OF BOB BILLINGS PKWY & E OF K-10 (SLD)

Z-13-00254: Consider a request to rezone approximately 3.349 acres from UR (Urban Reserve) District to RM12 (Multi-Dwelling Residential) District, located north of Bob Billings Pkwy and east of K-10. Submitted by Landplan Engineering PA, for Alvamar Inc., property owner of record.

ITEM NO. 1E  UR & PCD TO OS; 4.182 ACRES; N OF BOB BILLINGS PKWY & E OF K-10 (SLD)

Z-13-00255: Consider a request to rezone approximately 4.182 acres from UR (Urban Reserve) District and PCD (Planned Commercial Development) District to OS (Open Space) District located north of Bob Billings Pkwy and east of K-10. Submitted by Landplan Engineering PA, for Alvamar Inc., property owner of record.

ITEM NO. 1F  UR, PCD, & RS10 TO CN2; 16.619 ACRES; N OF BOB BILLINGS PKWY & E OF K-10 (SLD)

Z-13-00256: Consider a request to rezone approximately 16.619 acres from UR (Urban Reserve District), PCD (Planned Commercial Development) District, and RS10 (Single-Dwelling Residential) District to CN2 (Neighborhood Commercial Center) District located north of Bob Billings Pkwy and east of K-10. Submitted by Landplan Engineering PA, for Alvamar Inc. and Unified School District #497, property owners of record.

ITEM NO. 1G  PRELIMINARY PLAT FOR LANGSTON COMMONS; N OF BOB BILLINGS PKWY & E OF K-10 (SLD)

PP-13-00257: Consider a Preliminary Plat for Langston Commons, approximately 35.745 acres located north of Bob Billings Pkwy and east of K-10. This proposed preliminary plat includes 29 detached residential dwelling lots, 7 duplex lots, 1 multi-dwelling lot, 1 neighborhood commercial lot,
and 2 tracts for open space. Submitted by Landplan Engineering PA, for Alvamar Inc. and Unified School District #497, property owners of record.

**STAFF PRESENTATION**

Ms. Sandra Day presented items 1A-1G together.

**APPLICANT PRESENTATION**

Mr. Brian Sturm, Landplan Engineering, said Langston Commons would be an extension of Langston Heights. He said the placement of streets was the result of a memorandum of understanding that was drafted during the winter between KDOT, Alvamar, and USD 497. He said it was approved by all of those property owners in an effort to provide access to not only the school district property but the property owned by Alvamar in the face of the coming development by KDOT. He said he met with area neighbors in July and it was generally a positive meeting. He said the developer accepted the recommendations and conditions recommended by staff.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Rasmussen inquired about the hiking/biking trail being moved and asked who would be responsible for moving and building the new one.

Ms. Day said she believed it would be KDOT but she was not sure what the construction negotiation was.

Mr. Sturm said as part of the construction of the KDOT interchange the SLT shared use path would be moved. He said the relocation of the path was entirely in the scope of KDOT. He said it would be relocated inside what will be the outer boundary of the Langston Heights preliminary plat, within the Open Space zoned area. He said it would be located within a permanent easement that KDOT would essentially acquire from Alvamar Inc.

Commissioner Rasmussen inquired about access to the path.

Mr. Sturm said there would be three different access easements proposed with the plat that would function to carry pedestrian and bicycle traffic. He showed a diagram on the overhead with the access points.

Commissioner von Achen asked Mr. Sturm to display one of the concept slides on the overhead. She inquired about the transportation overlay district.

Mr. Sturm said the Land Development Code sets out the boundaries and design standards for the K-10 transportation corridor overlay district. He said it was essentially a district that overlays any zoning underneath it and its perimeters start at the center line of the SLT and 500’ in either direction. He said the transportation corridor overlay district required a 500’ wide greenspace easement within any property plated immediately adjacent to SLT right-of-way.

Commissioner von Achen asked about the average number of units per acre and what it included.

Mr. Sturm said it included the net density of all of the residentially zoned property within the preliminary plat. He said the figure takes the gross acreage of properties being zoned and subtracts
out the area devoted to rights-of-way, which equals the net acreage and that number is divided by
the total units.

Commissioner Culver inquired about the memorandum of understanding for Renaissance Drive and
Langston Way.

Mr. Sturm said KDOT, as part of the interchange construction, would construct the first 100’ of street
from Bob Billings Pkwy going north. He said as Langston Commons moved forward, as part of the
final plat and public improvement plans that have to be approved, Langston Way and Renaissance
Drive would be designed and then ultimately paid for essentially by Alvamar, USD 497, and the
developer.

Commissioner Culver said when they talked about Langston Heights in previous meetings they
discussed access to the property to the north as it developed. He asked if that was still the intended
plan.

Mr. Sturm said there had been no change between the developer and the Diamondhead
neighborhood and that all construction traffic for Langston Heights and Langston Commons would
proceed through these properties, not through the existing Diamondhead neighborhood.

**ACTION TAKEN on Item 1A**
Motioned by Commissioner Liese, seconded by Commissioner Graham, to approve the request to
rezone approximately 4.712 acres from UR (Urban Reserve) District to RS7 (Single Dwelling
Residential) District based on the findings presented in the staff report and forwarding it to the City
Commission with a recommendation for approval.

   Motion carried 8-0-1, with Commissioner Kelly abstaining.

**ACTION TAKEN on Item 1B**
Motioned by Commissioner Liese, seconded by Commissioner Graham, to approve the request to
rezone approximately 2.674 acres from UR (Urban Reserve) District to RS5 (Single Dwelling
Residential) District based on the findings presented in the staff report and forwarding it to the City
Commission with a recommendation for approval.

   Motion carried 8-0-1, with Commissioner Kelly abstaining.

**ACTION TAKEN on Item 1C**
Motioned by Commissioner Liese, seconded by Commissioner Graham, to approve the request to
rezone approximately 2.674 acres from UR (Urban Reserve) District to RM12D (Multi-Dwelling
Residential) District based on the findings presented in the staff report and forwarding it to the City
Commission with a recommendation for approval.

   Motion carried 8-0-1, with Commissioner Kelly abstaining.

**ACTION TAKEN on Item 1D**
Motioned by Commissioner Liese, seconded by Commissioner Graham, to approve the request to
rezone approximately 3.349 acres from UR (Urban Reserve) District to RM12 (Multi Dwelling
Residential) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Motion carried 8-0-1, with Commissioner Kelly abstaining.

**ACTION TAKEN on Item 1E**
Motioned by Commissioner Liese, seconded by Commissioner Graham, to approve the request to rezone approximately 4.182 acres from UR (Urban Reserve) and PCD (Bob Billings Parkway Center PCD) District to OS (Open Space) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Motion carried 8-0-1, with Commissioner Kelly abstaining.

**ACTION TAKEN on Item 1F**
Motioned by Commissioner Liese, seconded by Commissioner Graham, to approve the request to rezone approximately 16.619 acres from UR (Urban Reserve District), PCD (Planned Commercial Development) District, and RS10 (Single-Dwelling Residential) District to CN2 (Neighborhood Commercial Center) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Motion carried 8-0-1, with Commissioner Kelly abstaining.

**ACTION TAKEN on Item 1G**
Motioned by Commissioner Liese, seconded by Commissioner Graham, to approve the Preliminary Plat of the Langston Commons Addition, subject to the following condition of approval:

1. Provision of a revised Preliminary Plat that graphically shows access restriction along Bob Billings Parkway and along K-10 Highway.

Commissioner Culver said the comments in the League of Women Voter letter were valid and felt they needed to be addressed during the site planning process.

Motion carried 8-0-1, with Commissioner Kelly abstaining.
ITEM NO. 2 ANNEXATION OF 25.81 ACRES; SE OF MARY’S LAKE BETWEEN HASKELL AVE & O’CONNELL RD (SMS)

**A-13-00296**: Consider annexation of approximately 25.81 acres located southeast of Mary’s Lake between Haskell Avenue and O’Connell Road for the construction of the extension of E 31st Street to tie into N 1300 Road east of the E 1600 Road/O’Connell Road intersection. The property owner of record is the Kansas Secretary of Transportation. *Initiated by City Commission on 8/6/13.*

**STAFF PRESENTATION**
Ms. Amy Miller presented the item.

Mr. Chuck Soules, Public Works Director, said an earmark was received in 2006 for about $800,000 to begin and design right-of-way acquisition for 31st Street, between Haskell Ave and O’Connell Road. He said it had taken this long because there wasn’t construction funding until 2009 when KDOT announced they would build the SLT. He stated with the construction of the SLT the intersection of 31st and Haskell would become an interchange and the intersection would move to service the business park. He said in order to do that they were building a third of the way between Haskell Ave and O’Connell Road, which allowed the opportunity for the City to partner with KDOT. He said the project was tied to the SLT bid that would occur September 18th. He said the City would have to reimburse KDOT for the right-of-way acquired on the City’s behalf. He said the City would pay for the construction from the Harrison Family Farms back to 31st Street. He stated the City entered into agreements with KDOT to provide funding but in order to do that the property had to be within the city limits which is why the annexation was requested.

Commissioner Josserand inquired about the reconfiguration of 31st Street.

Mr. Soules said 31st Street would essentially remain in the same area as it was currently, to the northern part of the industrial park, but then would swing way to the south to follow the contours of the ground. He showed a visual aid on the overhead. He said in 2006 there was a large committee of different stakeholders that met for a year and went through the process of coming up with the alignment.

**PUBLIC COMMENT**
Ms. Vickie Burggraf said she owns property at the corner of E 1600 Rd and N 1300 Rd. She said the corner with her house on it was acquired by KDOT, but that she still owns 1 acre (she pointed out her property on the overhead). She said she was told by KDOT that she would still be allowed access to her out buildings although now the access points would be within the city limits. She also wondered if traffic would go down N 1300 Rd or routed north and south.

Mr. Soules said they were only annexing what KDOT would acquire and that Ms. Burggraf would still have access. He said he was not sure where people would travel to and that the roundabout would function just like any intersection.

Mr. McCullough said it would be like any other urbanized road.

Ms. Karen Heeb said she was on the steering committee for the extension of N 1300 Road. She said at that time they talked about traffic coming down 31st Street with the goal of shooting traffic toward K-10 and that 31st Street extended would become a frontage road past O’Connell. She expressed concern about heavy traffic on N 1300 Road.
Mr. McCullough said that was the ultimate design for it and the presumption was that once improved to a light to the north that the behavior of traffic would take that as a more convenient efficient route.

Commissioner Liese asked if the annexation would be forwarded to the County Commission.

Mr. McCullough said it was not an island annexation so the County Commission would not see it. He said annexations over 10 acres are be sent to City Commission.

Ms. Bernice Vervynck said the 31st Street extension would not be built at the same time therefore traffic will be thrown onto N 1300 Road.

Mr. McCullough said yes, it could. He said the light would be a controlled access point that motorists would choose to take because it would be the easiest route.

COMMISSION DISCUSSION
Commissioner Liese thanked the public members for attending the meeting.

ACTION TAKEN
Motioned by Commissioner Josserand, seconded by Commissioner Liese, to approve the requested annexation, A-13-00296, of approximately 25.81 acres located southeast of Mary's Lake between Haskell Avenue and O'Connell Road based on the findings in the body of the staff report and forwarding the request to the City Commission with a recommendation for approval.

Unanimously approved 9-0.
ITEM NO. 3  COMPREHENSIVE PLAN AMENDMENT TO H2020; TRANSPORTATION (MJL)

CPA-13-00272: Consider Comprehensive Plan Amendment to Horizon 2020, Chapter 8-Transportation, to incorporate the Goals, Objectives and Strategies in the new T2040 Metropolitan Transportation Plan. *Initiated by City Commission on 6/11/13.*

**STAFF PRESENTATION**
Ms. Michelle Leininger presented the item.

Commissioner von Achen asked what intelligent transportation systems meant.

Mr. Todd Girdler, Senior Transportation Planner, said intelligent transportation systems referred to a large and complex system of institutional relationships and technological relationships of lots of equipment that talks to each other to make the existing traffic lanes, intersections, transit systems and a host of other transport facilities work more safely and efficiently. He said it involved everything from video detection cameras on left turn queues to prioritization of signals for EMS.

Commissioner von Achen asked about the three smaller communities in the county and if they could choose to approve this or come up with their own.

Mr. McCullough said the transportation plan that the MPO adopts was county wide. He said that was a little different than the Comprehensive Plan that had jurisdiction boundaries that exclude the three smaller cities.

**ACTION TAKEN**
Motioned by Commissioner Liese, seconded by Commissioner Kelly, to approve the Comprehensive Plan Amendment to Horizon 2020 Chapter 8 - Transportation, to update the chapter to reflect the goals and policies of the approved long-range transportation plan, Transportation 2040 and forwarding to the Lawrence City Commission and Douglas County Commission with a recommendation for approval.

Unanimously approved 9-0.

Motioned by Commissioner Liese, seconded by Commissioner von Achen, to authorize the Chair to sign the Planned Commission Resolution, PCR-13-00332, regarding CPA-13-00272.

Unanimously approved 9-0.
ITEM NO. 4: TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; LIGHTING STANDARDS (MKM)

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

*Item No. 4 was deferred prior to the meeting.*
MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

MISC NO. 1       RECEIVE UPDATE ON TEXT AMENDMENT FOR PARKING & ACCESS STANDARDS (SMS)

TA-6-14-09/TA-13-00235: 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.

STAFF PRESENTATION
Mr. McCullough provided an update on the item.

Commissioner Rasmussen asked who tasked staff with drafting regulations or restrictions regarding boats and RV’s.

Mr. McCullough said many amendments were staff initiated and that this particular one came out of many enforcement cases. He said it was based on the fact that staff does not have the tools to address enforcement issues in the community.

Commissioner Rasmussen asked about the health, safety, and welfare concern that was trying to be addressed.

Mr. McCullough said they were trying to address aesthetics, visibility on pedestrian ways in the public right-of-way, and property maintenance issues and how many RV’s/boats/trailers could be in the front yard. He said aesthetics was regulated through such things as the design guidelines, property maintenance code, landscaping, setbacks, development patterns, and historic review.

Commissioner Rasmussen asked if big pick-up trucks would be restricted as well.

Mr. McCullough said the size of vehicles, weight limits, was already part of the Code.

Commissioner Rasmussen said a tall pick-up truck cab was not going to be any higher than a small RV or trailer so he questioned this being a safety issue.

Mr. McCullough said that was the value in doing public outreach, to weigh all the different values for Planning Commission to look at.

Commissioner Josserand said he received a 45 minute phone call on the issue in response to the minutes from Planning Commission’s meeting last month. He said there were residents who were concerned about the issue.

Commissioner Culver asked when the item would be seen again.

Mr. McCullough said hopefully in the next 2-3 months.

Commissioner Rasmussen asked if it would it be possible going forward with the proposed changes to separate the two issues of business parking versus the parking of RV’s and boats on personal property.
Mr. McCullough suggested Planning Commission may want to discuss the topic at a future Mid-Month meeting once feedback is received from the community.

**MISC NO. 2 RECEIVE MINUTES FROM JOINT HRC/PC MEETING**

Receive minutes from the joint June 20, 2013 Historic Resources Commission/Planning Commission meeting.

Motioned by Commissioner Josserand, seconded by Commissioner Britton, to approve the joint June 20, 2013 Historic Resources Commission/Planning Commission meeting minutes.

Commissioner Rasmussen said he would abstain since he was not present at the meeting.

Approved 6-0-3, with Commissioners Kelly, Rasmussen, and Struckhoff abstaining.

**ADJOURN 7:55pm**
# 2013

## LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION

### MID-MONTH & REGULAR MEETING DATES

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### Suggested topics for future meetings:

- How City/County Depts interact on planning issues
- Stormwater Stds Update – Stream Setbacks
- Overview of different Advisory Groups – potential overlap on planning issues
- Open Space Acquisition/Funding Mechanisms – what do other states do?
- Library Expansion Update
- Joint meeting with other Cities’ Planning Commissions
- Joint meeting with other Cities and Townships – UGA potential revisions

- New County Zoning Codes
- Tour City/County Facilities
- Oread Overlay Districts
- Water/Wastewater Master Plan Update
- Downtown Survey Memo – redevelopment options
- Comprehensive Plan – Goals & Policies

### Meeting Locations

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

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

Revised 08/30/13
### 2013 PLANNING COMMISSION ATTENDANCE

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### 2013 MID-MONTH ATTENDANCE

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Lawrence-Douglas County Planning Commission
September 2013 Agenda Items
PLANNING COMMISSION REPORT
NON PUBLIC HEARING ITEM

PC Staff Report
9/23/13

ITEM NO 1: PRELIMINARY PLAT FOR HOLCOM SCHOOL SUBDIVISION (SLD)

PP-13-00282: Consider a Preliminary Plat for Holcom School Subdivision, a 1-lot subdivision containing 8.763 acres, located on the east side of Lawrence Avenue and north of the Holcom Park tennis courts. The property is currently addressed as 2600 W. 25th Street. Submitted BG Consultants, Inc., for USD 497, property owner of record.

STAFF RECOMMENDATION:
Staff recommends approval of the Holcom School Subdivision Preliminary Plat.

Reason for Request:
Predevelopment requirement. Possible construction of a 30,000 SF Career and Technical Education Center at Holcom, a central site. Refer to following website for more information:
http://www.usd497.org/BondIssuePlanning/careerandtechnicaleducation

KEY POINTS
- Existing school district property with existing structure in southeast corner.
- Platting required as pre-development step.
- Possible location of future Career and Technical Education Center.

SUBDIVISION CITATIONS TO CONSIDER
- This application is being reviewed under the Subdivision Regulations for Lawrence and Unincorporated Douglas County, effective Jan 1, 2007.

ATTACHMENTS
Attachment A: Preliminary Plat
Attachment B: Conceptual Development Plan

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

PLANS AND STUDIES REQUIRED
- *Downstream Sanitary Sewer Analysis* – Not provided at this time. Will be required prior to future development of this property.
- *Drainage Study* – Not provided at this time. Will be required prior to future development of this property.
- *Traffic Study* – Not provided at this time. Will be required prior to future development of this property.
PUBLIC COMMENT
Phone calls from public requesting clarification of reason for preliminary plat.

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<th>Site Summary</th>
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<td>Gross Area:</td>
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<td>Additional Right-of-Way (acres):</td>
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<td>Number of Proposed Lots:</td>
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<td>Minimum Lot Area:</td>
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<td>Maximum Lot Area:</td>
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<td>Average Lot Area</td>
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GENERAL INFORMATION
Current Zoning and Land Use: GPI (General Public and Institutional) District; primarily vacant land with an approximately 50’ by 125’ classroom building in the southeast corner.

Surrounding Zoning and Land Use:
- RS7 (Single-Dwelling Residential) to the north and west; existing residential development.
- PD-[Hills West PUD] to the north; existing residential development with attached housing.
- OS (Open Space) to the east and south; existing Holcom Park complex.

STAFF REVIEW
This property is proposed to be platted as a single 8.7-acre lot for possible future development of school district related facilities. A floodplain development permit is not required for the development of this property. A specific development plan is not proposed at this time. A concept plan, available on the USD 497 website, is provided with this staff report for reference.
Compliance with Zoning Regulations for the GPI District.
This property is zoned GPI (General Public and Institutional) District. This non-residential district has the same density and dimensional requirements as the IBP district. The proposed subdivision is intended to establish a single lot to accommodate possible development of the property. The proposed lot exceeds the area and dimensional requirements of the district. Lawrence Avenue is a designated collector street. Any future development will be required to setback 40’ from this street. There is adequate space to accommodate development of the property. Development abuts residential zoning to the north and a 40’ setback will be applicable to the north property line.

Depending on the proposed development, a 75’ bufferyard may be required from the adjacent residential properties to the north. The remaining property lines abut non-residential zoning (OS to the south and east). A minimum 15’ setback is required for development from non-residential zoning districts for this property.

Zoning and Land Use
The property includes an existing structure in the southeast corner. The existing building is used to teach living skills to after high school special education students and cooking classes taught by JCCC and USD 497. The GPI district allows a variety of uses including education facilities.

Streets and Access
The existing site improvements are accessed from W. 25th Street through the north parking lot of Holcom Park. Future development should anticipate a new access point to Lawrence Avenue. Additional information will be required prior to final access arrangements for this property. No additional right-of-way is proposed with this preliminary plat.

Utilities and Infrastructure
City sanitary sewer and water service lines are provided to the existing building. The sanitary sewer service line currently crosses property owned by the City of Lawrence. Water line service extends the depth of the property from Lawrence Avenue. The Preliminary Plat has been revised to include a note indicating that future development of the site will require extension of a sanitary sewer service (public main extension). Typically, public improvements must be submitted and approved by the City prior to the recording of a Final Plat or some form of assurance may be approved regarding infrastructure improvements.

The applicant does not intend to prepare public improvement plans for this property at this time. If the property is selected for future development of the Career and Technical Education Center then public improvement plans will be required. This subdivision requirement will be further reviewed with the submission of a Final Plat to ensure that appropriate guarantees are in place prior to recording the Final Plat in accordance with the Subdivision Regulations. The method of guarantee is the purview of the City Commission. A discussion of the provision of infrastructure is included in this report as it pertains to the requirements for adequate easements and subdivision design, the purview of the Planning Commission.

Easements and Rights-of-way
This site includes an existing 5’ utility easement along a portion of the north property line. The Preliminary Plat shows additional proposed easement dedicated adjacent to this easement such that there will be a the total width of the easement will be 10’. The north 5’ of easement is reserved for “power and cable use” per the existing easement. The proposed 5’ easement will be a general utility easement. The existing “power and cable use” easement will not be vacated by this subdivision. The subdivision also includes a proposed 10’ general utility easement along the balance of the north property line.
**Figure 2:** Yellow highlight represents new general utility easement. Red highlight represents existing easement.

**Conformance**
The preliminary plat is in conformance with the standards and requirements of the Subdivision Regulations and the Development Code.
EXAMPLE FLOOR PLAN SHOWING PROPOSED PROGRAM

CAREER AND TECH. ED.
Memorandum
City of Lawrence
Planning & Development Services

TO: Planning Commission
FROM: Planning Staff
CC: Scott McCullough, Planning and Development Services Director
Date: For September 23, 2013 meeting

RE: Item No. 2: MS-13-00341 - Variances associated with Minor Subdivision for Haskell Place No. 4, located at 2035 Barker Avenue.

Variances are requested:
- to create lots with less than 5,000 square feet;
- to waive the requirement to dedicate additional right-of-way for a Collector Street [Barker Avenue]; and
- to waive the requirement to construct sidewalk along the Rhode Island Street frontage.

Attachment A: Minor Subdivision MS-13-00341

Minor Subdivisions are processed administratively but Planning Commission approval is required for variances from the Subdivision Design Standards. A copy of the Minor Subdivision is included with this memo for context; however, no action is required on the Minor Subdivision.

The Subdivision Regulations state that an applicant may request a variance from the Design Standards in the Regulations in accordance with the variance procedures outlined in Section 20-813(g). This section lists the criteria that must be met in order for a variance to be approved. The requested variances are evaluated for compliance with the approval criteria below.

VARIANCE NO. 1: Reduction in the minimum lot size requirement for 5,000 square feet as identified in Section 20-601(a) for lots in the RS5 District. Section 20-810(2)(a) states lots shall be designed to comply with all applicable zoning district regulations.

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

Applicant Response:
The property was originally platted in 1887 and the Haskell Place Subdivision was created. The lots between Rhode Island Street and Baker Avenue (originally called Connecticut on plat) were platted as double frontage lots. Since initial platting, numerous lots have been divided into east and west partial lots, as proposed by this Minor Subdivision. Some lots are less than the required 5,000 square feet minimum area and some exceed the minimum. This property is the subject of a minor subdivision request to accommodate infill development. Sufficient right-of-way and easements exist or are proposed to accommodate the Minor Subdivision of this property and the replacement of the existing structure with two structures on separate lots.
Approval of this variance and the Minor Subdivision would afford the owner the chance to raze the existing house which presently resides in part over the existing public sanitary sewer main. Strict application of the regulations would limit the owner’s ability for additional infill development where all infrastructure is in place and would negate the Minor Subdivision.

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

**Applicant Response:**
As defined above, there are numerous lots that have been divided in a similar manner between Rhode Island Street and Barker Avenue from 20th to 23rd Street so division of this property would be in harmony with the neighborhood and the intended purpose of these regulations.

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

**Applicant Response:**
The public health, safety, and welfare will be protected in as much as they are under the presently configured Plat. As all public utilities are available for the proposed lots, the reduced lot size will not diminish the public health, safety and welfare.

**Staff Finding:**
The subject property is located at 2035 Barker Avenue. This is currently a through lot with frontage also on Rhode Island Street to the west. The Haskell Place No. 4 Minor Subdivision/Replat proposes to remove a dilapidated home located over the existing sanitary sewer main and create two new residential infill lots. The new lots will each be approximately 50 feet by 86.5 feet and each containing approximately 4,330 square feet. The lots exceed the RS5 lot width requirement of 40 feet and are similar in size to the developed lots directly to the north.

Granting this requested variance from the minimum lot size is not opposed to the purpose and intent of the regulations.

**VARIANCE NO. 2:** Reduce the 80 ft right-of-way requirement in Section 20-810(e)(5) for Collector Streets to allow the right-of-way for Barker Avenue to remain at 60 ft.

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

**Applicant Response:**
The 60 foot right-of-way (30’ west of section line) was originally platted in 1887 and the Haskell Place Subdivision was created. As defined by City of Lawrence GIS Interactive Map, no right-of-way width...
in excess of 60' has been granted for Barker Avenue. Increasing the right-of-way now would further reduce the size of the proposed lots. It has been assumed that Barker Avenue would not be widened in the near future nor would the street classification be modified above a collector designation. Requiring additional right-of-way would negate the Minor Subdivision as the lot adjacent to Barker Avenue would become too small to construct a home on.

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

Applicant Response:
Again, as defined by City of Lawrence GIS Interactive Map, no right-of-way width in excess of 60' has been granted for the Barker Avenue, so dedicating additional right-of-way for this property would be an anomaly more than the norm.

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

Applicant Response:
The public health, safety, and welfare will be protected in as much as they are under the presently configured Plat. The existing right-of-way is sufficient to provide safety and welfare of pedestrians and motor vehicles on Barker Avenue.

Staff Finding:
Barker Avenue is classified as a collector street in the Future Thoroughfares Map. Per Section 20-810(e)(5), 80 feet of right-of-way must be dedicated for collector streets when platting property. The applicant is requesting a variance from this requirement to allow the right-of-way to remain at 60 ft.

The property on each side of the street is responsible for dedicating one-half of the required right-of-way; therefore, an additional 10 feet would be required along the length of the residential lot fronting Barker.

As noted above, Barker’s right-of-way width is consistent from 15th Street south to 23rd Street where the collector street designation ends. While it is designated as a north-south collector, the street profile is not anticipated to change from its current two-lane configuration due to the residential nature of the street. The 80 ft collector standard is more typically applied when new streets are planned in new development areas. Granting the requested variance is not opposed to the purpose and intent of the regulations.

Figure 2: Right-of-way consistent for length of Collector Street.
VARIANCE NO. 3: Waive the requirement in Section 20-811 (c) for a sidewalk on both sides of the street.

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

Applicant Response:
Sidewalk exists along Barker Avenue, but presently no sidewalk exists along the east side of Rhode Island Street for the full length from 20th to 21st Street. The owner proposes to execute an Agreement Not to Protest the Formation of a Benefit District to construct sidewalks along Rhode Island in lieu of construction of the sidewalk as required by the subdivision regulations. Construction of the sidewalk would impose a financial burden on the property owner which would not benefit the public as the sidewalk would, without connection, not serve the adjacent property owners or the general pedestrian.

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

Applicant Response:
The regulations intend to provide connectivity of the neighborhoods and the pedestrians. The regulations do not require property owners to construct sidewalks where they don't presently exist. Not requiring sidewalks at this juncture would generally be in harmony with the intended purpose of these regulations.

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

Applicant Response:
The public health, safety, and welfare will be protected in as much as they are under the present sidewalk configuration. As sidewalks for pedestrian passage are always desirable, a 50’ section on this property at mid-block would not benefit or further protect the public health, safety and welfare.

Staff Finding:
The Haskell Place subdivision was platted in 1887 prior to adopted subdivision regulations. At the time the neighborhood was developed, sidewalks were not constructed on either side of Rhode Island Street. A sidewalk exists on the west side of Barker Avenue in this block. Strict application of the subdivision regulations would require construction of a sidewalk on the east side of Rhode Island Street along the new lot’s 50 foot frontage.

Execution of an Agreement Not to Protest the Formation of a Benefit District is the typical tool used in situations where sidewalks are not found within a block. This tool provides the mechanism for financing of future improvements when a benefit district is requested to fund sidewalk improvements in a neighborhood. Granting the requested variance is not opposed to the purpose and intent of the regulations.

Figure 3: No sidewalks along entire block of Rhode Island.
STAFF RECOMMENDATION:

1. Approve the variance requested from Section 20-810(2)(a) to allow the creation of lots that do not meet the minimum lot size requirement of 5,000 square feet for lots in the RS5 District as identified in Section 20-601(a).

2. Approve the variance requested to allow the right-of-way for Barker Avenue to remain at 60 feet rather than the 80 feet right-of-way requirement in Section 20-810(e)(5) for Collector Streets.

3. Approve the variance requested from Section 20-811(c) to waive the requirement to construct a sidewalk on the east side of Rhode Island Street and accept an Agreement Not to Protest the Formation of a Benefit District in its place.
LEGAL DESCRIPTION - LOT 1
A PORTION OF LOT 9, BLOCK 9, HASKELL PLACE, A SUBDIVISION IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS, NOW DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 9, THENCE SOUTH 89° 35' 02" EAST ALONG THE NORTH LINE OF SAID LOT 9, 85.54 FEET, TO THE NORTHWEST CORNER OF THE EAST HALF OF SAID LOT 9; THENCE SOUTH 89° 35' 02" EAST, 85.54 FEET, TO THE SOUTHEAST CORNER OF THE WEST HALF OF SAID LOT 9; THENCE NORTH 89° 35' 02" WEST, 85.54 FEET, TO THE SOUTHWEST CORNER OF SAID LOT 9; THENCE NORTH 0° 00' 00" EAST ALONG THE WEST LINE OF SAID LOT 9, 50.03 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 0.09 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATION
I hereby certify that the grading and earthworks shown herein are true and accurate to the best of my knowledge. Prepared September, 2013.

Steven D. Williams, P.L.S. #1391
P.O. Box 4444
Lawrence, KS 66044
(785)832-2121

LEGAL DESCRIPTION - LOT 2
A PORTION OF LOT 9, BLOCK 9, HASKELL PLACE, A SUBDIVISION IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS, NOW DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 9; THENCE SOUTH 89° 52' 53" WEST ALONG THE EAST LINE OF SAID LOT 9, 50.13 FEET, TO THE SOUTHEAST CORNER OF SAID LOT 9; THENCE SOUTH 89° 52' 53" WEST, 85.73 FEET, TO THE SOUTHWEST CORNER OF THE EAST HALF OF SAID LOT 9; THENCE NORTH 89° 52' 53" WEST, 85.73 FEET, TO THE SOUTHEAST CORNER OF THE WEST HALF OF SAID LOT 9; THENCE NORTH 0° 00' 00" EAST ALONG THE NORTH LINE OF SAID LOT 9, 85.09 ACRES, MORE OR LESS.

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Steven D. Williams, P.L.S. #1391
P.O. Box 4444
Lawrence, KS 66044
(785)832-2121

LOCATION MAP
COMMUNITY FEATURES WITHIN A MILE:
- VETERANS PARK
- EDGWOOD PARK
- WASHMINT PARK
- BROKEN ARROW PARK
- KANSAS NAUTICALUM - LAWRENCE HIGH SCHOOL
- BURGESS-CROOK TRAIL AND LINEAR PARK
- AND HASKELL RAIL TRAIL

LEGEND
- BACK OF LOT TO BACK OF LOT
- BACK OF LOT TO FRONT OF LOT
- FRONT OF LOT TO FRONT OF LOT
- FRONT OF LOT TO BACK OF LOT
- ADDITIONAL EASEMENTS
- NEW CONSTRUCTION
- VARYING SOIL CONDITIONS
- PROPOSED MASTERS
- PROPOSED LINES
- EXISTING MASTERS
- EXISTING LINES
- PROPOSED FLOODWAY
- PROPOSED PINES
- PROPOSED WETLANDS
- PROPOSED TRAIL
- PROPOSED EJECTION
- DISTRICT
- OFFICIAL OWNER
- EXISTING MASTERS
- EXISTING LINES
- PROPOSED MASTERS
- PROPOSED LINES
- NEW CONSTRUCTION
- VARYING SOIL CONDITIONS
- PROPOSED FLOODWAY
- PROPOSED PINES
- PROPOSED WETLANDS
- PROPOSED TRAIL
- PROPOSED EJECTION
- DISTRICT
- OFFICIAL OWNER
- FREEWAY

SCALE: 1 inch = 20 feet

FILING RECORD
State of Kansas
County of Douglas
This is to certify that this instrument was filed for record in the office of the Douglas County Register of Deeds on this day of , and is duly recorded at book page

Kay Pennehl
Register of Deeds
Douglas County
Kansas

ENDORSEMENTS
Approved by the Douglas County Planning Commission
Douglas County, Kansas

Steven D. Williams
P.L.S. #1391
Architectural Consulting Source, LLC
657 N 775 Road
Lawrence, Kansas 66047

DEDICATION
Be it known to all men that I (we), the undersigned owner(s) of the above described tract of land, have had cause for the same to be surveyed and platted as a Minor Subdivision under the name of "Haskell Place No. 4" and have caused the same to be subdivided into lots and streets as shown and fully defined on this plan.

By the undersigned, on behalf of Architectural Consulting Source, LLC, who is (are) personally known to me to be the same person(s) who executed the foregoing instrument of writing and duly acknowledge the execution of the same.

In witness whereof, I have hereunto set my hand and affixed my seal on the day and year last written above.

Notary Public
My commission expires

HASKELL PLACE NO. 4, A MINOR SUBDIVISION/REPLAT OF LOT 9, BLOCK 9, HASKELL PLACE
a subdivision in the 5WS of Section 6, Township 13 S, Range 20 E, in the City of Lawrence, Douglas County, Kansas

Prepared September 10, 2013
LEGAL DESCRIPTION - LOT 1
A PORTION OF LOT 9, BLOCK 9, HASKELL PLACE, A SUBDIVISION IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS, NOW DESCRIBED AS FOLLWINGS:
BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 9, THENCE SOUTH 89° 15' 02" EAST ALONG THE NORTH LINE OF SAID LOT 9, 85.54 FEET TO THE NORTHEAST CORNER OF THE SOUTH HALF OF SAID LOT 9; THENCE SOUTH 88° 30' 33" WEST, 85.57 FEET TO THE NORTHEAST CORNER OF THE WEST HALF OF SAID LOT 9; THENCE NORTH 88° 12' 05" WEST, 85.57 FEET TO THE SOUTHEAST CORNER OF SAID LOT 9; THENCE NORTH 86° 44' 23" EAST ALONG THE WEST LINE OF SAID LOT 9, 55.03 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 0.099 ACRES, MORE OR LESS.

LEGAL DESCRIPTION - LOT 2
A PORTION OF LOT 9, BLOCK 9, HASKELL PLACE, A SUBDIVISION IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS, NOW DESCRIBED AS FOLLWINGS:
BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 9, THENCE SOUTH 90° 00' 51" WEST ALONG THE EAST LINE OF SAID LOT 9, 50.03 FEET TO THE SOUTHEAST CORNER OF SAID LOT 9; THENCE NORTH 85° 20' 30" WEST 0.093 FEET TO THE NORTHEAST CORNER OF SAID LOT 9; THENCE NORTH 85° 20' 30" EAST ALONG THE NORTH LINE OF SAID LOT 9, 85.54 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 0.099 ACRES, MORE OR LESS.

NOTES
1. Basis of Bearings for this Minor Subdivision is the West property line of Lot 9, Block 9, Haskell Place (600-04-25 W).
2. This Minor Subdivision is a replat of Lot 9, Block 9 of Haskell Place. Further division or consolidation of any lots contained in this Minor Subdivision is prohibited, and shall be processed as a Major Subdivision.
3. Aerial and topographic information obtained from field survey performed by Sarder Mapping for the City of Lawrence and Douglas County 2006 & 2009. Specific topographic and boundary information for property & directly adjacent obtained from field survey provided by All Points Survey, August 2013.
4. Street trees shall be planted in accordance with the Master Street Tree Plan filed with the Register of Deeds Book, September 2013.
5. No trees on the right-of-way can be removed without the permission of the City of Lawrence Parks Department. Trees outside the right-of-way requirements may be removed with a written request from the homeowner on record. Trees shown on the plat & outside the right-of-way requirements and not encumbered by existing structures are intended to be preserved.
6. The City is hereby granted a temporary right of entry to plant the required street trees pursuant to Section 20-811(g) of the City Subdivision Regulations.
7. The property within this Minor Subdivision/Replat is zoned RS-5. All new construction shall conform to the setback, dimensional, and other regulations of the RS-5 zoned district as defined by the City of Lawrence Development Code.
8. The plats will be placed on file immediately following the execution of the Minor Subdivision/Replat at the Register of Deeds Office (per Section 20-811(g)).
9. No portion of this property is located within a designated “Special Flood Hazard Area” per FEMA Map Number 20045C0178D, Map Revised: August 5, 2010.
10. A 15.0 foot wide Utility Easement is being dedicated with this Minor Subdivision. This easement is parcelized by an existing structure on the previously platted Lot 9. This structure will be razed to allow for a structure on each proposed lot. No new construction building permits will be issued until the existing structure is removed.
11. This Minor Subdivision/Replat does not modify the existing right-of-way for Rhode Island Street or Barker Avenue. No public improvements are proposed with Minor Subdivision/Replat.

Prepared September 10, 2013

[Diagram of the subdivision with annotations and measurements]
PLANNING COMMISSION REPORT  
Regular Agenda  

PC Staff Report  
9/23/13  

ITEM NO. 3: CONDITIONAL USE PERMIT; WATER TREATMENT PLANT; ¼ MILE E OF E 1750 RD & N 1500 RD (MKM)  

CUP-13-00281: Conditional Use Permit for a water treatment plant to produce water for Public Wholesale Water Supply District No. 25, located ¼ mile east of the intersection of E 1750 Rd and N 1500 Rd. Submitted by Public Wholesale Water Supply District No. 25, property owner of record.  
Joint meeting with Eudora Planning Commission.  

STAFF RECOMMENDATION: Staff recommends approval of the Conditional Use Permit for the water treatment plant for Public Wholesale Water Supply District No. 25 and forwarding it to the Board of County Commissioners with a recommendation for approval based on the findings of fact found in the body of the staff report subject to the following conditions:  
1) The CUP shall comply with the terms, conditions, and limitations specified in the Division of Water Resources permit.  
2) The property shall be platted prior to release of the Conditional Use Permit plan to Zoning and Codes.  
3) The provision of a revised Conditional Use Site Plan with the following changes:  
   a. Delineation of a wooded area near the east side of Tract 2 that is 20 ft wide and extends 240 ft north of the south property line, and the addition of the following note:  
   "The trees and other vegetation in this area will be retained to screen the facility from the east. In the event the trees are removed, native conifers will be planted on 30 ft centers to provide screening.”  
   a. Note the revision date on the plan.  
   b. Show one ADA accessible parking space on the plan. This space shall also be marked and signed on site.  

Reason for Request: "This 28 acres will be developed into a water treatment plant site to produce water for Public Wholesale Water Supply District No. 25 which will then wholesale water to currently 2 rural water districts in Douglas and Osage Counties.”  

KEY POINT  
- The CUP contains 2 tracts; however, one tract is a portion of a larger parcel. The notification area includes both parcels in their entirety and extends slightly into Leavenworth County. Property owner lists have been obtained from both Douglas and Leavenworth Counties.  

ATTACHMENTS  
A – CUP Plan  
B – Kansas Department of Agriculture, Division of Water Resource permits  
C – Ground Water Analysis provided by Ground Water Associates, Inc.  
D – Maps showing boundary of Rural Water Districts and proposed Public Wholesale Water Supply District No. 25 water mains.
DESCRIPTION OF USE
The applicant is requesting a Conditional Use Permit to construct a water treatment plant on the property. Wells will be located to the northwest near the Kansas River and easements will be obtained for the lines to the water treatment plant and for the future mains used to distribute the water in Douglas and Osage Counties. Public Wholesale Water Supply District No. 25 (PWWSD No. 25) has been authorized by the Kansas Department of Agriculture, Division of Water Resources to provide water for municipal use within the boundaries of PWWSD No. 25 and immediate vicinity, Rural Water District No. 2 and Rural Water District No. 5 in Douglas County and Rural Water District No 5 in Osage County. A map showing the proposed water mains and the boundaries of the Rural Water Districts is included as Attachment D.

ASSOCIATED CASES/OFFICE ACTION REQUIRED
- Approval of Conditional Use by the Board of County Commissioners.
- Issuance of permit for the Conditional Use by the Zoning and Codes Office following application and determination that all conditions have been met.
- Submittal of application and building plans to the Zoning and Codes Office for a building permit prior to construction.
- Floodplain Development Permit may be needed from the Zoning and Codes Office for development on property that contains regulatory floodplain or floodway.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING
- No public comment has been received.

GENERAL INFORMATION
Current Zoning and Land Use: V-C (Valley Channel) District and F-W (Floodway Overlay) District; Agriculture.

Surrounding Zoning and Land Use: V-C (Valley Channel) District and F-W (Floodway Overlay) District; Agriculture, rural residential, and mining/excavation to the northeast—Penny Sand Dredging on the KS River, a CUP has been approved for an off-river sand pit to the south of the river dredging location. (Figure 1, a-c)

**Figure 1a.** Area zoning. White and green areas north of river are within Leavenworth County, white area to the southwest is within the city of Lawrence.

**Figure 1b.** Floodplain in area. Bright green denotes Floodway (F-W Overlay) and the light green is the Floodway Fringe (F-F Overlay). Stippled area is the 500 year floodplain which is not currently regulated by the County Floodplain Management Regulations.
PROJECT SUMMARY
The proposed project includes the use of wells near the Kansas River to supply water for a Public Wholesale Water Supply District which will supply treated water to various Rural Water Districts and other customers. The subject of this CUP is the water treatment facility which will be installed northeast of the intersection of E 1750 Road and N 1500 Road. Studies have been conducted to evaluate impact of the wells on the groundwater and the Division of Water Resources has approved the location of the wells, with certain restrictions and conditions. The groundwater studies and the Division of Water Resources Approval of Application and Permit to Proceed are attached.

The facility will take access from N 1500 Road and will be manned by one employee during normal operation hours (7 am to 6 pm). The applicant indicated that there may be board meetings of approximately 8 to 9 people once a month. As the public may come to these meetings, it is necessary to provide ADA parking per the requirements in Section 12-316-1.01 of the Zoning Regulations. One ADA space must be shown on the plan and the space must also be striped and signed on site.

Truck traffic is expected to consist of one treatment chemical delivery each week. Access to the site will come off of K-10 Highway, north on Noria road and east on N 1500 Road to this site. N 1500 Road is classified as a Minor Collector in the Douglas County Major Thoroughfares Map. A Minor Collector requires 80 ft of right-of-way. The CUP plan notes that 40 ft of right-of-way is available north of the centerline of N 1500 Road.

The front setback for property in the A District that fronts on a county or township road is 50 ft in addition to a base setback of 40 ft from the road centerline for a total setback of 90 ft from the centerline of the road. A minimum side setback of 15 ft and a rear setback of 50 ft are required. The proposed building, water holding tank, and security fence all comply with these setbacks.

The subject property was divided from a larger parcel after the adoption of the 2006 Subdivision Regulations. Per Section 20-801(c)(1), unless expressly addressed as an exemption no lot, tract, or parcel of land shall be divided into 2 or more parts for the purpose of sale, transfer or development whether immediate or future except through the procedures of the Subdivision Regulations. This land division does not meet any of the exceptions provided in Section 20-801(d); therefore, it will be necessary to plat this property prior to final approval of this CUP.

The facility will be fenced with 6’ chain link fence with 3 strands of barbed wire for security. The fencing will be located outside of the required setback.
FACTORS TO CONSIDER

I. ZONING AND USES OF PROPERTY NEARBY
The surrounding area is zoned V-C (Valley Channel) District which is a district established to provide protection for flood-prone areas. The area is also located within the F-W (Floodway Overlay) District as identified by FEMA. Principal land uses in the area include agriculture, rural residential, and mining/excavation. A sand dredging operation is located on the Kansas River to the northeast of the subject property and a CUP has recently been approved for an off-river sand pit operation to the south of the river operation.

Staff Finding – Nearby properties are zoned V-C (Valley Channel) and F-W (Floodway Overlay) Districts. Agriculture, rural residences, and mining/excavation are the principal land uses in the area.

II. CHARACTER OF THE AREA
The subject property is located on N 1500 Road, approximately one-half mile east of the Lawrence City Limits and northeast of the East Hills Business Park. This is a rural area with agriculture, rural residences, and mining/excavation being the primary land uses. Natural features in the area include the Kansas River and associated floodplain. The area contains a large area of high quality soils with Class 1 and Class 2 soils being located over the entire subject property. (Figure 2) With the CUP, the majority of the property will remain in agricultural production with the facility being located in the southeast corner of the site.

The subject property takes access from N 1500 Road, a minor collector road, and is located just to the east of the intersection with E 1750 Road, a minor arterial. The area has good access to the transportation network.

Staff Finding – The area is rural in character with primarily agricultural and residential land uses. Sand dredging is located on the Kansas River to the northeast and a CUP has recently been approved for an off-river sand pit to the east of the subject property. A water treatment facility would be compatible with the character of the area with proper site plan and design.

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

Applicant’s response:

"The subject property consists of 20 acres of crop ground and 8 acres of brush and timber. The existing 20 acres is suitable for Ag use, the 8 acres is not."

The property is zoned V-C (Valley Channel) and F-W (Floodway Overlay) District. The V-C District is intended to prevent, in those areas subject to periodic or potential flooding, such
development as would result in a hazard to health or safety. To this end the V-C District permits a limited range of uses which include: Farm, truck garden, orchard, plant nurseries, grazing, hinting and fishing, public or private commercial recreational facilities and structures, and preserves, reservations and other similar open uses. Public Utilities are allowed in the V-C District with approval of a Conditional Use Permit. The subject property is suited to the uses to which it has been restricted with the V-C Zoning. The proposed request will not revise the underlying zoning district.

The F-W District does not restrict uses, but requires compliance with the Floodplain Management Regulations in Section 12-328 of the Zoning Regulations. These regulations are intended to protect individuals and property from flood hazards or flooding by providing for the orderly and safe development of the floodplain for the most advantageous uses which are consistent with the health, safety, and welfare of the general public. A Floodplain Development Permit will be required for the development to insure compliance with the floodplain regulations.

Given the small area needed for the water treatment plant, the subject property is suited for the proposed use. The plant will be located in the southeast corner, out of the regulatory floodway.

**Staff Finding**—The property is well suited for uses which are permitted within the V-C District.

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

**Staff Finding**—The property consists of two tracts. The larger tract will house the treatment facility and this tract is in agricultural production. The tract to the east has a vacant residence and agricultural structure but the residence is not occupied and is in poor condition.

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

Applicant’s Response:

"Removal of these restrictions will not detrimentally affect nearby property. The proposed water treatment plan won’t create noise issues, traffic issues, or visual issues to this area."

Section 12-319-1.01 of the County Zoning Regulations explains that certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district. Certain conditional uses may be permitted when found to be in the interest of the public health, safety, morals, and general welfare of the community.

The proposed use ‘water treatment and supply’ would fit into the use group “Public Utilities” which is listed as a use which can be approved with a Conditional Use Permit in Section 12-319-4.10.

The water treatment plant will be about 125 ft x 125 ft or 15,625 sq ft and will be approximately 20 ft in height. A 100 ft diameter water storage tank about 25 ft in height will also be located on the property. (Figure 3) There will be a concrete parking area of
approximately 120’ x 150’. The facility will be larger than most other structures in the area but should not have a negative impact on nearby properties.

The applicant proposes landscaping of native conifer trees set on 30 ft centers along the west and south sides of the property to screen it from the west and from N 1500 Road. The tract to the east, Tract 2, may be used for future expansion of the facility so no landscaping is proposed along the east side of the building site. Tract 2 is fairly wooded and the existing vegetation should serve to screen the facility from the east. A note should be added to the CUP plan stating that the vegetation on the east side of Tract 2 will be retained to screen the facility from the east.

![Figure 3. Drawing of proposed facility as viewed from N 1500 Road.](image)

![Figure 4a. Landscaping proposed to screen the facility from N 1500 Road.](image)

![Figure 4b. Tract 2 extends slightly beyond the wooded area. Approximate east border in red.](image)

With the proposed screening, the facility should not have a negative impact on the visual nature of the area.

Possible detrimental effects of a water treatment plan could be the impact on the ground water in the area. The applicant indicated that the wells are regulated by the Kansas Division of Water Resources and provided the following information:
“We have had test wells drilled at these locations with water quality and pumping tests performed to determine associated draw down, zone of influence, and water qualities associated with pumping these wells at a designated flowrate. Once this testing was completed and associated land owner notifications made, applications were submitted to the Division of Water Resources (DWR) which have since been approve. As far as water quality, a series of monitoring wells in the vicinity of this well field can be used to review water quality. The State of Kansas also has a well head protection program that regulates potential contamination activities. These regulations will be in effect for the region surrounding these well fields that could potentially impact water quality.” The quality and quantity tests performed by a hydro-geologist and the approved well applications from DWR are included as an attachment with this report.

The County Engineer reviewed the Water Appropriation permits provided by the Kansas Division of Water Resources and noted that he had been informed by DWR Water Appropriations that they consider well spacing when reviewing water appropriation permits in order to limit drawdown effects on neighboring wells. The DWR required well spacing is ¼-mile to non-domestic wells and 660 feet to domestic wells. The proposed PWWSD No. 25 wells exceed those standards (closest non-domestic well is 4700'). The County Engineer indicated that a condition restricting usage is not necessary, as the Kansas Dept. of Ag., Div. of Water Resources, restricts usage as a condition of their permit. The restrictions are listed on pages 1-3 of the attached DWR permit. Condition No. 4 places the following restriction on the amount of water that can be pumped:

“That the appropriation sought shall be limited to a maximum diversion rate not in excess of 800 gallons per minute (1.78 c.f.s.) and to a quantity not to exceed 420.28 million gallons (1,290.41 acre-feet) of water for any calendar year.”

The applicant indicated that the State of Kansas well head protection regulations would be adequate to protect the quality and quantity of water in the supply wells so they will not be instituting a well-head protection zone for their facility.

Staff Finding – The facility should not detrimentally affect nearby properties as it will be landscaped to minimize its visual impact. The studies that the applicant completed and provided to the Division of Water Resources indicate the wells will not have a negative impact on the groundwater in the area. The Division of Water Resources approved the project and issued a permit to proceed. No negative impacts are anticipated from this facility.

VI. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE PETITIONER’S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNERS

Applicant’s Response:

“The relative gain to public health, safety, and welfare will be in the ability to produce a high quality potable water supply that will serve the needs of residential customers in both Douglas and Osage Counties. The hardship imposed to individual landowners will be minimal if any.”

Evaluation of the relative gain weighs the benefits to the community-at-large vs. the benefit of the owners of the subject property.
Denial of the request for a Conditional Use Permit would prohibit the construction of the facility. The applicant provided the following information which indicates that there is a growing demand for water in the unincorporated portion of the county:

“Member entities of Public Wholesale Water Supply District (PWWSD) No. 25 currently serve about 3,100 customers. They have been growing at a rate of 2%-4% during the last 15 years and are projected to grow at a rate of near 1.5% over the next 40 years. This growth has begun to tax member entities’ supply systems during peak usage times. This report projects by year 2031, that number will exceed 4,500 customers, and by year 2051, nearly 5,300 customers will be served. All of the member entities currently receive the majority of their water supplies from treatment plants on Clinton Lake. In recent years siltation issues on this reservoir have caused reductions in available water from this reservoir due to 2% yield studies. These reductions in available raw water have caused these member entities to begin seriously reviewing their ability to supply adequate quantities of high quality water to their patrons not only now but for the future. This supply is not only being sought to serve current member entities but also has the potential to provide water for some unserved areas of Douglas County along with other water supply entities that may decide that this supply will be needed in the future.”

Approval of the request will allow the District to provide additional water for customers.

As the hydrologic information indicates that the supply wells will have no detrimental effect on ground water levels in the area with the limits established by the Division of Water Resources, the approval of the proposed use would provide no hardship to area landowners or the community as a whole.

Staff Finding – Approval of the request could benefit the community as a whole by providing an additional source of potable water for the growing rural population. As studies have been provided which indicate there will be no negative impacts with water appropriations within the limits established by the Division of Water Resources, there would be no gain to the public health, safety, or welfare from the denial of this request.

VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant’s Response:

"The property falls within the current UGA with portions of the property falling within the floodplain. However, the building location on this proposed location is outside of the 500 year floodplain. This proposed project falls to the east of Lawrence in an Ag area but is within visual distance of industrial sites."

An evaluation of the conformance of a Conditional Use Permit request with the comprehensive plan is based on the strategies, goals, policies and recommendations contained within Horizon 2020. The comprehensive plan does not directly address Conditional Use Permits; however, the following recommendations apply to this specific project:

Chapter 10, Community Facilities, Strategies for Public Utilities: “The visual appearance of utility improvements will be addressed to ensure compatibility with existing and planned land use areas. (page 10-11)
Chapter 10, Community Facilities, Douglas County Water Supply and Distribution Facilities: "Douglas County will continue to be served by private wells and rural water districts. This includes Douglas County RWD’s 1,2,3,4,5, & 6; Jefferson County RWD’s 5 & 13; and Osage County RWD 5. Because most of these districts rely on raw water resources through contracts with Lawrence, the districts will also be concerned with the continued provision of raw water resources in the future. The rural water districts and Lawrence should collaborate in efforts to maintain adequate accessibility to this important resource.” (Page 10-15)

The proposed project is in compliance with these recommendations as the facility will increase the raw water resources available to the Rural Water Districts and the facility will be landscaped to provide a compatible appearance with existing and planned land use in the area.

Staff Finding – Horizon 2020 does not directly address the issuance of CUPs but the project is in compliance with recommendations in Chapter 10, Community Facilities, for public utilities in the unincorporated portions of Douglas County.

Conclusion
Approval of a Conditional Use can be tailored to address specific issues such as intensity or frequency of use. The Division of Water Resource permit provides an adequate limit on the intensity of use as it limits the number of wells and the amount of water that can be appropriated. The CUP, as conditioned, is compliant with the recommendations in the Comprehensive Plan and should result in a facility that is compatible with the area and provides a utility service to the unincorporated portions of Douglas County.
CONDITIONAL USE PLAN

PUBLIC WHOLESALE WATER SUPPLY DISTRICT NO. 25
WATER SYSTEM IMPROVEMENTS
DOUGLAS COUNTY, KS

TRACT 1
20.02 ACRES

TRACT 2
7.00 ACRES

NOTES:
1. The area shown as 'tract 2' has not been divided.
2. The area shown as 'tract 1' has not been divided.
3. The area shown as 'tract 2' has not been divided.
4. The area shown as 'tract 1' has not been divided.
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17. The area shown as 'tract 2' has not been divided.
18. The area shown as 'tract 1' has not been divided.
19. The area shown as 'tract 2' has not been divided.
20. The area shown as 'tract 1' has not been divided.
May 10, 2010

PUBLIC WHOLESALE WATER SUPPLY DISTRICT NO 25
948 E 650 RD
LAWRENCE KS 66047

Re: Appropriation of Water, File Nos. 47,414; 47,488; and 47,489

Dear Sir or Madam:

There are enclosed permits to appropriate water authorizing you to proceed with construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a), to divert such unappropriated water as may be available from the source and at the location specified in these permits, and to use it for the purpose and at the location described in the permits.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the permits. Please note that the Chief Engineer has determined that the above referenced appropriations will benefit from assurance water releases and are eligible water rights for inclusion in the Kansas River Water Assurance District. In addition, please note the quantity of water limitation described in Paragraph No. 20 specified in the permit approvals for both Appropriation of Water, File Nos. 47,488 and 47,489.

Water meters are required, and you must install them on the diversion works prior to water being put to beneficial use in order for you to maintain accurate records of water use. The meters should be used to provide the information required on the annual water use report.

Failure to notify the Chief Engineer of the Division of Water Resources of the completion of the diversion works within the time allowed, or within any authorized extension of time thereof, will result in the dismissal of these permits. Enclosed are forms which may be used to notify the Chief Engineer that the proposed diversion works have been completed.

All requests for extensions of time to complete diversion works, or to perfect appropriations, must be submitted to the Chief Engineer before the expiration of time originally set forth in the permits to complete diversion works or to perfect an appropriation. If for any reason, you require an extension of time, you must request it before the expiration of time set forth in these permits. Failure to comply with this regulation will result in the dismissal of your permits or your water rights. Any request for an extension of time shall be accompanied by the required statutory fee, which is currently $100.00 for each file.
There is also enclosed an information sheet setting forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your water rights. If you have any questions, please contact our office. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

[Brent A. Turney, L. G.]
Change Application Unit Supervisor
Water Appropriation Program

BAT:dws
Enclosures

pc: Topeka Field Office
    Kansas River Water Assurance District No. 1
    Jeff Shamburg, E.I. - Bartlett & West Engineers
APPROVAL OF APPLICATION
and
PERMIT TO PROCEED
(This Is Not a Certificate of Appropriation)

This is to certify that I have examined Application, File No. 47,488 of the applicant

Public Wholesale Water Supply District No. 25
946 E 650 Road
Lawrence, Kansas 66047

for a permit to appropriate water for beneficial use, together with the maps, plans and other submitted data, and that the application is hereby approved and the applicant is hereby authorized, subject to vested rights and prior appropriations, to proceed with the construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a, as amended), and to proceed with all steps necessary for the application of the water to the approved and proposed beneficial use and otherwise perfect the proposed appropriation subject to the following terms, conditions and limitations:

1. That the priority date assigned to such application is March 3, 2010.

2. That the water sought to be appropriated shall be used for municipal use within the boundaries of Public Wholesale Water Supply District No. 25 and immediate vicinity; within the boundaries of Rural Water District No. 2 and No. 5, Douglas County, Kansas; and within the boundaries of Rural Water District No. 5, Osage County, Kansas.

3. That the authorized source from which the appropriation shall be made is groundwater from main stem alluvium, to be withdrawn by means of a battery of two (2) wells with a geographic center located in the Southeast Quarter of the Northwest Quarter of the Southeast Quarter (SE¼ NW¼ SE¼) of Section 34, more particularly described as being near a point 1,590 feet North and 1,640 feet West of the Southeast corner of said section, in Township 12 South, Range 20 East in Douglas County, Kansas, located substantially as shown on the topographic map accompanying the application.

4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of 800 gallons per minute (1.78 c.f.s.) and to a quantity not to exceed 420,480 million gallons (1,290.41 acre-feet) of water for any calendar year.

5. That installation of works for diversion of water shall be completed on or before December 31, 2011 or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee of $400.00 when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of $100.00.

6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before December 31, 2030 or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of $100.00.
7. That the applicant shall not be deemed to have acquired a water appropriation for a quantity in excess of the amount approved herein nor in excess of the amount found by the Chief Engineer to have been actually used for the approved purpose during one calendar year subsequent to approval of the application and within the time specified for perfection or any authorized extension thereof.

8. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.

9. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator's point of diversion.

10. That this permit does not constitute authority under K.S.A. 82a-301 through 305a to construct any dam or other obstruction; nor does it grant any right-of-way, or authorize entry upon or injury to, public or private property.

11. That all diversion works constructed under the authority of this permit into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic quick-closing, check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

12. That all wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this permit shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water level measurements and shall be maintained in a condition satisfactory to the Chief Engineer.

13. That an acceptable water flow meter shall be installed and maintained on the diversion works authorized by this permit in accordance with Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. This water flow meter shall be used to provide an accurate quantity of water diverted as required for the annual water use report (including the meter reading at the beginning and end of the report year).

14. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year maybe readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.

15. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

16. That failure without cause to comply with provisions of the permit and its terms, conditions and limitations will result in the forfeiture of the priority date, revocation of the permit and dismissal of the application.

17. That the right to appropriate water under authority of this permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a-703c for the source of supply to which this water right applies.

18. That the permit holder shall submit a progress report to the office of the Chief Engineer by March 1, following the tenth full calendar year after the permit was issued. The progress report must be submitted on a form prescribed by the Chief Engineer, and shall compare annual water use projected in the original application with the actual annual water use for the prior 10 years. The progress report must document compliance with the approved conservation plan, contain sufficient details to determine the extent of perfection of the water right during the previous ten years, and demonstrate how the water right, in association with other water rights, meets the municipal use need.
19. That this permit is further limited such that both wells shall be located within a three hundred (300) foot radius circle, in the same local source of supply, and shall supply water to a common distribution system.

20. That the quantity of water approved under this permit is further limited to the quantity which combined with Appropriation of Water, File No. 47,414, will provide a total not to exceed 676 million gallons (2,074 acre-feet) of water per calendar year, for municipal use as described herein.

21. That the Chief Engineer specifically retains jurisdiction in this matter with authority to make such reasonable reductions in the approved rate of diversion and quantity authorized to be perfected, and such changes in other terms, conditions, and limitations set forth in this approval and permit to proceed as may be deemed to be in the public interest.

This Order shall become a final agency action, as defined by K.S.A. 77-807(b), without further notice to the parties, if a request for hearing or a petition for administrative review is not filed as set forth below.

Request for Hearing. According to K.A.R. 5-14-3(c), any party who desires a hearing must submit a request within 15 days after the date shown on the Certificate of Service attached to this Order. Filing a request for a hearing will give you the opportunity to submit additional facts for consideration, contest any findings made by the Chief Engineer, or present any other information you believe should be considered in this matter. A timely-filed request for hearing will stay the deadline for requesting administrative review of this Order pending the outcome of the hearing.

Petition for Review. The applicant, if aggrieved by this Order, may petition for administrative review, pursuant to K.S.A. 82a-711(c) and K.S.A. 82a-1901(a). The petition must be filed within 30 days after the date shown on the Certificate of Service attached to this Order and must set forth the basis for the review, unless stayed by the timely filing of a request for hearing.

Any request for hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 109 SW 9th Street, 4th Floor, Topeka, Kansas 66612, Fax: (785) 368-6668.

Dated at Topeka, Kansas, this 3rd day of May, 2010.

[Signature]
David W. Barfield, P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas

County of Shawnee

The foregoing instrument was acknowledged before me this 3rd day of May, 2010, by David W. Barfield, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.
CERTIFICATE OF SERVICE

On this 10th day of May, 2010, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 47,488, dated May 3, 2010, was mailed postage prepaid, first class, US mail to the following:

PUBLIC WHOLESALE WATER SUPPLY DISTRICT NO 25
946 E 650 RD
LAWRENCE KS 66047

With photocopies to:

KANSAS RIVER WATER ASSURANCE DISTRICT NO 1
% GALEN BIERY
212 SW 7TH STREET
TOPEKA KS 66603-3717

BARTLETT & WEST ENGINEERS
% JEFF SHAMBURG EI
1200 SW EXECUTIVE DRIVE
TOPEKA KS 66615-3850

Topeka Field Office

Amanda Humbley
Division of Water Resources
APPROVAL OF APPLICATION
and
PERMIT TO PROCEED
(This Is Not a Certificate of Appropriation)

This is to certify that I have examined Application, File No. 47,414 of the applicant

Public Wholesale Water Supply District No. 25
945 E 650 Road
Lawrence, Kansas 66047

for a permit to appropriate water for beneficial use, together with the maps, plans and other submitted data, and that the application is hereby approved and the applicant is hereby authorized, subject to vested rights and prior appropriations, to proceed with the construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a, as amended), and to proceed with all steps necessary for the application of the water to the approved and proposed beneficial use and otherwise perfect the proposed appropriation subject to the following terms, conditions and limitations:

1. That the priority date assigned to such application is October 13, 2009.

2. That the water sought to be appropriated shall be used for municipal use within the boundaries of Public Wholesale Water Supply District No. 25 and immediate vicinity; within the boundaries of Rural Water District No. 2 and No. 5, Douglas County, Kansas; and within the boundaries of Rural Water District No. 5, Osage County, Kansas.

3. That the authorized source from which the appropriation shall be made is groundwater from main stem alluvium, to be withdrawn by means of a battery of two (2) wells with a geographic center located in Lot 2, in Section 33, more particularly described as being near a point 1,848 feet North and 2,360 feet West of the Southeast corner of said section, in Township 12 South, Range 20 East in Douglas County, Kansas, located substantially as shown on the topographic map accompanying the application.

4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of 800 gallons per minute (1.78 c.f.s.) and to a quantity not to exceed 420.48 million gallons (1,290.41 acre-feet) of water for any calendar year.

5. That installation of works for diversion of water shall be completed on or before December 31, 2011 or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutory required field inspection fee of $400.00 when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of $100.00.

6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before December 31, 2030 or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of $100.00.
7. That the applicant shall not be deemed to have acquired a water appropriation for a quantity in excess of the amount approved herein nor in excess of the amount found by the Chief Engineer to have been actually used for the approved purpose during one calendar year subsequent to approval of the application and within the time specified for perfection or any authorized extension thereof.

8. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.

9. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator's point of diversion.

10. That this permit does not constitute authority under K.S.A. 82a-301 through 305a to construct any dam or other obstruction; nor does it grant any right-of-way, or authorize entry upon or injury to, public or private property.

11. That all diversion works constructed under the authority of this permit into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic quick-closing, check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

12. That all wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this permit shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water level measurements and shall be maintained in a condition satisfactory to the Chief Engineer.

13. That an acceptable water flow meter shall be installed and maintained on the diversion works authorized by this permit in accordance with Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. This water flow meter shall be used to provide an accurate quantity of water diverted as required for the annual water use report (including the meter reading at the beginning and end of the report year).

14. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.

15. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

16. That failure without cause to comply with provisions of the permit and its terms, conditions and limitations will result in the forfeiture of the priority date, revocation of the permit and dismissal of the application.

17. That the right to appropriate water under authority of this permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a-703c for the source of supply to which this water right applies.

18. That the permit holder shall submit a progress report to the office of the Chief Engineer by March 1, following the tenth full calendar year after the permit was issued. The progress report must be submitted on a form prescribed by the Chief Engineer, and shall compare annual water use projected in the original application with the actual annual water use for the prior 10 years. The progress report must document compliance with the approved conservation plan, contain sufficient details to determine the extent of perfection of the water right during the previous ten years, and demonstrate how the water right, in association with other water rights, meets the municipal use need.
19. That this permit is further limited such that both wells shall be located within a three hundred (300) foot radius circle, in the same local source of supply, and shall supply water to a common distribution system.

20. That the Chief Engineer specifically retains jurisdiction in this matter with authority to make such reasonable reductions in the approved rate of diversion and quantity authorized to be perfected, and such changes in other terms, conditions, and limitations set forth in this approval and permit to proceed as may be deemed to be in the public interest.

This Order shall become a final agency action, as defined by K.S.A. 77-607(b), without further notice to the parties, if a request for hearing or a petition for administrative review is not filed as set forth below.

Request for Hearing. According to K.A.R. 5-14-3(c), any party who desires a hearing must submit a request within 15 days after the date shown on the Certificate of Service attached to this Order. Filing a request for a hearing will give you the opportunity to submit additional facts for consideration, contest any findings made by the Chief Engineer, or present any other information you believe should be considered in this matter. A timely-filed request for hearing will stay the deadline for requesting administrative review of this Order pending the outcome of the hearing.

Petition for Review. The applicant, if aggrieved by this Order, may petition for administrative review, pursuant to K.S.A. 82a-711(c) and K.S.A. 82a-1901(a). The petition must be filed within 30 days after the date shown on the Certificate of Service attached to this Order and must set forth the basis for the review, unless stayed by the timely filing of a request for hearing.

Any request for hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 109 SW 9th Street, 4th Floor, Topeka, Kansas 66612, Fax: (785) 368-6668.

Dated at Topeka, Kansas, this 3rd day of May, 2010.

[Signature]

David W. Barfield, P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas
County of Shawnee

The foregoing instrument was acknowledged before me this 3rd day of May, 2010, by David W. Barfield, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

[Signature]
Sheryl P. Fergel
Notary Public

WATER METER REQUIRED  COPY
CERTIFICATE OF SERVICE

On this 10th day of May, 2010, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 47,414, dated May 3, 2010 was mailed postage prepaid, first class, US mail to the following:

PUBLIC WHOLESALE WATER SUPPLY DISTRICT NO 25
946 E 650 RD
LAWRENCE KS 66047

With photocopies to:

KANSAS RIVER WATER ASSURANCE DISTRICT NO 1
% GALEN BIERY
212 SW 7th STREET
TOPEKA KS 66603-3717

BARTLETT & WEST ENGINEERS
% JEFF SHAMBURG EI
1200 SW EXECUTIVE DRIVE
TOPEKA KS 66615-3850

Topeka Field Office

Amanda Hummer
Division of Water Resources
THE STATE OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE
Joshua Svaty, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

APPROVAL OF APPLICATION
and
PERMIT TO PROCEED
(This Is Not a Certificate of Appropriation)

This is to certify that I have examined Application, File No. 47,489 of the applicant

Public Wholesale Water Supply District No. 25
946 E 650 Road
Lawrence, Kansas 66047

for a permit to appropriate water for beneficial use, together with the maps, plans and other submitted data, and that the application is hereby approved and the applicant is hereby authorized, subject to vested rights and prior appropriations, to proceed with the construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a, as amended), and to proceed with all steps necessary for the application of the water to the approved and proposed beneficial use and otherwise perfect the proposed appropriation subject to the following terms, conditions and limitations:

1. That the priority date assigned to such application is March 3, 2010.

2. That the water sought to be appropriated shall be used for municipal use within the boundaries of Public Wholesale Water Supply District No. 25, within the boundaries of Rural Water District No. 2 and No. 5, Douglas County, Kansas; and within the boundaries of Rural Water District No. 5, Osage County, Kansas.

3. That the authorized source from which the appropriation shall be made is groundwater from main stem alluvium, to be withdrawn by means of a battery of two (2) wells with a geographic center located in the Southeast Quarter of the Northeast Quarter of the Southwest Quarter (SE1/4 NE1/4 SW1/4) of Section 34, more particularly described as being near a point 1,953 feet North and 3,046 feet West of the Southeast corner of said section, in Township 12 South, Range 20 East in Douglas County, Kansas, located substantially as shown on the topographic map accompanying the application.

4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of 800 gallons per minute (1.78 c.f.s.) and to a quantity not to exceed 420.48 million gallons (1,290.41 acre-feet) of water for any calendar year.

5. That installation of works for diversion of water shall be completed on or before December 31, 2011 or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee of $400.00 when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of $100.00.

6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before December 31, 2030 or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of $100.00.
7. That the applicant shall not be deemed to have acquired a water appropriation for a quantity in excess of the amount approved herein nor in excess of the amount found by the Chief Engineer to have been actually used for the approved purpose during one calendar year subsequent to approval of the application and within the time specified for perfection or any authorized extension thereof.

8. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.

9. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator’s point of diversion.

10. That this permit does not constitute authority under K.S.A. 82a-301 through 305a to construct any dam or other obstruction; nor does it grant any right-of-way, or authorize entry upon or injury to, public or private property.

11. That all diversion works constructed under the authority of this permit into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic quick-closing, check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

12. That all wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this permit shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water level measurements and shall be maintained in a condition satisfactory to the Chief Engineer.

13. That an acceptable water flow meter shall be installed and maintained on the diversion works authorized by this permit in accordance with Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. This water flow meter shall be used to provide an accurate quantity of water diverted as required for the annual water use report (including the meter reading at the beginning and end of the report year).

14. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.

15. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

16. That failure without cause to comply with provisions of the permit and its terms, conditions and limitations will result in the forfeiture of the priority date, revocation of the permit and dismissal of the application.

17. That the right to appropriate water under authority of this permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a-703c for the source of supply to which this water right applies.

18. That the permit holder shall submit a progress report to the office of the Chief Engineer by March 1, following the tenth full calendar year after the permit was issued. The progress report must be submitted on a form prescribed by the Chief Engineer, and shall compare annual water use projected in the original application with the actual annual water use for the prior 10 years. The progress report must document compliance with the approved conservation plan, contain sufficient details to determine the extent of perfection of the water right during the previous ten years, and demonstrate how the water right, in association with other water rights, meets the municipal use need.
19. That this permit is further limited such that both wells shall be located within a three hundred (300) foot radius circle, in the same local source of supply, and shall supply water to a common distribution system.

20. That the quantity of water approved under this permit is further limited to the quantity which combined with Appropriation of Water, File Nos. 47,414 and 47,488, will provide a total not to exceed **676 million gallons (2,074 acre-feet)** of water per calendar year, for municipal use as described herein.

21. That the Chief Engineer specifically retains jurisdiction in this matter with authority to make such reasonable reductions in the approved rate of diversion and quantity authorized to be perfected, and such changes in other terms, conditions, and limitations set forth in this approval and permit to proceed as may be deemed to be in the public interest.

This Order shall become a final agency action, as defined by K.S.A. 77-507(b), without further notice to the parties, if a request for hearing or a petition for administrative review is not filed as set forth below.

Request for Hearing. According to K.A.R. 5-14-3(c), any party who desires a hearing must submit a request within 15 days after the date shown on the Certificate of Service attached to this Order. Filing a request for a hearing will give you the opportunity to submit additional facts for consideration, contest any findings made by the Chief Engineer, or present any other information you believe should be considered in this matter. A timely-filed request for hearing will stay the deadline for requesting administrative review of this Order pending the outcome of the hearing.

Petition for Review. The applicant, if aggrieved by this Order, may petition for administrative review, pursuant to K.S.A. 82a-711(c) and K.S.A. 82a-1901(a). The petition must be filed within 30 days after the date shown on the Certificate of Service attached to this Order and must set forth the basis for the review, unless stayed by the timely filing of a request for hearing.

Any request for hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 109 SW 9th Street, 4th Floor, Topeka, Kansas 66612, Fax: (785) 368-6668.

Dated at Topeka, Kansas, this 3rd day of May, 2010.

David W. Barfield, P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas

County of Shawnee

The foregoing instrument was acknowledged before me this 3rd day of May, 2010, by David W. Barfield, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

Sheryl P. Ferguson
Notary Public

WATER METER REQUIRED
CERTIFICATE OF SERVICE

On this 10th day of May, 2010, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 47,489, dated May 3, 2010, was mailed postage prepaid, first class, US mail to the following:

PUBLIC WHOLESALE WATER SUPPLY DISTRICT NO 25
946 E 650 RD
LAWRENCE KS 66047

With photocopies to:

KANSAS RIVER WATER ASSURANCE DISTRICT NO 1
% GALEN BIERY
212 SW 7TH STREET
TOPEKA KS 66603-3717

BARTLETT & WEST ENGINEERS
% JEFF SHAMBURG EI
1200 SW EXECUTIVE DRIVE
TOPEKA KS 66615-3850

Topeka Field Office

[Signature]
Division of Water Resources
April 8, 2013

PUBLIC WHOLESALE WATER SUPPLY DIST #25
946 E 650TH RD
LAWRENCE KS 66047-9538

RE: Appropriation of Water
File Nos. 47,414, 47,488 and 47,489

Dear Sir or Madam:

In response to your written request(s), received in this office on December 31, 2012, the Chief Engineer has extended until December 31, 2013, the time in which to complete the diversion works under the above referenced file numbers.

The Kansas Water Appropriation Act and associated regulations require the Chief Engineer to limit the amount of time to complete the diversion works and perfect a water right. Any future request(s) should demonstrate that progress has been made toward completing the diversion works and elaborate how circumstances beyond your control prevented completion of the authorized project. While we will consider any information you submit, there is no guarantee that future request(s) can be granted.

The law requires that the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, be notified in writing, when construction of the diversion works has been completed. According to the law, failure to complete construction of the diversion works, within the time allowed, shall result in the dismissal of the above referenced permits.

If you have any questions, please contact our office.

Sincerely,

Kenneth A. Kopp, L.G.
Water Appropriation Program

pc: Topeka Field Office
Jeffrey Shamburg - Bartlett and West
December 17, 2009

Larry Wray, Chairman
PWWSD # 25
946 E. 650 Rd
Lawrence, Kansas 66047

Subject: Ground Water Investigation

Dear Mr. Wray,

This letter is written to serve as a report concerning the investigation made to locate and evaluate well sites just south of the Kansas River in the SE ¼ and SW ¼ Section 34, T12S, R20E Douglas County. We have attached a map showing the drilling sites, drill logs and summary of the partial water analysis.

The Investigation

Two test holes were drilled September 23, 2009 in the SE ¼ of Section 34 (east site). From these two test holes we selected the best site and completed a 5" test well.

Test hole 4-09 was drilled in the SE ¼ Sec 34 on the northeast corner of the property. Sand and gravel were present from 13' to 54' and one foot of cemented sand was just above the shale at 55'. Two inch PVC was set at this location with screen from 35' to 55'. A sample was air lifted and due to the very fine sand present was filtered before being sent to Servi-Tech. Water quality indicated a 380 ppm (parts per million) hardness and a high reading of 0.47 ppm of manganese. Nitrate, chloride and iron were acceptable at this site. Static water level was 24.09' and 29.91' of saturated thickness is available at this site.

Test hole 5-09 was drilled in the SE ¼ Sec 34 on the northwest corner of the property with sand and gravel from 16' to 53'. A cemented sand layer was present from 53 to 54 feet, then shale at 55'. Two Inch PVC was set with screen from 33' to 53'. The water sample was air lifted and filtered. Water analysis indicated total hardness of 320 ppm, manganese of 0.50 ppm, and nitrate, iron and chloride all in an acceptable range. The aquifer has 28.30' of saturated thickness at this site with a static water level of 24.70'.

Test well 9-09 (east site) was completed 20' from test hole 4-09. Five inch PVC pipe was set with screen located from 54' to 34'. A 4 hour pumping test was run at 94.3 gpm on October 8, 2009.
On the SW 1/4 of Section 34, T12S, R20E two test holes were completed with 2" PVC and a water sample was airlifted and filtered.

Test hole 6-09 was drilled on the southwest corner of the property to 25’. Water circulation was lost at this depth due to a fracture or a tree root and we moved 40’ south to complete Test Hole 6-09A. Test hole 6-09A was completed to a depth of 56’ into shale. Sand and gravel with small streaks of gray clay were present from 16’ to 54’. Cemented sand ran from 54’ to 55.5’. Twenty foot of screen was set from 54’ to 34’. Static water level was 27.64’ and 26.36’ of saturated thickness is present at this site. Water quality showed a high manganese reading of 0.47 ppm and total hardness of 380. The rest of the water analyses was acceptable and is shown on the water quality summary sheet.

Test Hole 7-09 was drilled on September 25, 2009. Sand and gravel with wood pieces and clay streaks ran from 18’ to 52’. This site had the dirtiest producing formation of the 4 test holes and the least amount of saturated thickness at 24.22’ of water. Also the water quality was not as good as the other sites with a total hardness of 410 ppm, Iron of 0.13 ppm with 0.45 ppm of manganese.

Test Well 8-09 (East Site) was drilled at the Test Hole 6-09A site and completed with 20’ of screen from 54’ to 34’. On October 7, 2009 a 3.5 hour pumping test was completed at this site and KDHE and Servi-Tech samples were collected.

Analysis of Data

The computer analysis (Aquifer Test 3.5) of the three and one-half hour pumping test on test well 8-09 indicates an average transmissivity of 66,655 gallons per foot per day (g/ft/d). Transmissivity is the measure of how much water can move through a unit width of the aquifer. Readings were taken with pressure data loggers as well as manually. Drawdown of 5.34 feet at 94.7 gpm was recorded giving us a specific capacity of 17.73 gallons per foot of drawdown. Static water level was 27.79’ which indicates 26.21’ of saturated thickness. This is the weakest of the three test well sites. Given the limited saturated thickness and high iron and manganese levels a well located here would produce in the 400 gpm range. We have not received the KDHE radiochemistry results at this site.

The water samples on test well 8-09 were pumped not airlifted as the test holes. Also they were not filtered as the test hole samples. The water hardness was 410 ppm and nitrates increased to 1.60 ppm from test hole 6-09A. The nitrate is still within the 10 ppm KDHE maximum. Manganese remained elevated at 0.46 ppm but the iron increased to 5.4 ppm from less than 0.05 ppm.

Test Well 9-09 was pumped for four hours with a maximum drawdown was 2.63’ giving us a specific capacity of 35.85 gallons per foot of drawdown. Static water level was 21.11’ with 29.89’ of saturated thickness at this site. The hydrology of this site indicates the strongest aquifer of our test wells with average transmissivity of 151,000 g/d/ft. As with the other sites the high iron and manganese will require a well chlorination schedule to maintain this well site.
The water quality at this site also indicated a large increase in the iron content from 0.07 ppm to 7.6 ppm. We question this. Water hardness was 410 ppm and no nitrates were detected. KDHE radiochemistry analysis is all within the acceptable range.

Conclusion

TW 8-09 (west site) given the limited saturated thickness and high iron and manganese levels a well located here would produce in the 400 gpm range.

The TW 9-09 (east site) is a much stronger aquifer and would support a well producing 500 to 600 gpm

At both sites the iron amount increased to an excessive amount, 5.4 ppm at TW 8-09 and 7.6 ppm at TW 9-09 when the water samples were pumped verses the test hole airlifted. Also the test hole airlifted samples were filtered before they were sent to Servi-Tech and the test well pumped samples were not. Fine sand in the pumped water samples can cause elevated iron content. The engineer may want the test wells resampled to determine the iron content of the sites.

Please advise us if you have comments or questions concerning this letter report.

Best Regards,

Brad Vincent, P.G.
Ground Water Associates, Inc.

pc: Jeff Shamburg, Project Engineer
Bartlett and West Engineers, Inc.
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<th>Test Hole / Test Well #</th>
<th>Surface Elevation</th>
<th>Depth to Bedrock</th>
<th>Bedrock Elevation</th>
<th>Static Water Level</th>
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### PWWSD #25 Water Quality

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<td>3.5</td>
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**KDHE Standards**
- Total Hardness: <400
- Nitrate (NO₃-N): <10
- Chloride (Cl): <250
- Iron (Fe): <0.30
- Manganese (Mn): <0.05

All results in mg/L  
Servi-Tech Lab  
KDHE Lab
PWWSD #25

TH 4-09  1560' N & 1460' E of SE cor. Section 34, T12S, R20E
        N 38 57.665' W 95 10.333'

Elevation 813'

SWL 24.09' @GL

0 - 3'  TS
3 - 14  Clay, lt br
14 -20  Sand br f-m, clay lt br, soft
20 - 33  Sand br f-m, streaks gy clay @ 24', using water
33 - 51  Sand br/gy f-c, so. gravel f, so. clay gy, using water
51 - 54  Gravel f-c br, sand br f-c, so pebbles br/ gy
54 - 55  Cemented sand br/gy
55 - 57  Shale gy, v. hard
57     Limestone wh

Set 2" pvc, screen 55'-35'.

Gravel Pack to 20' and holeplug 20' to 0.

Logged by Brad Vincent, Ground Water Associates
GPS - Garmin hand held using 1927 North American datum
PWWS #25

23 Sep 2009

TH 5-09  1560' N & 1840' E of SE cor. Section 34, T12S, R20E
     N 38.57.666' W 95.10.413'

Elevation 813'

SWL 24.70' @GL

0 - 3'    TS
3 - 16    Clay, lt br, soft
16 - 41   Sand br/fm, using water
41 - 53   Sand br/gy f-m, streaks gravel f-c @ 41', using water
53 - 54   Cemented sand, v. hard
54 - 56   Shale gy, v. hard
55 - 57   Shale gy, v. hard

Set 2" pvc, screen 53'-33'.

Gravel Pack to 20' and holeplug 20' to 0.

Logged by Brad Vincent, Ground Water Associates
GPS - Garmin hand held using 1927 North American datum
PWWSD #25

TH 6-09A 1900' N & 730' W of SE cor. Section 34, T12S, R20E
N 38 57.721' W 95 10.744'
Elevation 813'
SWL 27.64' @GL

0 - 4' TS
4 - 16 Clay, lt br
16 -31 Sand br f-m
31 – 35.5 Sand br/gy f-c, so. gravel f, clay gy streaks @31', using water
35.5 – 37 Sand br/gy f-c, so. gravel f-c, so. pebbles, using water
37 – 54 Sand br/gy f-c, so. gravel f-c, so. very thin gy clay streaks, using water
54 – 55.5 Cemented sand, v. hard
55.5-56 Shale gy, v. hard

Set 2” pvc, screen 54’-34’.

Gravel Pack to 20’ and holeplug 20’ to 0.

Logged by Brad Vincent, Ground Water Associates
GPS - Garmin hand held using 1927 North American datum
PWWSD #25

TH 7-09  1958' N & 100' W of SE cor. Section 34, T12S, R20E
N 38 57.733' W 95 10.614'

Elevation 813'
SWL 27.78' @GL

0 - 3'  TS
3 - 18  Clay, lt br, silty
18 - 25 Sand br f-c
25 - 30 Sand br/gy f-c, so. gravel f-m, using water
30 - 34 Sand br/gy f-c, gravel f, shale or wood pieces bl
34 - 40 Sand br/gy f-c, gravel f, clay gy streaks
40 - 52 Sand br/gy f-c, wood pieces
52-54.5 Sand br/gy f-c, so. cemented, wood pieces
54.5 - 55 Limestone gy, v. hard

Set 2" pvc, screen 54'-34'.

Gravel Pack to 20' and holeplug 20' to 0.

Logged by Brad Vincent, Ground Water Associates
GPS - Garmin hand held using 1927 North American datum
**Formation Log**

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(Well Construction on Other Side)

DRILLED BY  Edward Cass  DATE 09-30-09
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<td>Clay, light brown, soft, silty</td>
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<td>38</td>
<td>41</td>
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<td>Clay, light gray, hard</td>
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<td>41</td>
<td>52</td>
<td></td>
<td>Sand, fine to coarse, with gravel, fine to medium, gray color, dirty</td>
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<tr>
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<tr>
<td>55</td>
<td>57</td>
<td></td>
<td>Shale, gray, hard</td>
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(Well Construction on Other Side) DRILLED BY Edward Cass DATE 10-01-09
March 2, 2009

Larry Wray, Chairman  
PWWSD # 25  
946 E. 650 Rd  
Lawrence, Kansas 66047

Subject: Ground Water Investigation

Dear Mr. Wray,

This letter is written to serve as a report concerning the investigation made to locate and evaluate well sites just south of the Kansas River in the SE ¼ Section 33, T12S, R20E Douglas County. We have attached a map showing the drilling sites, drill logs, summary of the partial water analyses, and a multiple well pumping projection.

The Investigation

Two test holes and one test well were drilled January 19, 20, 2009 in the SE ¼ of Section 33 with the bottom sand and gravel formation at 52' on all three holes.

Test hole 1-09 was drilled on the northeast corner of the property. Sand and gravel was present from 13' to 52' with half a foot of clay from 27' to 27.5'. Two inch PVC was set at this location with screen from 32' to 52'. The fifty percent size of the samples collected ran from 0.66 mm (45' to 52') to 1.38 mm (25' to 27'). A water sample was air lifted showing a water quality of 480 ppm (parts per million) hardness and a moderately high reading of 0.50 ppm of manganese. Nitrate, chloride and iron were acceptable at this site. A static water level of 25.95' leaves 26.05' of water at the NE corner of the area of investigation.

Test hole 2-09 was drilled on the southwest corner of the property (705.3' west of TH 3-09) with sand and gravel from 18' to 52'. A layer of clay was located from 41 to 42 feet. Two inch PVC was set with screen from 32' to 52'. These sand and gravel samples range from a fifty percent size of 0.225 mm (42' to 47') to 1.4 mm (50.5' to 52'). The water sample was air lifted January 21, 2009 at this site and hardness was 550 ppm, manganese 0.82 ppm, and nitrate, iron and chloride all in acceptable range. The aquifer has 26.55' of water at this site with a static water level of 25.45'.

Test Well 3-09 was completed on the southeast corner of the property, 238.5' south of TH 1-09. Five inch PVC pipe was set with screen from 52' to 32'. Sand and gravel ran from 13' to 52' with a clay layer from 36' to 36.5'. The sieve analyses ran on the samples indicate a 50 percent size of 0.47 mm (21' to 36') for the finest and 1.25 mm (36.5' to 41')
Larry Wray, Chairman  
Page 2  
March 2, 2009  

as the coarsest. Static water level was 26.48’ leaving 25.52’ of water at this location. Upon completion of the test well a water sample was lifted with air on 21 January 2009. Total hardness was 450 ppm, manganese 0.38 ppm, iron 0.11 ppm with nitrates less than 1 ppm, and chlorides of 58 ppm. Once again the hardness and manganese were high but the others three were well within acceptable levels.

On January 29 2009 a four hour pumping test was completed on test well 3-09 and readings were taken at all three sites. The test was run at 134.7 gpm with the final four hour reading at the test well indicated a drawdown of 2.49’ or a specific capacity of 54.1 gallons per foot of drawdown. Upon completion of this four hour test, one hour recovery of readings were taken at test hole 1-09 and the pumped well (TW 3-09). Test hole 2-09 which is 705.3’ west recorded no drawdown on the four hour test so no recovery readings were taken.

Three and one half hours into the pumping test water samples were collected for KDHE (Kansas Department of Health and Environment) and Servi-Tech Laboratories. We use the Servi-Tech analysis as a cross check for the KDHE sample. A summary sheet of the five most problematic items is included with this report. This pumped water sample (from TW 3-09) indicates a water hardness of 490-510 ppm and nitrates of 1.6 - 2.2 ppm which are slightly higher, while the chlorides and manganese have a small decrease from the air lifted samples taken January 21, 2009. The iron content greatly increased to 3.5 - 3.9 ppm from the January 21 sample of 0.11 ppm, and the pumped sample will be the most nearly correct.

Analysis of Data

The computer analysis (Aquifer Test 4.0) of the four hour pumping test on test well 3-09 indicates an average transmissivity of 80,300 gft/d with a storativity value of 0.212. Transmissivity is the measure of how much water can move through a unit width of the aquifer. Storativity or specific yield measures how much water drains from the pore spaces of the unconfined aquifer. This analysis indicates a relatively strong aquifer. Our sieve analyses of the sand and gravel at the three sites indicate a moderate to very fine grain size.

Using the Aquifer Test 4.0 multiple pumping wells program we ran our projection with two wells 700’ apart pumping at 775 gpm for 365 days. The 775 gpm per well was arrived at by dividing the application requested amount of 2,500 acre feet of water by 365 days and 1440 minutes. We used the transmissivity and storativity from our averaged analysis of the TW 3-09 pumping test. The results show a greater than 26’ of drawdown in the well field from these two wells pumping continuously for one year at 775 gpm. However our program doesn’t take into account any recharge from precipitation or from the surface water due to the close proximity to the Kansas River (TH 1-09 is 270’ south of the river), and this amount will be significant. We also ran a projection where only the east well is pumping at 775 gpm for 365 days and then both wells pumping at 387 gpm for 365 days.
Conclusion

Pumping two production wells within 700 feet at 775 gpm would create excessive drawdown at this site due to the depth of water (twenty-six feet) and the moderate to fine sand formations located in portions of this aquifer. Even though our Aquifer Test 4.0 projection of multiple pumping wells (see attached) does not include recharge from precipitation or the Kansas River we feel this aquifer with a transmissivity of 80,300 g/ft/d would require either greater spacing or reduced pumping rates of the production wells. The basic problem here is the limited saturated thickness of the aquifer.

Using the same aquifer data and pumping the east production well at 775 gpm the projection shows drawdown of 18.48' (71 percent drawdown) at the well site. However if the east and west site are pumped at 387 gpm the drawdown at the wells is just 10.45' or 40 percent. Pumping one well at the east and one well at the west site at a reduced rate (1250 acre feet) would be good alternative at this location. Of course, recharge from the river will not allow the projected drawdowns shown to cross the river.

The quality of water at this site is hard, and the iron and manganese is excessive but we understand that a treatment plant would be used to correct this problem. The wells would have to be regularly chlorinated to prevent plugging of the screens. At the time of this letter we have not received the radiological analysis from KDHE but no problems would be expected in this type of aquifer.

Please advise us if you have comments or questions concerning this letter report.

Best Regards,

Brad Vincent, P.G.
Ground Water Associates, Inc.

pc: Jeff Shamburg, Project Engineer
Bartlett and West Engineers, Inc.
**Formation Log**

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<th>SAMPLES TAKEN</th>
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<td>59</td>
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**Formation Test Only**: ☑

**PLUGGED**: ☐

**JOB NUMBER**: 9630

**WELL OWNER**: PWWSID #25

**WELL USE**: Formation

**LEGAL NE**: 1/4 NW 1/4 SE 1/4 Sect 33 Twp 12 S Rng 20 E Douglas KS

**FSL**: 310019

**GPS**: 4314701

**FEL**: N Zone 15 NAD 27

**SIZE HOLE**: 5" DIA.

**Electric Log**: ☑

**SWL**: 25.95'

**SECTION**: 33

**DATE**: 01-20-09

(Well Construction on Other Side)
**Formation Log**

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**Well Construction on Other Side**

(Well Construction on Other Side) DRILLED BY Lew Raybern DATE 01-20-09

**Notes:**
- Job Number: 9630
- Well Owner: PWWSID #25
- Well Use: Formation
- Legal: SW 1/4 NW 1/4 SE 1/4 Sect. 33 Twp 12 S Rng 20 E Douglas KS County State
- GPS: 309804 E 4314635 N Zone 15 NAD 27
- Size: 6" DIA.
- Electric Log: [ ]
- SWL: 25.45'
- Section: 33
- APPR. NO.: 458778
- PLUGGED: [ ]
- FORMATION TEST ONLY: [ ]
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(Well Construction on Other Side)  DRILLED BY  Lew Raybern  DATE  01-21-09
## PWWSD #25 Water Quality

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<th>Chloride (Cl)</th>
<th>Iron (Fe)</th>
<th>Manganese (Mn)</th>
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<tr>
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<td>20 Jan 09</td>
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<td>21 Jan 09</td>
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<td>58</td>
<td>&lt;0.05</td>
<td>0.82</td>
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<td>TW 3-09 (Air Lift)</td>
<td>21 Jan 09</td>
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<td>&lt;1</td>
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<td>0.11</td>
<td>0.38</td>
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<td>TW 3-09 (Pumped)</td>
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<td>490</td>
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<td>3.5</td>
<td>0.30</td>
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<td>TW 3-09 (Pumped)</td>
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<td><strong>12</strong></td>
<td><strong>3.9</strong></td>
<td><strong>0.33</strong></td>
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KDHE Standards:  
- Total Hardness: <400 mg/L  
- Nitrate (NO3-N): <10 mg/L  
- Chloride (Cl): <250 mg/L  
- Iron (Fe): <0.30 mg/L  
- Manganese (Mn): <0.05 mg/L

All results in mg/L  
Servi-Tech Lab  
KDHE Lab
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### Ground Water Associates
1999 N. Amidon, STE. 218
Wichita, KS 67203

#### Pumping Test - Water Level Data

**Project:** PWWSD #25  
**Number:**  
**Client:**

**Location:** SE 1/4, Sec 33, T12S, R20E  
**Pumping Test:** Four Hour Pumping Test  
**Pumping well:** TW 3-08

**Test conducted by:** Clarke Drilling  
**Test date:** 1/29/2009  
**Discharge:** variable, average rate 134.7 [U.S. gal/min]

**Observation well:** TH 1-00  
**Static water level (ft):** 27.53  
**Radial distance to PW (ft):** 236.6

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## Pumping Test Analysis Report

**Project:** PWWSD #25  
**Test date:** 1/29/2009

### Aquifer Thickness
25.52 ft

### Discharge
Variable, average rate 134.7 [U.S. gal/min]

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<th>Method name</th>
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<td>1.54 × 10⁵</td>
<td>8.03 × 10³</td>
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Average: 6.87 × 10⁴  
3.87 × 10³  
1.80 × 10⁻¹

### Calculations

\[
T = 67000 \\
q = 97100 \\
Q = 76760 \\
\text{Average} = \frac{240808}{S} = 80267 \\
\text{Average} = \frac{0.6359}{3} = 0.212
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**TOTAL GROSS BASE ** **BID**

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**CITY OF SIoux Falls**

**PUBLIC WORKS ENGINEERING**

**8/14/2006**
POTENTIAL PRODUCTIONWELL
PROPOSED 28 ACRE PLANT SITE

POTENTIAL PRODUCTIONWELL
POTENTIAL PRODUCTIONWELL
PROPOSED WELLSITE 700' +/-

30' DRAINAGE EASEMENT
6 ACRES
800'
325'

Tract No. 2
N1500 RD
E1750 RD

VAN LLC
3712 QUAIL CREEK CT
LAWRENCE KS  66047

PERKINS CARL C JR TRUSTEE
5009 W  67TH ST
PRAIRIE VILLAGE, KS  66208

SCHAAKE LARRY C
643 TENNESSEE ST
LAWRENCE, KS  66044

H T
POTENTIAL PRODUCTION
WELL
H T
POTENTIAL PRODUCTION
WELL
H T
POTENTIAL PRODUCTION
WELL

COYOTE FARMS LLC
4505 TURNBERRY DR
LAWRENCE KS  66047

SCHAAKE LARRY C TRUSTEE
1791 N 1500 RD
LAWRENCE KS  66046

SCHAAKE DOROTHY J TRUSTEE
1597 N 1550 RD
LAWRENCE KS  66046

ULRICH PHILLYS A TRUSTEE
1791 N 1500 RD
LAWRENCE KS  66046

SCHAAKE LARRY C TRUSTEE
1791 N 1500 RD
LAWRENCE KS  66046

MILLER RALPH D TRUSTEE
1791 N 1500 RD
LAWRENCE KS  66046

KITSMILLER RALPH D TRUSTEE
1341 E 1700 RD
LAWRENCE KS  66046

SCHAAKE LARRY C TRUSTEE
1791 N 1500 RD
LAWRENCE KS  66046

SCHAAKE LARRY C TRUSTEE
1791 N 1500 RD
LAWRENCE KS  66046

KNABE LINDA J & RICHARD L TRUSTEES
39460 W 143RD ST
EUDORA KS  66025

CITY OF LAWRENCE
PO BOX 708
LAWRENCE KS  66044

SCHWARTING NANCY
PO BOX 901
LAWRENCE KS  66044

HADL TAMELA L
1771 N 1500 RD
LAWRENCE KS  66046

SINKS LAWRENCE E
1602 N 1550 RD
LAWRENCE KS  66046

PENNY DAVID M
643 TENNESSEE ST
LAWRENCE KS  66044

VOGEL IRENE S TRUSTEE
PO BOX 429
LAWRENCE KS  66044
CUP-13-00281: Conditional Use Permit for a water treatment plant site to produce water for Public Wholesale Water Supply District No. 25, located ¼ mile east of the intersection of E 1750 Rd and N 1500 Rd

Lawrence-Douglas County Planning Office
September 2013
September 22, 2013

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

RE: ITEM NO. 3: CONDITIONAL USE PERMIT; WATER TREATMENT
PLANT; ¼ MILE E OF E 1750 RD & N 1500 RD (MKM)

Dear Chairman Culver and Planning Commissioners:

The Lawrence League has many concerns about the development of the proposed water treatment plant and is asking that you study this issue in depth before you recommend approval for a CUP.

Listed below are some of these concerns:

1. The location of the proposed plant is very close to, and in fact, could be within the boundaries of, the Lawrence Urban Growth Area. The water main, or mains, connecting to it would have to pass through what appear to be Lawrence City boundaries. Would there be problems of jurisdiction and maintenance, among other difficulties that its proximity could create?

2. Although the location technically is outside of the 100-year floodplain, it is in a very small area between the floodway and floodplain and appears to be within the Valley Channel District of the County. The likelihood of its flooding seems to us a real possibility in view of the expected increase in frequency and intensity of storms recently attributed by many to climate change.

3. Some predictions, in contrast, are that Lawrence is included in an area that will be facing increasing incidents of drought. Because of the dependence of our local water tables on rain and river flow, we have some questions about the wisdom of encouraging increased use of our groundwater for residential use, even though to some it may seem limitless when its source is located adjacent to the Kansas River. Rather than being beneficial, a major increase in rural water supply could have an adverse effect.

   a. The expectation of prospective county residential builders that rural water is limitless will encourage county non-farm residential growth, increasing future water shortages that some predict.

   b. This expectation of increased rural water supply could also increase its wasteful use by existing county residents, in contrast to the predicted future need for water conservation.

We ask that you carefully study this request for a CUP by the Wholesale Water Supply District No. 25 and even consider recommending a denial of this permit.

Sincerely yours,

Cille King
Co-President

Alan Black
Alan Black, Chairman
Land Use Committee
PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
09/23/13

ITEM NO. 4: CONDITIONAL USE PERMIT; SEASONAL CAMPING; 1478 N 1700 RD (MKM)

CUP-2-1-10: Consider a Conditional Use Permit to allow seasonal camping accessory to farm operations, on approximately 12 acres, located at and adjacent to 1478 N. 1700 Road. Submitted by Natalya Lowther, property owner of record. Deferred by Planning Commission on 5/26/10.

This CUP application was submitted in 2010 and a staff report was provided for the April, 2010 Planning Commission meeting. The staff report was revised for the May, 2010 meeting to include the changes and information the Commission had requested in April. As few of the current Planning Commissioners were on the Commission when this item was previously considered, a new staff report is being provided. The previous staff reports and meeting minutes are included in Attachment A.

STAFF RECOMMENDATION: Staff recommends approval of a Conditional Use Permit for camping, at Pinwheel Farm, located at 1480 N 1700 Road and forwarding of it to the County Commission with a recommendation for approval, based upon the findings of fact presented in the body of the staff report subject to the following conditions:

(GENERAL PROVISIONS)

1. The CUP approval is valid for 10 years (January 1, 2024) with an administrative review in 5 years (January 1, 2019) to determine if the use is still appropriate with the level of urbanization that has occurred in the area. The CUP approval will expire at the end of 10 years (January 1, 2024), unless an extension request is approved by the Board of County Commissioners by that date. In the event an extension is not approved, or the CUP approval expires, a new CUP application must be submitted.

2. Camping will be operated as an accessory use to farm operations, not as a stand-alone enterprise.

3. Camping shall not be publicly promoted in any way, although it may be mentioned as a housing option in farm volunteer opportunity descriptions.

4. No more than 4 self-contained camping trailers or RVs and/or up to 4 tents at a time, with a maximum of 6 units housing up to 12 adults may be located on the site at any given time (exclusive of the permanent house on 1480 N 1700 Road). Vacant RVs or other camping units will count toward the number permitted on the site.

5. Camping is permitted only on that portion of the farm that is north of the north property line of 1480 N 1700 Road.

6. Camping units shall be placed in areas that are reasonably screened from view of street or neighbors.

7. No camping may occur within the Regulatory Floodway.

8. A safe water supply and adequate sewage management system shall be provided for the camping use approved with this CUP, per approval of the Douglas County Health Department:
1) City or bottled water shall be provided for the campers, rather than well water. The health official indicated that the applicant could fill a large jug with City or treated water for the use of the campers.

2) The privy may be used to serve the camping use; provided provisions for hand-washing are provided.

9. There will be no outside fires associated with the camping use.

10. RVs or other vehicular camping units must be properly tagged and roadworthy.

11. Fire extinguishers are required in all camping units.

12. No engines or gas generators may be used for power supply to campers on the farm, except for emergency use in the case of power failure.

13. Lights used for camping shall be shielded to prevent glare or light trespass to neighboring properties.

14. Camping areas shall be kept in a neat, safe and sanitary manner.

15. No electronic sound amplification is permitted that is readily audible from neighboring properties, except for emergency/hazard warning devices.

(CUP PLAN)

16. Applicant shall provide a revised CUP plan with the following changes:
   i. The limits of the Regulatory Floodway shown on the plan with no camping areas within the Floodway.
   ii. Addition of a note that the CUP is subject to conditions and restrictions of use approved by the Board of County Commissioners.

(EASEMENTS)

17. An affidavit stating the following requirement, in a form acceptable to the Register of Deeds, shall be recorded with the Register of Deeds prior to the final approval of the CUP: “The property owner shall execute a lateral line easement for the off-site lateral lines for 1480 N 1700 Road, per the County Health Official’s approval, prior to the sale of either 1480 N 1700 Rd. or the land where the laterals are located, if the off-site lateral lines are still in service. The easement shall be recorded at the Register of Deeds.”

**CUP Background**

**April 26, 2010:** When originally submitted in 2010, this Conditional Use Permit (CUP) application included the following uses: camping, sale of farm products, and events at Pinwheel Farm. The CUP was considered by the Planning Commission at their April, 2010 meeting. The Planning Commission held a public hearing and considered the item. The Commission deferred the item and requested that additional information be provided when the item was returned.

The revised staff report for the May, 2010 Planning Commission meeting contains the information requested by the Commission. The minutes and staff reports are included with this staff report as Attachment A.

**May 26, 2010:** The Planning Commission considered the CUP. The applicant had withdrawn the ‘event’ and ‘farmer’s market’ from the CUP request so ‘camping’ was the only activity for
which CUP approval was being requested. The Commission heard public comment and discussed the item, then voted to defer the item. The item was deferred indefinitely at the applicant’s request. The Commission indicated that Planning staff should review the alternate conditions that had been proposed by the applicant with the materials provided for the May meeting, and recommended that the applicant meet with the neighbors before the item is brought back to the Commission.

March 14, 2011: At the applicant’s request Keith Dabney, Director of Zoning and Codes, provided a written interpretation that her proposed use of the camper or other camping units would not be permitted under Section 12-306-2.18, Uses Regulations for the A District: “One or more mobile homes shall be allowed as an accessory use to a farm so long as they are occupied by a family related by blood, or marriage, to the occupant of the main dwelling, or by a person or persons employed on the farm.”

April 18, 2011: Board of Zoning Appeals considered the applicant’s appeal of the Zoning and Codes Director’s interpretation and upheld the interpretation.

May 18, 2011: Applicant hosted a listening session at Grant School House from 7:00 to 9:00 PM at which she explained the reasoning behind her request for camping on the property. She also invited Steven Miles, the County Appraiser, to explain how tax values are determined; and Philip Ciesielski to provide information on the status of proposed water line through the area.

January 2, 2013: Zoning Regulations of the Unincorporated Territory of Douglas County revised with Resolution No.13-02 to allow Agritourism activities with registration.

March 13, 2013: Board of County Commission approved the Agritourism Registration of Pinwheel Farm for events and assemblies that may exceed 100 attendees on site. U-Pick gardens, education vacations, Farmers markets, seasonal events and farm tours were also included on the Agritourism Registration.

July, 2013: Applicant requested that the CUP be placed back on the Planning Commission agenda.

August 22, 2013: Applicant discussed the CUP proposal with members of the neighborhood at a special meeting of the North Lawrence Improvement Association.

ATTACHMENTS:
A: Previous staff reports and minutes from the April and May 2010 meetings.
B: Applicant’s current materials for Commission including CUP plan
C: Communication

Applicant’s Reason for Request:
The following excerpts are taken from the applicant’s information provided in the April 2010 staff report:

“In 2005, I was informed that I had unwittingly violated county regulations prohibiting camping by utilizing a self-contained tent camper (a birthday gift from my parents) as a temporary seasonal office space, storage, break room, and occasional overnight accommodation at my small farm at 1480 N 1700 Rd. I
complied with the order to remove the vehicle entirely from the property, and it remains in storage at my parent’s home in another county. Yet I was surprised to learn that camping and so many other activities normally and naturally associated with farm life are not actually permitted as ‘agricultural uses’ for land zoned specifically for farming.”

“Therefore, I am requesting to have camping permitted on my farm in carefully delineated circumstances, as described in the supporting document titled “Pinwheel Farm Camping Guidelines”.

The applicant’s information is not provided in its entirety as the original reason provided for the request included information related to the events, farm sales, and other activities that were included in the original CUP application. These items were removed from the CUP request prior to the May, 2010 Planning Commission meeting and have since been registered as Agritourism activities for Pinwheel farm. Only the portions which relate to the camping use have been included in this staff report.

KEY POINTS
- The subject property is located within Service Area 2 of the Lawrence Urban Growth Area.
- The property is located on North Street and portions of the property boundary are adjacent to the city limits.
- Pinwheel Farm consists of 5 contiguous parcels; the applicant owns 2 of the parcels and is the contract purchaser of 3. Camping is being requested on the 2 parcels owned by the applicant. (Figure 1)

ASSOCIATED CASES/OTHER ACTION REQUIRED
- Approval by Board of County Commissioners
- Recording of affidavit requiring dedication of easement for septic field lateral lines which extend over the parcel lines when either 1478 1480 N 1700 Road or the larger parcel to the north is sold.
- Floodplain Development Permit obtained from the Douglas County Office of Zoning and Codes for any development on parcels which are encumbered with the regulatory floodplain.
- Permit applied for and issued by the Zoning and Codes Office for the Conditional Use when all conditions have been met.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING
Email from Joyce Higgins, neighboring property owner, expressing opposition to camping at Pinwheel Farm.

GENERAL INFORMATION
Current Zoning and Land Use: A (Agricultural) District and the F-F (Floodway Fringe) and F-W (Floodway) Overlay Districts; agriculture, agritourism, and residential land uses.
Surrounding Zoning and Land Use: To the west:
- County property: A (Agricultural), I-1 (Limited Industrial) Districts; Rural Residential and Open Space.
- City property: GPI (General Public and Institutional Use) District; DG County Juvenile Youth Services, Detention Center.

To the north:
- County property: I-1 (Limited Industrial) District; Agriculture and open space.
- City property: IG (City-General Industrial) District; United Parcel Service Center, Postal and Parcel Service.

Undeveloped portion of the lot containing wooded area and stream corridor is located directly north of the subject property.

To the east:
- County Property: I-1 (Limited Industrial) District; construction sales and residence and agriculture.
- City Property: RS10 (Single-Dwelling Residential) District—City Zoning; Single-Dwelling Residence.

To the south:
- City Property: RS7 and RS10 (Single-Dwelling Residential) Districts; Single-Dwelling Residences.

(Figure 2)

FACTORS TO CONSIDER

I. ZONING AND USES OF PROPERTY NEARBY

Nearby properties along North Street are zoned for single-dwelling residences and agriculture. These properties are developed with single-dwelling residences. The portion of the subject property located away from North Street is bounded by Agricultural, General Public and Institutional Use, Limited Industrial, and General Industrial Zoning. A postal parcel service warehouse and juvenile detention center are located in this area while the remainder of the properties are undeveloped or are used for agricultural purposes. The land use and zoning of the area are illustrated in Figure 2.

Staff Finding – The subject property is surrounded by both city and county property to the east, north, and west and by property within the city limits to the south. A mix of industrial, agricultural and residential zonings and land uses are present in the area.
II. CHARACTER OF THE AREA

Staff Finding – This area has a rural character and a mix of uses. Areas with different types of uses are basically divided by US Hwy 59 and North Street which pass north/south and east/west through the area, respectively. Industrial properties border US Hwy 40/59 to the west of the subject property. North Street passes east and west through the area adjacent to the south boundary of the subject property and is a general border of the northern city limits in this area. Residential uses border North Street on both sides, with those uses to the north being more rural in nature, with the exception of the platted rural subdivision east of N 7th Street. The residential uses to the south of North Street are more urban in nature with smaller lots and include a mobile home park.

This portion of North Lawrence has a rural/urban character and there are several farm stands, gardens and other agricultural uses included in residential areas. This area is heavily encumbered with the floodplain, including both the floodway and the floodway fringe, and also contains high quality soils. (Figure 3)

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

Staff Finding – A Conditional Use Permit (CUP) does not change the base, underlying zoning. The property is well suited for agricultural purposes and there are no plans to cease the agricultural use of the property. The suitability of the property for agricultural purposes will not be altered with the granting of the CUP. The property is suitable for the uses to which it has been restricted.
IV. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

Staff Finding – County Zoning Regulations were adopted in 1966; the southern portion of this property has been zoned A (Agricultural) since that time. The northern 9.8 acres were rezoned from I-1 to A in 1996. The property is currently developed with residential and agricultural structures.

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

Section 12-319-1.01 of the County Zoning Regulations explains that certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district. Certain conditional uses may be permitted when found to be in the interest of the public health, safety, morals, and general welfare of the community.

The use ‘camping’ would fit into the use group “Rooming, Boarding and Lodging Houses, and similar uses” which is listed as a use which can be approved with a Conditional Use Permit in Section 12-319-4.22.

It is possible that people residing in tents or RVs could create a detrimental effect on nearby properties due to the exterior activity that is involved. Camping often involves exterior storage of materials, an outdoor living area with lawn chairs and ropes for drying towels or clothes and often an outdoor cooking and eating area. Several conditions were recommended in the 2010 staff reports to mitigate the impact of the camping which was proposed near North Street. Staff recommends that camping be restricted to the area north of the north property line of 1480 N 1700 Road to provide adequate separation between the camping use and the nearby residences. (Figure 4) As seen in the aerial photo in Figure 4, there are no nearby residences north of this line. With this condition
providing separation between the camping area and the nearby residences, many of the earlier conditions are no longer necessary.

The number of campsites/campers should be limited and the campsites should be located away from the residences to minimize negative impacts and insure compatibility with the surrounding uses.

**Staff Finding** – The removal of restrictions to allow limited camping on this property should have no detrimental effect on nearby properties if adequate separation is provided between the camping activity and the nearby residences. The can be accomplished by requiring that all camping occur north of the north property line of the parcel at 1480 N 1700 Road and setting appropriate conditions on the camping use. The plan should be revised to reflect this boundary and to note that no camping may occur south of this line.

**Figure 4.** Nearby residences in the area marked with stars. Residences that are own or are being purchased by the applicant are not marked. The red line marks the southernmost boundary of the area where camping would be permitted.

**VI. Relative Gain to the Public Health, Safety, and Welfare by the Destruction of the Value of the Petitioner’s Property as Compared to the Hardship Imposed upon the Individual Landowners.**
Evaluation of the relative gain weighs the benefits or hardships to the community-at-large vs. the benefits or hardships of the owners of the subject property realized through action on the CUP.

One of the goals noted in the original CUP application materials (which included both the activities which have been registered as Agritourism and the camping use) was:

“Preserve in perpetuity the vast majority of Pinwheel Farm’s land as agricultural land/green space, carefully balancing natural, cultivated, and landscaped spaces with adequate support infrastructure so that the farm can provide a wide array of benefits to the neighborhood and region.”

In the camping guidelines submitted with the original application the applicant noted that camping was important to the achievement of this goal:

“In carrying out the educational and production aspects of its mission, Pinwheel Farm provides extensive hands-on training to people desiring to become farmers. In return, farm volunteers, interns, etc. provide the majority of our short-term labor needs. Small-scale private camping in RVs and tents will support the ongoing operation of Pinwheel Farm as a food production and farmer training enterprise by meeting the basic human needs of farm participants in an economically and environmentally sustainable manner.”

“Many of our volunteers are in Kansas short-term while traveling across the U.S. through World-wide opportunities on Organic Farms (WWOOF USA and WWOOF international). Some have requested to bring their own camping unit in which they are journeying to many farms. Other WWOOF participants may prefer to experience the close relationship with the farm environment possible only through staying in a tent during their sojourn here. Differences in personal habit may make it most comfortable for WWOOFers and other out-of-town visitors to use Pinwheel Farm camping accommodations rather than share a permanent farm resident’s living quarters. Even local farm participants may wish to enjoy the experience of camp life.

Another aspect of the need for camping at Pinwheel Farm is that certain farm activities need people to be on-call around the clock or to be available at odd hours of the day. During lambing, it is sometimes necessary to check ewes or lambs throughout the night. In a camping situation, one can much more readily sense the activities of farm animals. This is also true when evaluating and/or addressing predator or pest problems, to observe or confront these animals in their natural routines. During very hot weather, it is good to work very early and late, and have on-farm accommodations for taking a siesta in the mid-day. After the covered wagon, one of America’s first RVs was the distinctive, traditional sheepherder’s wagon that enabled the shepherd to live with the flock.

Camping provides inexpensive, flexible, environmentally-friendly housing to meet changing needs for short-term resident farm participants. Camping is also a quintessential part of the rural experience for those who come to use from urban areas, and helps participants connect more intimately with the natural farm environment.”
Approval of the CUP application would permit limited camping on the property which would allow the applicant to provide temporary housing for farm participants. This would provide educational and training opportunities such as the WWOOF (World-wide Opportunities on Organic Farms) program for aspiring organic farmers and would help provide the work force needed to successfully operate an organic farm. As seen in Figures 3a and 3b, the land contains large areas of Regulatory Floodplain and Class I High Quality Agricultural Soils. Agricultural production would be a suitable long-term use for the property. The applicant noted that it was her intention to keep the property in agricultural production. Approval of the CUP would benefit both the applicant and the community at large.

Denial of the CUP would require the construction of buildings and the extension of infrastructure to house the farm participants or would require the applicant to forego the use of volunteers and interns that would need temporary housing during their stay. The hardship to the applicant would be that she would need to utilize a portion of her farm to provide the housing and infrastructure or would not be able to participate in the WWOOF program, or other similar programs, and this would reduce the size of the farm or her access to volunteers and interns.

**Staff Finding** – Denial of the Conditional Use Permit would not benefit the community at large as conditions mitigating the negative impacts associated with camping can be placed on the CUP. Denial would negatively impact the landowner as her participation in volunteer and intern programs would be curtailed which could limit the farm’s production. Approval could benefit both the landowner and the community at large by encouraging the retention of agricultural farm land production in areas with High Quality Agricultural Soils and providing a training opportunity for individuals interested in organic farming and sheep farming methods.

**VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN**

An evaluation of the conformance of a Conditional Use Permit request with the Comprehensive Plan is based on the strategies, goals, policies and recommendations contained within *Horizon 2020*. The Comprehensive Plan does not directly address Conditional Use Permits; however it does provide the following recommendations:

The plan recommends the protection, conservation and incorporation of environmentally sensitive areas within the UGA within the design context of a proposed non-residential development. (Policies 1.3.2.e; *Horizon 2020*, page 4-8)

Chapter 16, Policy 2.7, *Encourage the Protection of High Quality Agricultural Land in Douglas County for Current and Future Agricultural Use*, contains the following recommendation: “Establish tools to protect high Quality Agricultural Land for farming and make its protection economically feasible for the land owner, such as an agricultural easement program, development incentives that encourage the protection of this resource, public/private partnerships, or other funding mechanisms.”

**Staff Finding** – The proposal is in general conformance with the comprehensive plan. The requested uses would preserve the agricultural use of the land and the high-quality
agricultural soils by allowing the property owner to utilize a volunteer and intern work force without requiring construction of housing on site.

VII. Summary and Professional Staff Recommendation

Camping is considered an agritourism use; however, it isn’t included in the uses which are permitted with Agritourism Registration due to the lack of standards for the use in the Zoning Regulations. Camping can be permitted with a CUP as standards addressing sanitation, safety, and compatibility with the surrounding neighborhood can be developed through the CUP process.

The applicant provided a set of camping guidelines with the original application, which listed the rules that Pinwheel Farm would adopt and enforce in regards to camping. Staff recommended a set of conditions and restrictions of use for the CUP in the previous staff reports based on the proposed location of camping throughout the property and the Planning Commission suggested additional or revised conditions as a result of their discussions at their April and May, 2010 meetings. As the principal source of possible negative impacts is the proximity of the campsites to the nearby residences, one condition being proposed at this time is that all camping must occur to the north of the north property line of the parcel at 1480 N 1700 Road. (Figure 4) With this requirement, many of the other conditions which were recommended earlier to mitigate negative impacts would be unnecessary.

The applicant is requesting that camping be allowed to serve volunteer workers, interns, and other participants on the farm as well as herself, her family members, the tenants at 1480 N 1700 Road and their children. Participants on the farm’ could include a sheep shearer or someone who is hired to conduct a hands-on workshop as well as those who are interested in learning more about farming. The applicant would also like her family members and herself to be permitted to camp on the farm, or in their yards, as well.

Staff recommends a limited number of camp sites and campers to be located only to the north of the north property line of 1480 N 1700 Road. Farm participants, the owner and/or tenants of the property would also be permitted to camp within these parameters.
PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
04/26/10

ITEM NO. 2: CONDITIONAL USE PERMIT; 1478 N 1700 RD (MKM)

CUP-2-1-10: Consider a Conditional Use Permit for camping, sale of farm products, and events at Pinwheel Farm, approximately 11.79 acres, located at 1478 North 1700 Road. Submitted by Natalya Lowther, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of a Conditional Use Permit for camping, events, and sale of farm products at a Farmer's Market at Pinwheel Farm, located at 1478 N 1700 Road and forwarding of it to the County Commission with a recommendation for approval, based upon the findings of fact presented in the body of the staff report subject to the following conditions:

1. The CUP approval is valid for 10 years with a review in 5 years to determine if the use is still appropriate with the level of urbanization that has occurred. The CUP approval will expire at the end of 10 years (July 1, 2020), unless an application for renewal is approved by the local governing body.
2. The property owner shall execute a lateral line easement for the off-site lateral lines for 1480 N 1700 Road, per the County Health Official's approval, and the easement shall be recorded at the Register of Deeds prior to the final approval of the CUP.
3. The property owner shall relocate the eastern driveway within the dedicated right-of-way easement or the easement should be revised to include the drive. The driveway shall be relocated or the revised right-of-way easement recorded prior to final approval of the CUP.
4. No more than 4 self-contained camping trailers or RVs and/or up to 4 tents at a time, with a maximum of 6 units housing up to 12 adults may be located on the site at any given time (exclusive of the permanent house on 1480 N 1700 Road). Vacant RVs or other camping units will count toward the number permitted on the site.
5. RVs or other camping units are limited to 20 ft or less in length.
6. Camping will be operated as an accessory use to farm operations, not as a stand-alone enterprise.
7. Camping shall not be publicly promoted in any way, although it may be mentioned as a housing option in farm volunteer opportunity descriptions.
8. The property owner shall provide an annual report to Planning Staff which lists the number of campers in each camping unit, the type of unit and dates of stay.
9. Fire extinguishers are required in all camping units.
10. No engines or gas generators may be used for power supply to campers on the farm, except for emergency use in the case of neighborhood power failure.
11. Lights shall be shielded to prevent glare or light trespass to neighboring properties.
12. Camping areas shall be kept in a neat, safe and sanitary manner.
13. Camping units in active use shall be placed in areas that are reasonably screened from view of street or neighbors.
14. RVs or other vehicular camping units must be properly tagged and roadworthy.
15. No sound amplification is permitted.
16. Events may occur between 7 AM to 9PM Sunday through Thursday and 7 AM to 11 PM on Friday and Saturday.

17. If any events are proposed which would have more than 30 attendees, it is the applicant’s responsibility to arrange for adequate parking so parking on North Street will not be utilized.

18. Bottled water and a chemical toilet are required for events with more than 25 attendees.

19. Any development on a parcel which contains regulatory floodplain may require a Floodplain Development Permit from the Zoning and Codes Office.

20. Applicant shall provide a revised site plan with the following changes:
   i. The limits of the regulatory floodplain shall be shown.
   ii. The camping area in the regulatory floodplain shall be relocated. No camping is permitted within the regulatory floodplain.
   iii. The area proposed for the farm sales, whether a structure, farm stand or mobile unit, should be more clearly marked on the plan.
   iv. The parking requirements (6 for camping, 6 for events, and 1 per 200 sq ft of farm stand for the farm sales) shall be noted and the plan shall show the location and number of provided parking spaces as well as the designated overflow parking area for larger events.
   v. ADA accessible parking space shall be shown. If less than 25 parking spaces are provided, 1 ADA accessible space is required.
   vi. The southern camping area shall be delineated to maintain a 50 ft setback from North Street right-of-way. A note shall be added that no more than 2 camping units will be permitted in this area at a time.
   vii. A 15 ft camping setback shall be provided from the property lines adjacent to residential zoning or uses.
   viii. The proposed farm sales area shall note the expected size of the stand and show the parking spaces being provided. Parking is required at a ratio of 1 space per 200 sq ft of stand area. The number of parking spaces required and provided shall be included in the parking summary on the plan.
   ix. Show the area where screening will be provided, or currently exists, to screen the 2 southernmost camping areas from view of the adjacent residences and North Street.
   x. A note shall be added which states: “All drives and parking areas, except the overflow area, shall be graveled unless the County Engineer approves the use of alternative surfacing materials.”
   xi. The privy shall be shown and labeled.

Reason for Request:

Applicant’s response:

“In 2005, I was informed that I had unwittingly violated county regulations prohibiting camping by utilizing a self-contained tent camper (a birthday gift from my parents) as a temporary seasonal office space, storage, break room, and occasional overnight accommodation at my small farm at 1480 N 1700 Rd. I complied with the order to remove the vehicle entirely from the property, and it remains in storage at my parent’s home in another county. Yet I was surprised to learn that camping and so many other activities normally and naturally associated
with farm life are not actually permitted as ‘agricultural uses’ for land zoned specifically for farming.

Ironically, the State of Kansas has, in recent years, begun to see the benefits of promoting ‘agritourism’ as a source of economic development based on the natural resources of the region. A special state agency has been created, and special regulations have been promulgated in order to encourage farms to open their operations to visitors. This includes regulations waiving liability for injury or death to participants in registered agritourism activities. I have registered my farm as an agritourism site with the State in order to protect myself should any mishap befall a visitor.

As I continue to develop my farm, I find that its close proximity to the City of Lawrence makes it an increasingly popular destination for families, who wish to expose their children to the ‘farm experience’ so they can learn where food comes from. Furthermore, an exploding nationwide interest in locally grown, sustainably produced food has created an upsurge in people wishing to obtain hands-on training and experience in this rapidly growing agricultural niche. With a significant lack of educational/vocational training programs in established academic institutions to meet this demand, grass-roots educational networks have evolved. Programs like WWOOF (international) and Growing Growers (KS food-shed area) have emerged to connect farms needing helpers with eager volunteers, who get hands-on opportunities to hone their farming skills and knowledge, add to their resumes, and network with agriculture professionals and potential customers while providing farms with enthusiastic help in return.

In meeting these demands for agritourism and agri-education, other auxiliary needs arise: Space for children to play, for eating and resting, accommodations for temporary volunteers who may be living on the road in campers passing through town, etc. To balance the needs of guests/volunteers with the orderly operations of the farm and its natural environment, designated adequate facilities are essential. Currently, Pinwheel Farm’s potential pool of volunteers, especially through the WWOOF program, is limited to those who are willing to room in my home and to those whom I am willing to live with in close quarters.

The farms’ proximity to the City of Lawrence also brings to bear additional use restrictions that farms in more rural areas do not face, because of its location within the Urban Growth Area. Because I live outside city limits, and thus cannot vote for elected city officials, I do not have full representation in the development of City regulations that apply to my farm now or in the future. The possibility of involuntary incorporation into the City of Lawrence cannot be ruled out until such time as City authorities put in writing that this will never be done.

Therefore, I am requesting to have camping permitted on my farm in carefully delineated circumstances, as described in the supporting document titled “Pinwheel Farm Camping Guidelines”. I am also requesting permitting for other normal outdoor agritourism activities including picnicking, outdoor cooking of food/barbequing, playing, hiking, bird-watching, dog walking, horseback riding, etc. I am also requesting to have a wide variety of other specific activities, primarily pertaining to
agriculture and essential to the on-going development of Pinwheel Farm as an agricultural enterprise and living environment, permitted at the farm. The full range of activities requested under this CUP are listed in the Table of Long Range Goals.”

KEY POINTS
- The subject property is located within Service Area 2 of the Lawrence Urban Growth Area.
- The property is located on North Street and is adjacent to the city limits.
- The applicant owns 5 contiguous parcels in this location; however, as one parcel (501 North Street) is located within the city limits only 4 parcels are included in this CUP.

GOLDEN FACTORS TO CONSIDER

ZONING AND USES OF PROPERTY NEARBY
- Nearby properties close to North Street are zoned RS7, RS10 (Single-Dwelling Residential—City zoning) and A (Agricultural—County zoning). Single family residences are the primary land use on these properties. The subject property extends to the north, where the nearby properties are zoned I-1 (Limited Industrial—County zoning), GPI (General Public and Institutional Uses—City zoning) and IG (General Industrial—City zoning). Several of the properties have not been developed, and the others contain a warehouse/distribution center, a construction sales business and a detention facility. The 100 year regulatory floodway and floodplain is present in this area, so nearby properties and portions of the subject property are located in the Floodplain Overlay Districts, both City and County.

CHARACTER OF THE AREA
- The area is a transitional area on the edge of the city where urban and rural land uses blend. The streets in this area are constructed with open ditches rather than curb and gutter and several of the residences have gardens and seasonal farm stands. The blend of uses include the subject farm property, other agricultural lands, single-dwelling residences and a mobile home park.

SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED
- The current zoning designation for the property is A (Agricultural) District, a district in which many different agriculture-related uses are allowed. The A District is intended to provide for a full range of agricultural activities, including processing and sale of agricultural products raised on the premises. The district is also intended to promote the growing of natural crops and grazing and to prevent untimely scattering of more dense urban development. The subject property contains high quality agricultural soils and is therefore well suited for agricultural uses; however, consideration must be given to the close proximity to the city limits. As the area becomes more urbanized, some agricultural uses may not be appropriate in this location.

Uses which are not permitted within the A District but have been determined to be compatible with the character of the area are permitted with the approval of a Conditional Use Permit. The requested uses: camping, events, and year-round sale of farm products at a farm stand or market are allowed in the A District with approval of a Conditional Use Permit (CUP). The property is suited for the uses which are permitted in the A District.
ASSOCIATED CASES/OTHER ACTION REQUIRED
- Approval by Board of County Commissioners
- If approved, new and/or converted buildings will be subject to county building code requirements.
- Dedication of easement for septic field lateral lines which extend over the parcel lines.
- Floodplain Development Permit from the Douglas County Office of Zoning and Codes for any new development on parcels which are encumbered with the regulatory floodplain.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING
- Phone call from neighbor expressing concern with parking for the events and other uses on the farm. She felt that adequate parking should be provided on-site so parking on North Street would not be utilized.
- Phone call from Ted Boyle, President of the North Lawrence Improvement Association expressing concern about the negative impact camping may have if it were to be used primarily for people without permanent residences.

GENERAL INFORMATION
Current Zoning and Land Use:
A (Agricultural) District and Floodplain Overlay District; agriculture and residential land uses.

Surrounding Zoning and Land Use:
To the west:
A (Agricultural) District, I-1 (Limited Industrial) District; residence and open space.

To the north:
IG (General Industrial) District—City Zoning; warehouse/distribution.
I-1 (Limited Industrial) District; residence and agriculture.

To the east:
I-1 (Limited Industrial) District; construction sales and residence.
RS10 (Single-Dwelling Residential) District—City Zoning; single dwelling residences.

To the south:
RS7 (Single-Dwelling Residential) District—City Zoning; residential.

Site Summary
Subject Property
CUP activity is located on 4 parcels containing approximately 12 acres.
1480 N 1700 Road contains approximately 1.083 acres and has been developed with a residence.
1478 N 1700 Road contains approximately .445 acres and was developed with a residence. The structure is now being used as an accessory farm structure.
The unaddressed parcels without street frontage contain agricultural uses and accessory farm structures.

**Parking Requirements:**

Total Parking Required:
- 12 spaces plus parking for farm stand
- 1 per 5 seats (or attendees) for event or assembly use – 30 attendees = 6 spaces
- ADA 1 (for 1 to 25 spaces)
- 1 parking space for each camp-site – 6 campsites = 6 spaces
- 1 parking space for each 200 sq ft of farm sales stand area

Total Parking Provided: Not noted on plan. The site plan shall be revised to note the number of parking spaces that are required and the number which are provided on site. The site plan shall show the location of designated parking spaces.

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

**Staff Finding** – The subject property abuts the city limits in several areas and is bounded by various zoning districts and land uses. The property is on the north side of North Street and the surrounding properties along North Street are zoned for single-dwelling residences (within the city limits) and agriculture (outside the city limits). These properties are developed with single-dwelling residences. The north portion of the subject property is bounded by Limited Industrial (outside city limits), and General industrial (within the city limits) zoning districts. A warehouse distribution facility is located to the north while the remainder of the industrially zoned property contains residences or agricultural uses. The land use and zoning of the area are illustrated in Figure 1.

II. **CHARACTER OF THE AREA**

**Staff Finding** – The subject property is adjacent to North Street which was constructed with open ditches as permitted by the alternate City Street Standards. This portion of North Lawrence has a rural/urban character and there are several farm stands, gardens and other agricultural uses included with the predominately residential area. This area is heavily encumbered with the floodplain, including both the floodway and the floodway fringe, and also contains high quality soils. (Figures 2 and 3)

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

**Applicant's response:**

“The four properties are zoned “A” Agricultural. They are all Capability Class 1 soil ideal for agriculture in all ways. The location of the property in the river valley with a high water table makes it especially suited to horticultural agriculture and forestry. A portion of the largest property is in the floodway fringe; agritourism use of that portion would be in compliance with applicable regulations to the extent that this can be reasonably determined. A portion of the largest property is currently enrolled in
the USDA’s CRP Riparian Protection Program; agritourism use of this area would be in compliance with the terms of the CRP lease to the extent that this can be reasonably determined.

The main farm property has been used since 1997 as an intensively managed, integrated, sustainable small farm including production and sale of animal products and by-products, vegetables, fruits, herbs, nuts, forest products, animal feed and forage, bee products, and value-added processing of raw agricultural products produced on the farm, as well as use of such products by owner, other residents, guests, volunteers and staff. The training of students, volunteers and employees in skills and knowledge related to such agricultural production is an essential part of this operation.

The property surrounding the farm is mostly residential, agricultural production, or vacant agricultural land. Much of that land (to the west and north) is likely to remain vacant or agricultural because it is in the floodway/floodway fringe areas.”

Staff Finding – A Conditional Use Permit (CUP) does not change the base, underlying zoning. The suitability of the property for agricultural purposes will not be altered with the granting of the CUP. The property is suitable for the uses to which it has been restricted.

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

Staff Finding – County Zoning Regulations were adopted in 1966; the southern portion of this property has been zoned A (Agricultural) since that time. The northern 9.8 acres were rezoned from I-1 to A in 1996. The property is currently developed with residential and agricultural structures and uses.

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

Applicant’s Response:

“The restrictions that are to be removed are ones that most small-scale agricultural property owners don’t know exist, and not infrequently violate. The activities proposed are ones that are commonly assumed to be acceptable and natural aspects of a small family farm operation and/or residence. Many of these activities are already carried on by nearby neighbors without the benefit of appropriate zoning or CUP.

Occasions for annoyance of neighbors based on removal of these restrictions will be proactively addressed by guidelines, orientation of visitors, and on-site monitoring by the landlord or designated farm participant. Pinwheel Farm already has General Policies applicable to all farm participants that will be part of the camping agreement signed by campers; these General Policies address most potential annoyances and safety concerns.

Neighbors will be provided with contact information and procedures for letting us know of any particular situations that arise, so that we may quickly work to resolve legitimate concerns.
Most obvious annoyances that could occur are ones that we currently suffer from nearby neighbors with no recourse because they are normal activities of daily living. These include, but are not limited to:

- Occasional parking on the street and presence of unusual numbers of people due to special activities;
- Bright lights shining in our eyes outdoors or through windows at night;
- Loud or boisterous human activity including music, laughers, shrieks of happy children;
- A few additional people walking jogging biking, or walking dogs around the neighborhood;
- A few additional cars using North St. and connecting access roads.

Section 12-319-1.01 of the County Zoning Regulations recognize that “certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district...when found to be in the interest of the public health, safety, morals and general welfare of the community may be permitted, except as otherwise specified in any district from which they are prohibited.”

Approval of the request will not alter the base zoning district. The proposed uses fall under the following categories listed in Section 12-319.4 Conditional Uses Enumerated, of the Zoning Regulations:

- Camping—Rooming, Boarding and Lodging Houses, and similar uses
- Events—Recreation Facility
- Farm Sales including products from other farms---Farmer’s Market

Possible negative impacts on the nearby properties could include:

1) Parking on North Street
The property is located on, and takes access from, North Street which is classified as a collector on the major thoroughfares map. North Street is identified as N 1700 Road when it is outside the city limits. North Street is a narrow street with 20’ of pavement (which is the minimum clear area which can be provided for emergency vehicles) and ditches on each side. Parking may create safety issues for vehicles exiting residential driveways on North Street and may obstruct emergency vehicles.

The applicant anticipates about 25 to 30 attendees at the events, although larger events, such as sheep shearing days, may occur. The number of attendees should be limited to 30 people and adequate parking should be provided for that number in addition to the parking provided for the camping. Parking requirements for event centers are based on square footage, when the events occur within a structure. Parking requirements for outdoor events are based on attendance with a ratio of 1 parking space per 5 seats (attendees). 6 parking spaces are required for 30 attendees. An overflow parking area should be designated on the site plan to accommodate larger events.

2) Camping
The impact of people residing in tents or RVs is greater than that of a mobile home, guest house, or home because of the additional exterior activity that is involved. Camping often involves exterior storage of materials, an outdoor living area with lawn chairs and ropes for
drying towels or clothes and often an outdoor cooking area. Staff considered setting limitations on the length of time a camper could camp, to differentiate the camping use from a residence. The applicant pointed out that the impact would be the same whether you had one camper that stayed for 9 months or 9 campers that stayed for 1 month each. The number of campsites/campers should be limited and a size limitation placed on RVs to minimize the impact on the nearby properties.

3) Events
Negative impacts could be created if events are too large for the parking to be accommodated on site, are noisy (amplified music), extend late into the night, or use exterior lighting which is not adequately shielded.

CAMPING
The applicant provided Camping Guidelines which are included as an attachment with this report. The camping guidelines indicate that the primary purpose for the camping use is to house short-term farm volunteers. Camping may also house visitors to the farm or farm events. The guidelines limit camping to 6 campsites, which would be a mixture of RVs and tents. There would be a maximum of 4 RVs or 4 tents, with the number of campers limited to 12 adults. The applicant indicated that 2 RVs may be there permanently; however, they may be vacant part of the time. When vacant they would still count toward the number of campsites.

To reduce negative impacts from the camping activity, staff recommends that the campsites be setback 15 ft from property lines adjacent to residences or residential zoning.

The impact of the campsites would be lessened with screening from the adjacent residences. The applicant indicated they would install vegetative screening along the west property line. Screening in the form of vegetation or fencing should be provided to screen the camping use from the adjacent residential uses to the west and south.

Small campers and tents would be more in keeping with the farm character and staff recommends that RVs be restricted to those 20’ or less in length.

Staff recommends that the camping area nearest North Street (Figure 3) be pulled back to maintain a setback of 50 feet from the right-of-way. The camping in this area shall be limited to 2 camping units to minimize the impact on the adjacent residences.

The following were taken from the Camping Guidelines, and should be made conditions of the CUP as they will serve to minimize negative impact of camping:

- No more than 4 self-contained camping trailers or RVs and/or up to 4 tents at a time, with a maximum of 6 units housing up to 12 adults at any given time.
- Vacant RVs or other camping units will count toward the number permitted on the site.
- Camping will be operated as an adjunct to farm operations, not as a stand-alone enterprise intended to make a profit.
- Camping will not be publicly promoted in any way, although it may be mentioned as a housing option in farm volunteer opportunity descriptions.
• Name, permanent address, phone numbers email address, etc shall be kept on file for each person using the camping facilities. A yearly report will be provided to Planning Staff which lists the number of campers, type of unit and dates of stay; the names and contact information shall not be included.

• Fire extinguishers shall be required in all camping units.

• No engines or gas generators will be used for power supply to campers on the farm, except for emergency use in the case of neighborhood failure.

• Bright lights will be shielded to prevent glare or light trespass to neighboring properties.

• Camping areas will be kept in a neat, safe and sanitary manner.

• Camping units in active use shall be placed in areas that are reasonably screened from view of street or neighbors.

• Adequate on-site parking will be provided to accommodate the campers.

• Campers must be properly tagged and roadworthy.

EVENTS
The small size of the events should reduce the negative impacts on the neighborhood. The following restrictions will further reduce any negative impacts:

• No sound amplification
• Hours of events limited to 7 AM to 9 PM Sunday through Thursday and 7 AM to 11 PM on Friday and Saturday.
• If any events are proposed which would have more attendees, it is the applicant’s responsibility to arrange for adequate parking so parking on North Street will not be utilized.
• The site plan shall show the parking location as well as an ‘overflow’ area for parking with larger events.

Staff Finding – Approval of the request will allow for additional activity in the area which may result in negative impacts such as increased activity due to camping and events. The farm is adjacent to residential properties and special steps are necessary to minimize the impact of the additional uses on the nearby properties.

VI. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE PETITIONER’S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNERS

Applicant’s Response:
“I don’t think there would be any benefit to the community from my request being denied, for two reasons:
• It is the community that is demanding the opportunities for activities for which I must get the CUP in order to provide.
• Others in the neighborhood and throughout the county are currently providing these opportunities without realizing they require a special CUP to do so legally.

The hardships imposed on my use of my land by denying the request would include:
• Restricting my pursuit of happiness through my peaceful enjoyment of outdoor living on my farm, and through sharing my passion for and knowledge of sustainable farming and the natural farm ecology with interested people of all ages.
• Significantly reducing my access to volunteers/interns during intense times such as lambing;
• Significantly diminishing the comfort of volunteers.
• Reducing my ability to extend hospitality to guests visiting the farm, especially out-of-town or international visitors. Instead of bringing the world and its money to Lawrence, I would have to travel and thereby take my money outside of the Lawrence community to meet such a diverse array of people interested in farming.

Denying the request would deprive the community of innumerable agritourism and agri-educational opportunities for all ages. In the long run, this would depress the number of trained sustainable farmers and home gardeners in the region, reducing the supply of fresh fruits and vegetables for consumption by Lawrence area residents.”

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

The approval of the CUP would provide temporary living facilities for farm volunteers and others interested in visiting the farm and would benefit the applicant’s agritourism programs. A variety of events will be held, with the majority being agritourism in nature. Others may include outdoor weddings, spiritual meetings, or other similar events. The applicant indicated that the events were tied to the farm and were meant to provide education or appreciation of farm life.

Denial may benefit the surrounding property owners as negative impacts such as noise, lighting, and parking issues may be associated with the uses unless effective management techniques are utilized to minimize these impacts. Denial would prevent the land-owner from engaging in this form of agritourism and would reduce the amount of volunteer labor they could use.

**Staff Finding** – Denial of the Conditional Use Permit may negatively impact the community as a year-round market for farm products could not be established. Denial would negatively impact the landowner as her agritourism programs would be curtailed which could limit the farm’s production.

**VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN**

**Applicant’s response:**

“This request supports the overall vision of Horizon 2020 and other long-range planning efforts by contributing to the environmental health of the community,
providing essential goods and services, supporting local businesses, providing jobs and training for local residents and protecting high-value agricultural soils.”

An evaluation of the conformance of a Conditional Use Permit request with the comprehensive plan is based on the strategies, goals, policies and recommendations contained within Horizon 2020. The comprehensive plan does not directly address Conditional Use Permits; however it does recommend the protection, conservation and incorporation of environmentally sensitive areas within the UGA within the design of any development. (Policies 1.3.1.f and 1.3.2.e; Horizon 2020, page 4-7 and 4-8)

**Staff Finding** –The proposal is in general conformance with the comprehensive plan. The requested uses would preserve the agricultural use of the land, and the high-quality agricultural soils, by allowing the property owner to further develop an agritourism use which would not require development of the property or result in non-farm residential development.

**STAFF REVIEW**
While this is a CUP request for agriculturally zoned property, it is unique in that the property is across the street from a residential neighborhood within the city and abuts the city limits on two sides. The subject property is located within Service Area 2 of the Urban Growth Area. The applicant’s goal is to continue farming in this location for the long term. If the property is annexed, it would be zoned UR and all agricultural activities which were permitted prior to annexation would be permitted to continue until development was proposed and rezoning to an appropriate zoning district was approved. The applicant has asked for guarantees that the City would not require annexation or that the rights to farm would never be limited. While this is not possible, it may be appropriate to include an Urban Agriculture use, with standards, in certain zoning districts of the Development Code. At the present time, the property is not required to annex and the farming activities are not limited.

Possible negative impacts which may occur from the proposed uses were reviewed earlier in this report and conditions recommended which would minimize these impacts.

The *Farm Sales* use was not discussed earlier as no adverse impacts are anticipated with this use. Currently, there are various farm stands along North Street and the applicant does operate a seasonal farm stand, as is permitted in the A District. The proposal is to operate a year-round rather than seasonal farm stand and invite other farmers to bring their products to the sale. This classifies as a *Farmer’s Market* which requires a CUP. Parking must be provided for the farmer’s market in relation to the size of structure or stand. The farmer’s market would be considered a retail store and if a structure is used parking shall be provided at a ratio of 1 space per 200 sq ft. of floor area. Parking regulations have not been established for a farm stand and would vary with the size of the stand. Using the ratio for the retail use, 1 parking space would be required for each 200 sq ft of stand area. The applicant will need to note the anticipated size of the stand area and identify the required parking spaces on the plan. The commercial building codes would apply to any structure used for the *Farmer’s Market*, but do not apply to stands, tents or mobile trailer units.

**Parking:** Required parking for the event use is one space per 5 seats for Auditorium, theater, gymnasium stadium, arena or convention hall or 1 space per 100 sq ft of building (Section 12-316-1 County Zoning Regulations). These events will occur outdoors; therefore, the parking
requirement is calculated at the ratio of 1 space per 5 attendees, similar to the 1 space per 5 seats for events in buildings with fixed seating. As the number of attendees is expected to be about 25 to 30, 6 parking spaces are required for the event use. One parking space is required for each camping unit. The maximum number of camping units is capped at 6 units; therefore, 6 parking spaces must be provided for the camping use. The farmers market would require parking at a ratio of 1 space per 200 sq ft of floor area if a structure were used. The applicant indicated she would use a stand at this time. The zoning regulations do not provide a parking requirement for a farm stand. Per Section 12-316-2.06 of the Zoning Regulations, a parking requirement of a use with similar parking demand generation will be used. The stand would have the same traffic generation as a retail use, but parking would need to be calculated on stand area rather than floor area. 1 parking space is required for each 200 sq ft of stand area. The site plan will need to be revised to indicate the dimension of the farm stand being proposed and show the location of the required parking. If a structure is proposed for the farm stand at a later time, the approved CUP site plan would need to be revised. The total parking required is 12 spaces, in addition to the parking required for the farm sales use. If the number of total parking spaces is below 25, one ADA parking space is required.

Drives and parking areas are required to be graveled. Experimental, permeable pavement materials require the County Engineer’s approval.

**Access:** The farm uses two entrances from North Street to make a circular drive, which reduces the need to back out onto North Street. One entrance is located on 1480 North 1700 Road, which is a separate parcel that has been developed with a residence. A right-of-way easement has been dedicated to allow cross access from this parcel to the farm; however, the existing drive was not constructed within the easement. To insure the circular drive remains for the use of the farm, the drive should be constructed on the right-of-way easement or the easement should be revised to include the drive location.

**Screening:** The two southernmost camping areas are in close proximity to nearby residences. (Figure 4). Camp sites in these areas need to be screened from view of the nearby residences and from the street right-of-way. This screening may be vegetation, fencing or a combination.

**Water and Sewage:**
The applicant is working with Richard Ziesenis, County Health Officer, on the water supply and sewage management. Richard indicated that the well water could be used but if more than 25 people are present for more than 60 days of the year, bottled water is required. He highly recommended that bottled water be used to provide drinking water to the workers or visitors because well water quality is an unknown because it is not continually disinfected.

He also indicated that the existing privy could be used; however, he recommended a chemical toilet considering the odors and general cleanliness of a privy. He stated that the recommended rate for portable chemical toilet is 1 per 100 people. The Camping Guidelines indicate that the RVs could empty their sewage holding tanks at KOA or Clinton Lake. Small cassette type chemical toilets can be emptied into the pit privy or a household toilet or taken to KOA’s dumping facility. The use of well water and the privy are acceptable except for events with more than 25 attendees. Bottled water and chemical toilets are required at these times. The privy will need to be shown and labeled on the site plan.
The lateral lines for the residence at 1480 N 1700 Road are located across the parcel lines. The County Health Officer indicated that either the lateral lines should be relocated onto the 1480 parcel or an easement could be dedicated which states that the property may be used for lateral lines for 1480 N 1700 Road for perpetuity, that no structures or other uses will be installed on the property, and it will be used strictly for sewage management. The applicant indicated that they would dedicate this easement prior to selling the property. As there would be no trigger to dedicate this easement in a real estate transfer, staff recommends that this easement be dedicated with this CUP.

**Time Frame:**
The applicant requested a 100 year approval period for the CUP with occasional reviews. Given the fact that the farm is adjacent to the city limits and is in Service Area 2 of the Urban Growth Area, Staff recommends that the CUP be approved for 10 years with a review in 5 years to determine if the use is still appropriate with the level of urbanization that has occurred. The 10 year approval period with 5 year administrative review is the standard time frame for recently CUPs.

**Conclusion**
The proposed CUP, as conditioned, complies with the County Zoning Regulations and the land use recommendation of Horizon 2020.

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**Figure 1.** Land use and zoning of nearby properties. Zoning of properties in the unincorporated areas are shown in colors, zoning of properties within the city limits are labeled.
**Figure 2.** Floodplain in the area. Red denotes the regulatory floodway, pink denotes the regulatory floodway fringe.

**Figure 3.** High quality soils (class 1 and 2) highlighted in brown.
Figure 4. Existing residences in the area (Residence on the subject property shown in green). Proposed camping areas in yellow.
CUP-2-1-10: Consider a Conditional Use Permit for camping, sale of farm products, and events at Pinwheel Farm, approximately 11.79 acres, located at 1478 North 1700 Road. Submitted by Natalya Lowther, property owner of record.

STAFF PRESENTATION
Ms. Mary Miller presented the item.

Commissioner Hird inquired about the total parcel size.

Ms. Miller said 11.29 acres.

Commissioner Hird asked if there could be six camping units at any one time on the property.

Ms. Miller said that was correct. It could be a mixture of RV’s and tents.

Commissioner Hird asked if the neighborhood concern was about tents or RV’s.

Ms. Miller said she thought the main concern was about unknown people coming into the neighborhood.

Commissioner Hird asked if the camping would be marketed as a camp ground.

Ms. Miller said no, it would only be as an adjunct to the farming operation and the applicant indicated that in her guidelines.

Commissioner Hird asked if there were other examples of this kind of activity in the region or state.

Ms. Miller said she has not seen any.

Commissioner Hird asked why the RV’s are limited to 20’.

Ms. Miller said some RV’s can be very large. She said she contacted Development Services and they said a class B RV is typically less than 20’. She said she though the applicants intent is to have RV’s near the front of the property where the gravel drive would be.

Commissioner Harris asked if the staff report included the other conditions provided by the applicant today.

Ms. Miller said no, it does not.

Commissioner Harris asked if staff has had a chance to look at the applicant conditions.

Ms. Miller said the applicant would like the RV length to be up to 30’ rather than 20’ and staffs position is that it is a judgment call. The applicant would also like a 100 year Conditional Use Permit but staff feels the 10 year time limit is appropriate. She asked that the long term goals be included so that they would be grandfathered uses in case the land is annexed into the city or the zoning ever changed. If the zoning was changed then those uses would be grandfathered and seen as non-conforming uses. The applicant would like four RV’s in the area located near North Street and staff
recommended two. The applicant does not have a problem with providing an annual report, but would like to include the square footage and location of the farm stand use and the number of parking spaces. Staff feels that should be on the Conditional Use Permit, not the yearly report. The applicant would like to change condition 15 from no sound amplification to no electronic sound amplification is permitted that is readily audible from neighboring properties except for emergency hazard warning devices. Staff would not have objection if the sound was not audible from neighboring properties. Staff would accept her revisions to condition 18 regarding the bottled water and chemical toilets needed for events of more than 25 people. The applicant is requesting that camping be permitted in floodplain. FEMA may permit that with some limitations, as long as that reduced the amount of camping that would be along North Street. Staff recommended 15’ setbacks and the applicant is recommending 10’ setbacks. Staff feels like the 15’ setback would help buffer the outdoor activities. Staff has no objection to alternative paving for parts of the drive and if it doesn’t work then gravel can be put in.

Commissioner Harris asked if the two things staff does not agree with are the number of years for the Conditional Use Permit and the setback.

Ms. Miller said that was correct, as well as the inclusion of the applicant’s goals with the Conditional Use Permit.

Commissioner Rasmussen inquired about the availability of sanitary facilities for camping areas.

Ms. Miller said a grandfathered privy could be used.

Commissioner Rasmussen asked about condition 12 (camping area shall be kept in a neat, safe and sanitary manner) and why it is limited to the camping area and not the farmers market.

Ms. Miller said that it could apply to the farmers market as well.

Commissioner Rasmussen inquired about a time limit on camping.

Ms. Miller said she discussed it with the applicant and the applicant did not see the difference on intensity. The applicant felt that if someone camps for a longer period of time they could become familiar with the neighbors instead of being seen as a stranger.

Commissioner Rasmussen said that Clinton Lake has camping time limits.

Commissioner Finkeldei asked if there is a definition of camping in the Code.

Ms. Miller said no.

Commissioner Finkeldei said the County has had other difficulties with people living on property in RV’s rather than camping in a tent. He inquired about the possibility of someone camping for three years.

Ms. Miller said it was possible but that it might be considered living there at that point, not just camping.

Commissioner Finkeldei asked if the owner is planning on using her own RV’s to house people.

Ms. Miller said yes.
Commissioner Finkeldei asked if there was a requirement to move the RV's periodically.

Ms. Miller said no but that there could be a requirement that RV's be moved after a certain amount of time.

Commissioner Finkeldei said they need to come up with a way to differentiate between camping and residing so that these are not permanent residences.

Ms. Miller suggested if people were staying longer they could maybe register with county office so it could be tracked.

Commissioner Finkeldei inquired about the condition related to what can be sold there.

Ms. Miller said with a farm stand things can be sold that are grown there, a farmers market would sell things grown there and grown by other farmers. She said she did not believe the applicant wanted to sell retail products.

APPLICANT PRESENTATION
Ms. Natalya Lowther, Pinwheel Farm, went over history of Pinwheel Farm and the long term goals. She discussed uses permitted by right and that she cannot implement some of her long term goals immediately. She inquired about how she can “register” the long term plan. She expressed concern about not being able to use the property as planned if the regulations change in the future. She would like all four RV spots at the southern end so that they are on the driveway.

Commissioner Blaser inquired about an agri-tourism liability waiver. He asked if she signs it then would she not have liability for anyone getting hurt on the farm.

Ms. Lowther said that was correct, but that it does not remove her liability in making a safe environment for people.

Commissioner Blaser asked if she still had to carry liability insurance.

Ms. Lowther said yes.

Commissioner Blaser inquired about Kansas fence laws.

Ms. Lowther said it sets forth rules for agricultural fencing that says property owners on both lines need to maintain the fence in order to contain livestock.

Commissioner Finkeldei asked if she expects to put her two campers in one place and leave them there.

Ms. Lowther said the campers would be moved as needed. She said she did not want to have to shuffle the campers around each month but that she thought they would naturally be moved around based on the needs of the farm.

Commissioner Finkeldei asked if she would expect or want someone to camp in one spot for a long time.
Ms. Lowther said she would encourage people doing an internship to stay on her farm for a year if they want to start their own farm. She said realistically people would camp during the more pleasant times of year.

Commissioner Rasmussen asked about the plans for the structure located at 1478 N 1700 Rd.

Ms. Lowther said it has structural problems and does not have running water or a legal source for running water. She said at this point it is a tabled issue. She said they want to clean up the lot and make it look better from the street but that there are no immediate plans of doing anything with it other than using it for storage. She said it has a limited shelf life and eventually will be torn down.

Commissioner Rasmussen discussed the alternative surfacing for the driveway and said he liked the idea of woodchips. He said woodchips would require more upkeep than gravel to replenish it. He asked if she would have any problem with a maintenance requirement on that.

Ms. Lowther said that because it is experimental it would be hard to predict maintenance. She said it would be a while before she knows where the driveways will go. She said if the maintenance requirement was general in nature then she would not have a problem with it.

Commissioner Hird said condition 10 in the staff report prohibits engines and generators for campers. He said most larger campers have engines or generators and wondered if she was satisfied that they would not be able to use generators.

Ms. Lowther said yes. She also felt it would encourage smaller RV’s.

Commissioner Hird asked if there was any other alternative than using bottled water for crowds of more than 25 people.

Ms. Lowther said from a public health point of view the only other alternative would be a small scale public water system.

PUBLIC HEARING
Mr. Ted Boyle, President of North Lawrence Improvement Association, said they had no problem with Pinwheel Farm or the farmers market. He said the problem is with the issue of camping. He said Pinwheel Farm abuts a residential area and they are not comfortable with strangers being brought into the neighborhood. He also expressed concerns about sanitation and the number of people camping on the site. He did not feel it would be an appropriate use 10-15 years from now when the area is annexed into the city. He said KOA is less than a mile from the location. He suggested having day classes or sessions for learning purposes instead of having people stay the night. He said in a real life situation on a farm there isn’t a camper next to the barn; a real farmer lives in a house and goes to the barn or pasture no matter what the weather. Mr. Boyle mentioned there have been problems in the past with homeless people camping.

Commissioner Finkeldei asked if the North Lawrence Improvement Association is okay with the events.

Mr. Boyle said it depends on how big the event is. He said if it is a huge crowd, regardless of the amplified noise, there will be more traffic to the neighborhood.

Commissioner Harris asked Mr. Boyle to comment about problems he has experience in the past with homeless people that he mentioned earlier.
Mr. Boyle said that some time ago transient campers near the river were removed and started living on Pinwheel Farm. He said there were a few living in a type of shed on the property.

Commissioner Harris asked if there had been any problems associated with the campers.

Mr. Boyle said the neighbors were concerned for their safety.

Commissioner Harris asked if his objection was to the use or the behavior.

Mr. Boyle said the residents were concerned about safety and did have a few problems of things going missing on their property.

Mr. Bryce Campbell, 868 Oak Street, said he owns the adjacent property to Pinwheel Farm and used to live there. He said one of the main reasons he moved was because Pinwheel Farm was run down and not kept up. He expressed concern about camping in the area and said the safety and integrity of the neighborhood was at stake. He said Clinton Lake and KOA are nearby for camping. He said he intends to let his son live on his property adjacent to Pinwheel Farm in the future but felt the safety of his son may be compromised. He also expressed concern about coyotes digging up carcasses of animals Ms. Lowther might slaughter.

Ms. Camile Cody said she is traveling around the United States thru a farm program to gain hands on farm experience. She said when she did a yearlong internship on a farm she stayed in campers and yurts for housing. She said she hopes to have her own farm someday. She said places like Pinwheel Farm are directly accessible to neighbors and are an excellent source of fresh local food. She felt the Conditional Use Permit invites opportunity to review operations and compliance. She said Ms. Lowther focuses on education and safety and that educational opportunities would be lost if volunteers were not allowed to stay on the property. She indicated there were several other places like this around the country.

Mr. Dean Elliott, owns property east of Pinwheel Farm, said a future water line will be across Ms. Lowther’s land, approximately where the campers will be. He wondered what impact it would have. He said soil samples were taken on his property but Ms. Lowther would not allow samples to be taken from her property.

Mr. McCullough said an infrastructure project is in the works with the intention to provide the North Lawrence area another means of water supply. He said he was not sure if it would cross Ms. Lowther’s property but that it very well could.

Ms. Kirsten Bosnak, 646 Walnut St, said she has lived in Lawrence for more than 20 years. She said she works at the Kansas Biological Survey doing outreach. She moved to North Lawrence in 2004 and has known Ms. Lowther for about 10 years. She said the location of Pinwheel Farm at the very edge of the city puts it in an excellent position to provide both food and education. She said she has been personally acquainted with some of the volunteers there and has known them to be idealistic, hardworking and goal-oriented. They speak of how much they learn from Ms. Lowther, and the farm depends on their contributions of knowledge and energy. She was in favor of the Conditional Use Permit for Pinwheel Farm with camping and would like to see the farm continue even if they city grows around it.

Mr. Brady Karlin said he has traveled around working on organic farms and said it was commonplace for workers to camp on the property.
Commissioner Hird asked if he could give a geographically close example.

Mr. Karlin said there are a few in Missouri but he was not aware of any close by. He said he thought there was a place out by Baldwin City that does the same type of program through World Wide Opportunities on Organic Farms (WWOOF), but he wasn’t sure about their living arrangements.

Commissioner Rasmussen inquired about other WWOOFing facilities.

Mr. Karlin said in California there was an intern camp facility with common bathing and kitchen areas.

Ms. Barbara Higgins-Dover said her parents live next door to Pinwheel Farm and she felt the area hasn’t grown around the farm, the farm has grown within the area. She was concerned about the camping and said that was the only thing she was opposed to.

Commissioner Harris asked there were any conditions or circumstances in which camping would be okay.

Ms. Higgins said no, she was not okay with a campground being on the property. She said the KOA campground is close and has nice facilities.

Commissioner Hird said with limitations there would be no more than 12 adults.

Ms. Higgins said it is the passing thru of strangers that bothers her.

Commissioner Hird asked if it made a difference to her that the campers have to be associated with the agricultural work and if she would be okay with the same number of people living in mobile homes instead of tents.

Ms. Higgins said she might not have a problem with it if the mobile homes had running water.

Commissioner Singleton said it sounds like these are official internships through organizations or agencies. She asked if the applicant works with an affiliated institution for volunteers, would that make her more comfortable.

Ms. Higgins said no, it would not make her more comfortable. She was concerned about property value.

Ms. Katelyn McGill, volunteering at Pinwheel Farm through the Lawrence Sustainability Network, said she is doing it so she can get experience to go into the Peace Corps. She said the only way Pinwheel Farm can operate is through volunteers. She said before any volunteers can work they go through extensive training and safety and that Ms. Lowther does not just let anyone work on her farm.

Commissioner Rasmussen asked when she went through the orientation process were the rules written out or were they verbal.

Ms. McGill said Ms. Lowther has written general rules of the farm and then verbal rules for specific tasks.
Ms. Melissa Warren, retired firefighter and volunteer at Pinwheel Farm, said she would like to keep her camper at the farm so she can use it to rest. She felt the neighbors had unfounded fear and that Ms. Lowther does not want harmful people on her property any more than the neighbors.

Mr. Stephen Figgins said he values the farm and felt the volunteers needed a place to stay. He was in favor of the Conditional Use Permit.

Ms. Emily Fisher, participated in the WWOOFing program and volunteered on farms. She felt the immersion in culture was important. She was in favor of the Conditional Use Permit and allowing volunteers to camp on the property.

**APPLICANT CLOSING COMMENTS**

Ms. Lowther said she was not aware of ongoing plans for the future water line that would be built across her property until a speaker mentioned it this evening. She said she was present at meetings almost two years ago and that was the last she heard of it. She said the Conditional Use Permit is a request, not a demand and that the farm will go on even if the camping is not allowed. She hoped Planning Commission would consider approving the amended conditions she submitted in the packet. She asked for a 100 year Conditional Use Permit, with a review every 5 years or however often needed.

Commissioner Harris asked how the ability to shower will be addressed.

Ms. Lowther said there are multiple places in town where people can legally shower. She said Clinton Lake charges $4.25 to shower and dump septic.

Commissioner Harris asked if people working at your farm would have to shower somewhere else.

Ms. Lowther said she also offers showers in her home as well as her laundry room.

Commissioner Finkeldei said Ms. Lowther is allowed to have a mobile home but would need to provide water and sanitary sewer facilities. He asked if that is why she is not interested in that.

Ms. Lowther said that is a part of it. As the farm grows they may look into more permanent options.

**COMMISSION DISCUSSION**

Commissioner Finkeldei asked staff if they agreed with the interpretation of someone not being allowed to camp on their own property.

Mr. McCullough said he’d have to research that with Mr. Keith Dabney, Director of County Zoning & Codes. He said he also wanted to clarify that RS40 district does allow agricultural uses, so there is one district in the city that does permit those types of uses.

Commissioner Finkeldei said neighbors mentioned the neighborhood houses being there first versus the farm being there first.

Ms. Lowther said when she moved there the north side of the property was crop agricultural and in front of the house there is a foundation of a barn that was once associated with a farm. She said the farm has a long term history, although not a continuous history. She said one of the concerns with the city zoning district would that she would not be able to sell milk if in the city.
Commissioner Rasmussen said the WWOOF properties in Missouri have conditions of no firearms or stun guns.

Ms. Lowther said Pinwheel Farm has general policies and it prohibits any kind of firearm, fireworks, or weapon of any kind. She said she would like to reserve the right to use a 22 caliber or shotgun to be used against predators such as a coyote. She said the farm policies is very restrictive and does not even allow television or chewing gum.

Commissioner Harris asked if the Conditional Use Permit goes with the land or the owner.

Ms. Miller said as a rule the Conditional Use Permit goes with the land.

Commissioner Harris asked if the land is annexed by the city would it have to comply with noise and aesthetics codes of the city.

Ms. Miller said it would have to comply with blight and noise codes. If the property is annexed into the city it would probably be zoned UR (Urban Reserve) and that district is allowed to have crop agricultural and any uses that were lawfully in existence at the time of annexation.

Commissioner Harris asked the applicant if there was any attempt to meet with surrounding neighbors to discuss concerns and resolve issues before it came to the Planning Commission.

Ms. Lowther said she tried to call neighbors or talk about it over the fence and the response she got was ‘we’ll talk about it at the Planning Commission meeting.’ She said she appreciated the time Mr. Ted Boyle spent talking to her on the phone and that he was the only one that talked to her.

Commissioner Blaser inquired about the annexation issue and if it is rezoned to something other than UR.

Mr. McCullough said it would be a non-conforming use so long as the use is valid. He said development policy does not necessarily encourage unilateral annexation, but that it could occur. If it did occur the use would be non-conforming but would be allowed to continue. He said a more viable situation, in his opinion, would be services (sewer & water) would be desired at the site and annexation would be requested and the property would then need to comply the Development Code of the City of Lawrence.

Commissioner Rasmussen inquired about the staff report conditions referring to 1478 1700 Road when that parcel is just one of several parcels in the application.

Mr. McCullough said the full legal description is kept on record in the file. The legal ad includes that the full legal description is available in the file. When a resolution or ordinance is created the legal description is included.

Commissioner Rasmussen asked if the condition of six camping units was for the entire area.

Mr. McCullough said that was correct.

Commissioner Finkeldei asked if the County Board of Zoning Appeals could grant an exception to the non-resident employee provision requiring the sanitary sewer and water supply.
Mr. McCullough said staff would have to investigate that and that Mr. Keith Dabney, Director of the Douglas County Zoning and Codes Department, would have to be consulted.

Commissioner Finkeldei said he did not think there was much dispute about the events and farmers market. He said he was struggling with the camping issue for several reasons. He wondered how it could be conditioned so there would not be a KOA type facility in the middle of the neighborhood. He was concerned about sanitary issues if all six guests are there all year. He inquired about the proposed amended conditions the applicant submitted today and asked if staff had looked at them yet.

Ms. Miller said she had not had time to review them in depth yet.

Commissioner Moore said he was struggling on the camping issue as well because there seems to be a provision in the Code to handle perhaps what Ms. Lowther is wishing to do that would allow some temporary housing.

Commissioner Hird said the first question they should think about is if this is the kind of activity they want to promote or discourage. And if so, are the limitations reasonable or unreasonable. He said agri-tourism is a priority in Kansas and the State has spent a lot of effort promoting it. He said the Planning Commission has spent countless hours talking about protecting high quality soils. He said the alternative for the area were things such as a housing development, mobile homes, or warehouse. He said it was hard to believe a property owner in Douglas County cannot camp on their own land. He understood the neighborhood concerns about transients camping and said he would be concerned too but that he was not as concerned with this case because there are limitations. It has to be an accessory to farm operations and is not a stand alone camping operation. The people camping there are associated with the farming. He said from what he saw tonight his fear about that has been greatly reduced. He expressed concern about sanitation issues. He said knowing they can go to Clinton Lake to take a shower does not give him peace of mind on that issue. He said he was not bothered by the setback and screening requirements for camping and the limited number of camping units. He said it gives him peace of mind that the Conditional Use Permit would be reviewed annually and will allow the neighbors the opportunity to talk about the issues if it becomes a problem. He felt that if more time was needed to review the new conditions presented today by the applicant then the item could be deferred.

Commissioner Rasmussen said this type of activity is neat and that it is a good activity in an area with high quality soils. He said he pulled up and read the Pinwheel Farm description on the WWOOF website and that it was pretty accurate and didn’t make it sound glorious. He expressed concerns about the aesthetics of the property. He said it was not inviting and does not reflect well on the community. He said he would like to see conditions a little stronger to improve the appearance of the entry way of the farm. He said he would feel more comfortable seeing revised recommendations for the proposed conditions by the applicant.

Commissioner Hird said he lives in the country south of town and passes a junkyard every day that irritates him. He agreed that addressing how the property is kept is a great concern and could be a step forward in patching things up with the neighbors.

Mr. McCullough said the item could be deferred to Wednesday depending on the scope of direction.

Commissioner Blaser said he drove past the property during the past week and the physical appearance was not something to be proud of. He felt they should defer the item one month to do
more research. He said he was not as concerned about the camping as he was about the physical appearance of the property.

Commissioner Harris said it seems there are two issues from the neighbors; property appearance and who’s living there. The appearance could be somewhat addressed by having permanent structures rather than camping structures, but the appearance could be let go and could be left with a similar situation. As far as who’s living in structures it could be the same people. She said she was encouraged by the fact that Ms. Lowther has standards and rules that people staying there have to sign. She also said she supported the camping but agreed some language should be added about the property being presentable to the neighborhood, especially sides that face other neighbors.

Commissioner Singleton agreed with Commissioner Hird about it being an excellent business opportunity for the community. She said she initially had concerns about transients camping, but now that she has heard from the applicant and volunteers she wasn’t as concerned. She said these are people that Ms. Lowther has invited into her home and she has to think about her own safety so she is confident in Ms. Lowther’s screening process. She was concerned about not having enough time to review the applicants new proposed amendments to the conditions. She said the appearance of the property does speak to the relationship with neighbors and has to be addressed. If neighbors don’t trust the decisions about what the applicant does with the land then they may not be confident in who is invited to stay there.

Commissioner Finkeldei expressed concerns about the sanitary conditions for the people staying there. He asked if Richard Ziesenis, Director of Environmental Health, had been consulted.

Ms. Miller said Mr. Ziesenis recommended chemical toilets but that the privy would be allowed. Kansas EPA says if there are fewer than 25 people well water can be used. He recommended using bottled water and suggested she could use large jugs rather than individual bottles.

Commissioner Finkeldei suggested lumping the camping conditions together and the other related conditions together. He was still concerned about camping in the neighborhood but felt this was a great use that should be encouraged.

Mr. McCullough said the by-laws allow them to defer the item even with the public hearing being closed.

Commissioner Hird asked if the neighbors would get a chance to see the revisions.

Mr. McCullough said they could see it in the Planning Commission packet that is posted.

Commissioner Harris asked that staff research the progress of the water line that was mentioned in earlier comment as being possibly put across Ms. Lowther’s property.

Commissioner Rasmussen suggested staff look into the following:

- A condition on firearms for guests
- Alternative surfacing materials with an approved maintenance program
- The term of camping and what might be appropriate during growing season
- Fire rings for campfires
- Improvements to the north side of the property and have applicant come up with a schedule or plan to identify areas where work is needed and a time period in which to complete it
- He did not feel the 100 year Conditional Use Permit was appropriate but thought 20 years might be acceptable
Commissioner Finkeldei asked staff to look into the legality of camping on your own property and whether the Board of Zoning Appeals can grant variance from 12-303. He also said he could become more comfortable with the camping if it was more defined, such as two spots for WWOOF people, two spots for long term people, and two spots for people who would come in occasionally.

**ACTION TAKEN**
Motioned by Commissioner Harris, seconded by Commissioner Blaser, to defer to May Planning Commission.

Commissioner Singleton asked the applicant about the impacts of the item being deferred to May.

Ms. Lowther said it would not create a conflict.

    Motion carried 8-0.
PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

ITEM NO. 10: CONDITIONAL USE PERMIT; 1478 N 1700 RD (MKM)

CUP-2-1-10: Consider a Conditional Use Permit for camping, sale of farm products, and events at Pinwheel Farm, approximately 11.79 acres, located at 1478 North 1700 Road. Submitted by Natalya Lowther, property owner of record. Deferred by Planning Commission on 4/26/10.

This request for a Conditional Use Permit (CUP) was considered by the Planning Commission at their April, 2010 meeting. The Planning Commission deferred the item and requested additional information be provided when the item was returned to the Commission. The Commission directed the applicant to provide the following:

- A plan and schedule for site improvements, with particular emphasis on the area visible from North Street.
- An exhibit defining the camping areas more clearly. The exhibit should identify the number and type of camping that would be provided in each area (for example 2 WWOOF (World Wide Opportunities on Organic Farms) campsites and 1 RV campsite in one designated location.

The Commission directed Staff to take the following actions:

- Research Code requirements regarding a person camping on property they own.
- Research the possibility of obtaining a variance from the Board of Zoning Appeals from the requirement to provide a water supply and sewage system for mobile homes used to house farm employees.
- Find information on the proposed waterline and how it may affect this property.
- Revise the recommended conditions of approval with the following changes:
  - Improved water supply and sewage management for campers and participants at farm activities
  - Establish condition for maintenance and periodic upgrade for the alternative pavement material to insure that it would function adequately.
  - Prohibit firearms on the property with the exception of the applicant.
  - Review the applicant’s proposed revised conditions and respond.
  - Develop a condition related to the improvement of the appearance and upkeep of the property, particularly the areas which face other residences and North Street.
  - Establish a time limit for the camping use.
  - Group conditions relating to each use (sales, events camping) together.
  - Establish guidelines for campfires so fires would not create a safety hazard in the area.
- Provide a revised staff report

The applicant provided materials for the Planning Commission on May 18, 2010 (included as Attachment A) in which she asked to defer the events and farm sales from the CUP and pursue only the camping use at this time. The sales and event uses can be removed from this CUP.
request; and, if the uses are proposed in the future an application to amend the CUP can be submitted.

The April Staff report has been revised to reflect the revised uses requested and to incorporate the materials requested by the Planning Commission. Changes in the staff report are shown by the use of strikethrough for deleted text and bold print for new text.

**ATTACHMENTS:**
A: Applicant’s materials for Commission  
B: Proposed waterline map  
C: Staff review of applicant’s proposed amendments submitted to Commission on April 26, 2010.  
D: List of revised conditions showing changes from those recommended in the April report.

• **REGULATIONS PERTAINING TO CAMPING ON ONE’S OWN PROPERTY**  
The Zoning Regulations of the Unincorporated Portions of Douglas County are silent on the subject of a property owner camping on their own property. Staff contacted the Director of Zoning and Codes for information on regulations pertaining to this type of camping. He indicated he would provide the information prior to the Planning Commission meeting.

• **PROPOSED WATERLINE INFO PROVIDED BY THE CITY UTILITIES DEPARTMENT**  
Permanent easements are expected to be 20’ – 30’ wide and temporary construction easements will typically be 75’ wide. There will be additional locations where larger temporary construction easements are required for boring activities and material storage but these are not defined at this time. Typical restrictions to improvements and construction within the permanent easements will apply.

The design of the project was originally authorized by the City Commission in January 2008 with construction proposed in 3 phases 2008 – 2010. Currently design, permitting and property acquisition are proceeding under the 2008 contract. In response to the downturn in growth and Utility Department revenues, funding for the construction of the project was not maintained in 2008 and has been removed from proposed Capital Improvements Plans since 2009. The project will eventually happen to provide additional connection to N. Lawrence, for development of the Farmland area, continued development of SE Lawrence beyond 23rd and O’Connell and ultimately to south of the Wakarusa River in the area of the proposed Wakarusa Water Reclamation Facility. Timing and funding are currently unknown but we may have some ideas coming forth via the pending utility master plans.

The map is still applicable and has been shared during public meetings and in mailings to property owners (Attachment B). Burns & McDonnell are completing more detailed preliminary plan and profile construction drawings and should be submitting those by the 2nd week in May for review.

With the submittal of the preliminary plan and profile drawings in May, Utilities will meet with City Staff to go over the property requirements and affected owners. Out of that the Utilities Dept will be looking for a confirmation of the proposed property acquisition needs and initiation of that process. With the route and property acquisition confirmed, Burns & McDonnell will generate the required easement documents for each property. The next scheduled contact with
the property owners would be notification of the initiation of the process and scheduling of the appraisal activities. This could occur during June. As always, additional contact with property owners is an option.

(Planning Comment: The map in Attachment B shows the waterline crossing the northern portion of the subject property across the pastures. It appears that the waterline would require the removal of trees in two 75’ wide areas on the west and east side of the property. Staff is not aware of any negative impacts the waterline would have on the farming operations once it is installed.)

USE OF MOBILE HOME TO HOUSE FARM WORKERS – POSSIBLE VARIANCES

Section 12-306-2.17: One or more mobile homes shall be allowed as an accessory use to a farm so long as they are occupied by a family related by blood, or marriage, to the occupant of the main dwelling, or by a person or persons employed on the farm. This mobile home must be at least 150 feet from another dwelling, and must be provided with a water supply and sanitary sewage facilities, and may not be used as a rental income property. Mobile homes shall not be located within the ‘F-W’ or ‘F-F’ Overlay Districts.

Definition of Mobile Home: A vehicle used, or so constructed as to permit being used, as a conveyance upon the public streets and highways and constructed in such a manner as will permit occupancy thereof for human habitation, dwelling or sleeping places for one or more persons, provided further that this definition shall refer to and include all portable contrivances used or intended to be used generally for living and sleeping quarters and which is capable of being moved by its own power, towed or transported by another vehicle.

Variances: Given the configuration of the subject properties, a variance may be necessary to permit a mobile home to be located in an area where it could be connected to an existing septic system as it would not be possible to locate the mobile home 150 ft from other dwellings in this area. The Commission asked staff to look into the possibility of a variance from this requirement to permit the mobile home to utilize a holding tank if a septic system is not acceptable or available for connection. Section 12-323-2 of the Zoning Regulations notes that the Board of Zoning Appeals may hear and decide special exceptions to the provisions of the Zoning Regulations in those instances where the Board is specifically authorized to grant such exceptions. “In no event shall exceptions to the provisions of the Zoning Regulations be granted where the use or exception contemplated is not specifically listed as an exception in the Zoning Regulation.” A variance from the yard requirements is included in those items that the Board could grant an exception or variance from; therefore, the Board could consider the variance to reduce the required separation between a mobile home and other dwellings. The requirement to provide sanitary sewerage facilities is not listed as an exception. If there is an issue with linking to the existing septic system, there is a variance procedure in place for the Douglas County Sanitary Code. The County Health Official indicated that a more permanent mobile home would require connection to the septic system, but other arrangements could be made for a more mobile type of mobile home. A variance application can be submitted for consideration by the Douglas County Health Department.
PLANNING COMMISSION RECOMMENDED REVISIONS TO CONDITIONS

Improved water supply and sewage management for campers and participants at farm activities.

The applicant indicated that water is available from the private well on the property and also from the residence at 1480 N 1700 Road. Restroom facilities are available in the residence at 1480 N 1700 Road and a privy is located on the property. The County Health Officer said that private well water is permissible as long as the use does not exceed 25 persons for more than 60 days. In that case bottled water would be required. He recommended the use of publicly treated water for the campers. He also indicated that the privy is permitted, but he recommended a chemical toilet with the additional users. The well is acceptable for use by the owners of the property; however, the County Health Official highly recommends the use of treated water for the campers as well water is not disinfected and could be unsafe. He indicated that she could buy a 5 gallon jug and fill it with city water for campers to use. The 5 gallon jug should be rinsed out with City water (treated water) in between uses. The Health Official felt that the privy would be a sanitary restroom facility for the campers but recommended that a provisions for hand-washing be provided. After discussing this issue with the County Health Official and the applicant, staff recommends the following condition:

A safe water supply and adequate sewage management system shall be provided for the camping use approved with this CUP.

1) City or bottled water shall be provided for the campers, rather than well water. The health official indicated that the applicant could fill a large jug with City or treated water for the use of the campers.

2) The privy may be used to serve the camping use; provided provisions for hand-washing are provided.

Establish condition for maintenance and periodic upgrade for the alternative pavement materials to insure that it would function adequately.

The alternative pavement materials are experimental in nature. The drive utilizing the alternative pavement materials shall be maintained and upgraded to insure that it can function adequately. If it is determined by the County Engineer that the alternative pavement materials are not able to function adequately, this area of drive will be graveled.

Prohibit firearms on the property with the exception of the applicant. The applicant indicated that they felt this restriction was unfair, as visitors to neighboring properties often bring firearms onto the properties to hunt. She also stated that she would like to permit the campers in the north pasture area to be able to have firearms for security reasons. As this is a Conditional Use Permit, additional restrictions may be placed on the use—as it is not a use that is commonly permitted within the A District—to insure that it is compatible with the area. Staff recommends the following condition:
No firearms are permitted on the property with the exception of those owned by the applicant.

- Review the applicant’s proposed revised conditions and respond.
  
  See Attachment C

- Develop a condition related to the improvement of the appearance and upkeep of the property, particularly the areas which face other residences and North Street.

Maintaining a pleasing streetscape should increase the property’s compatibility with the surrounding area. The portion of the farm adjacent to North Street should be maintained in a manner similar to that required for the nearby city lots. Article 3 of Chapter 18 of the City Code prohibits excessive growth of vegetation (plant height of 12” or more) unless the property has been registered for ‘natural landscaping’. This would apply only to the within 30 ft of North Street and not to the farm as a whole. The adjacent building to the east, 509 North Street, is located 30 ft from the street so this area would be visible from the street. Article 6 of Chapter 9 of the City Code prohibits dilapidated structures or the storage of debris, appliances, and other items on porches. The subject property is not located within the city limits and is not required to comply with City Codes; however maintaining the area near North Street in a similar fashion to other nearby developed properties would result in a more compatible streetscape. Staff recommends the following condition:

The physical appearance of the structures near North Street (501 North Street and 1478 N 1700 Road) shall be improved and maintained, either through structural improvements, painting, cleaning or removal. The porches will not be used for the storage of equipment or other items. The property within 30 ft of North Street will be mowed to prevent excessive vegetation unless the property is registered as a natural landscape.

- Establish a time limit for the camping use.
  
  Camping for purposes other than volunteer workers for the farm shall be limited to two weeks. Camping for volunteer farm workers or interns shall be limited to two months.

- Group conditions relating to each use together. (Conditions have been grouped for clarity)

- Research the water line plans and see how it would affect this property. (Provided)

- Establish guidelines for campfires so fires would not create a safety hazard in the area.

Fire rings or pits should be established away from overhanging branches, rotten stumps, logs or dry grass. The pit shall be circled with rocks or a metal fire ring. A 5 ft area cleared of vegetation shall be provided around the ring. Extra wood shall not be located within 5 ft of the fire ring. A shovel and water shall be available in case the fire gets out of control.
STAFF RECOMMENDATION: Staff recommends approval of a Conditional Use Permit for camping, events, and sale of farm products at a Farmer's Market at Pinwheel Farm, located at 1478 N 1700 Road and forwarding of it to the County Commission with a recommendation for approval, based upon the findings of fact presented in the body of the staff report subject to the following conditions:
(The following conditions have been revised from the conditions in the April Staff Report based on the Planning Commission’s recommendations and the applicant’s proposed amendments. Attachment D contains the conditions with changes shown.)

(GENERAL PROVISIONS)
1. The physical appearance of the structures near North Street (501 North Street and 1478 N 1700 Road) shall be improved and maintained, either through structural improvements, painting, cleaning or removal. The porches will not be used for the storage of equipment or other items. The property within 30 ft of North Street will be mowed to prevent excessive vegetation unless the property is registered with the City as a natural landscape.
2. The CUP approval is valid for 20 years (July 1, 2030) with a review in 5 years (July 1, 2015) to determine if the use is still appropriate with the level of urbanization that has occurred. The CUP approval will expire at the end of 20 years (July 1, 2030), unless an application for renewal is approved by the local governing body. The camping use will be reviewed in 1 year from the date of approval (July 1, 2011) to determine if the use is compatible with the surrounding area.

(CAMPING)
3. Camping will be operated as an accessory use to farm operations, not as a stand-alone enterprise.
4. Camping shall not be publicly promoted in any way, although it may be mentioned as a housing option in farm volunteer opportunity descriptions.
5. The property owner shall provide an annual report to Planning Staff which lists the number of campers in each camping unit, the type of unit, location of campsite used, and dates of stay. This report shall be submitted electronically or in hard copy by Jan. 15 of each year commencing Jan 15, 2011.
6. Fire extinguishers are required in all camping units.
7. No engines or gas generators may be used for power supply to campers on the farm, except for emergency use in the case of neighborhood power failure.
8. Lights shall be shielded to prevent glare or light trespass to neighboring properties.
9. Camping areas shall be kept in a neat, safe and sanitary manner.
10. Camping units in active use shall be placed in areas that are reasonably screened from view of street or neighbors.
11. No electronic sound amplification is permitted that is readily audible from neighboring properties, except for emergency/hazard warning devices.
12. Camping will observe quiet time between 9 pm and 7 am Sunday through Thursday, and between 11 pm and 7 am Friday and Saturday.
13. Camping for purposes other than volunteer workers for the farm shall be limited to two weeks. Camping for volunteer farm workers or interns shall be limited to two months.
14. The general site plan shall be revised to reflect the camping areas as shown on the detailed camping sheet.

15. A safe water supply and adequate sewage management system shall be provided for the camping use approved with this CUP.

   1) City or bottled water shall be provided for the campers, rather than well water. The health official indicated that the applicant could fill a large jug with City or treated water for the use of the campers.
   2) The privy may be used to serve the camping use; provided provisions for hand-washing are provided.

16. No firearms are permitted on the property with the exception of those owned by the applicant.

17. Fire rings or pits shall be established away from overhanging branches, rotten stumps, logs or dry grass and shall be circled with rocks or a metal fire ring. A 5 ft area cleared of vegetation shall be provided around the ring. Extra wood shall not be located within 5 ft of the fire ring. A shovel and water shall be available in case the fire gets out of control.

(CAMPING UNITS)

18. No more than 4 self-contained camping trailers or RVs and/or up to 4 tents at a time, with a maximum of 6 units housing up to 12 adults may be located on the site at any given time (exclusive of the permanent house on 1480 N 1700 Road). Vacant RVs or other camping units will count toward the number permitted on the site.

19. RVs and other camping units are limited in size as follows:
   No more than 2 RVs or other camping units which are longer than 20 ft. may be located on the site at any one time. The maximum size for any RV or camping unit is 30 ft, exclusive of hitches or carrying racks.

20. RVs or other vehicular camping units must be properly tagged and roadworthy.

(EASEMENTS)

21. An affidavit stating the following requirement shall be recorded with the Register of Deeds prior to the final approval of the CUP: “The property owner shall execute a lateral line easement for the off-site lateral lines for 1480 N 1700 Road, per the County Health Official’s approval, prior to the sale of either 1480 N 1700 Rd. or the land where the laterals are located, if the off-site lateral lines are still in service. The easement shall be recorded at the Register of Deeds.”

22. The property owner shall relocate the eastern driveway within the dedicated right-of-way easement or the easement should be revised to include the drive. The driveway shall be relocated or the revised right-of-way easement recorded prior to final approval of the CUP.

(FLOODPLAIN)

23. Any development on a parcel which contains regulatory floodplain may require a Floodplain Development Permit from the Zoning and Codes Office.

(SITE PLAN)

24. Applicant shall provide a revised site plan with the following changes:
   i. The limits of the regulatory floodplain shall be shown.
ii. A note shall be added to the site plan which states “Camping may occur in the regulatory floodplain only in the area known as the ‘key-hole’ area, which is located at the intersection of the 4 rotational pastures. This area shall be clearly delineated on the site plan. This camping shall be limited to no more than 2 camping units or tents.” The applicant shall meet with the County Floodplain Manager and develop restrictions/regulations for this area which shall be noted on the site plan.

iii. The parking requirements (6 for camping) shall be noted and the plan shall show the location and number of provided parking spaces.

iv. The southern camping area shall be delineated to maintain a 50 ft setback from North Street right-of-way. A note shall be added that no more than 2 camping units will be permitted in this area at a time.

v. A 15 ft camping setback shall be provided from the property lines adjacent to residential zoning or uses.

vi. The site plan shall show the location of screening which will be provided as a condition of this CUP, or which currently exists, to screen the southern camping areas from view of adjacent residences and North Street. If temporary screening is to be used while long-term screening is becoming established, the location must be shown and the type of screening must be noted on the plan.

vii. The site plan notes shall specify “All drives and parking areas shall be graveled except for the portion of the drive designated on the site plan as approved by the County Engineer for the use of alternative surfacing materials. The alternative pavement materials are experimental in nature. The drive utilizing the alternative pavement materials shall be maintained and upgraded to insure that it can function adequately. If it is determined by the County Engineer that the alternative pavement materials are not able to function adequately, this area of drive will be graveled.

viii. Facilities for auxiliary uses to camping and events such as picnic and outdoor cooking areas, fire pits, play areas, walking trails, etc. will comply with all camping conditions, except that property line setbacks will not be required for trails.

ix. The privy shall be shown and labeled.

**Reason for Request:**

*Applicant’s response:*

“In 2005, I was informed that I had unwittingly violated county regulations prohibiting camping by utilizing a self-contained tent camper (a birthday gift from my parents) as a temporary seasonal office space, storage, break room, and occasional overnight accommodation at my small farm at 1480 N 1700 Rd. I complied with the order to remove the vehicle entirely from the property, and it remains in storage at my parent’s home in another county. Yet I was surprised to learn that camping and so many other activities normally and naturally associated with farm life are not actually permitted as ‘agricultural uses’ for land zoned specifically for farming.

Ironically, the State of Kansas has, in recent years, begun to see the benefits of promoting ‘agritourism’ as a source of economic development based on the natural resources of the region. A special state agency has been created, and special regulations have been promulgated in order to encourage farms to open their operations to visitors. This includes regulations waiving liability for injury or death to
participants in registered agritourism activities. I have registered my farm as an agritourism site with the State in order to protect myself should any mishap befall a visitor.

As I continue to develop my farm, I find that its close proximity to the City of Lawrence makes it an increasingly popular destination for families, who wish to expose their children to the ‘farm experience’ so they can learn where food comes from. Furthermore, an exploding nationwide interest in locally grown, sustainably produced food has created an upsurge in people wishing to obtain hands-on training and experience in this rapidly growing agricultural niche. With a significant lack of educational/vocational training programs in established academic institutions to meet this demand, grass-roots educational networks have evolved. Programs like WWOOF (international) and Growing Growers (KS food-shed area) have emerged to connect farms needing helpers with eager volunteers, who get hands-on opportunities to hone their farming skills and knowledge, add to their resumes, and network with agriculture professionals and potential customers while providing farms with enthusiastic help in return.

In meeting these demands for agritourism and agri-education, other auxiliary needs arise: Space for children to play, for eating and resting, accommodations for temporary volunteers who may be living on the road in campers passing through town, etc. To balance the needs of guests/volunteers with the orderly operations of the farm and its natural environment, designated adequate facilities are essential. Currently, Pinwheel Farm's potential pool of volunteers, especially through the WWOOF program, is limited to those who are willing to room in my home and to those whom I am willing to live with in close quarters.

The farms’ proximity to the City of Lawrence also brings to bear additional use restrictions that farms in more rural areas do not face, because of its location within the Urban Growth Area. Because I live outside city limits, and thus cannot vote for elected city officials, I do not have full representation in the development of City regulations that apply to my farm now or in the future. The possibility of involuntary incorporation into the City of Lawrence cannot be ruled out until such time as City authorities put in writing that this will never be done.

Therefore, I am requesting to have camping permitted on my farm in carefully delineated circumstances, as described in the supporting document titled “Pinwheel Farm Camping Guidelines”: I am also requesting permitting for other normal outdoor agritourism activities including picnicking, outdoor cooking of food/barbequing, playing, hiking, bird-watching, dog walking, horseback riding, etc. I am also requesting to have a wide variety of other specific activities, primarily pertaining to agriculture and essential to the on-going development of Pinwheel Farm as an agricultural enterprise and living environment, permitted at the farm. The full range of activities requested under this CUP are listed in the Table of Long Range Goals.”

**KEY POINTS**
- The subject property is located within Service Area 2 of the Lawrence Urban Growth Area.
• The property is located on North Street and is adjacent to the city limits.
• The applicant owns 5 contiguous parcels in this location; however, as one parcel (501 North Street) is located within the city limits only 4 parcels are included in this CUP.

GOLDEN FACTORS TO CONSIDER

ZONING AND USES OF PROPERTY NEARBY
• Nearby properties close to North Street are zoned RS7, RS10 (Single-Dwelling Residential—City zoning) and A (Agricultural—County zoning). Single family residences are the primary land use on these properties. The subject property extends to the north, where the nearby properties are zoned I-1 (Limited Industrial—County zoning), GPI (General Public and Institutional Uses—City zoning) and IG (General Industrial—City zoning). Several of the properties have not been developed, and the others contain a warehouse/distribution center, a construction sales business and a detention facility. The 100 year regulatory floodway and floodplain is present in this area, so nearby properties and portions of the subject property are located in the Floodplain Overlay Districts, both City and County.

CHARACTER OF THE AREA
• The area is a transitional area on the edge of the city where urban and rural land uses blend. The streets in this area are constructed with open ditches rather than curb and gutter and several of the residences have gardens and seasonal farm stands. The blend of uses include the subject farm property, other agricultural lands, single-dwelling residences and a mobile home park.

SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED
• The current zoning designation for the property is A (Agricultural) District, a district in which many different agriculture-related uses are allowed. The A District is intended to provide for a full range of agricultural activities, including processing and sale of agricultural products raised on the premises. The district is also intended to promote the growing of natural crops and grazing and to prevent untimely scattering of more dense urban development. The subject property contains high quality agricultural soils and is therefore well suited for agricultural uses; however, consideration must be given to the close proximity to the city limits. As the area becomes more urbanized, some agricultural uses may not be appropriate in this location.

Uses which are not permitted within the A District but have been determined to be compatible with the character of the area are permitted with the approval of a Conditional Use Permit. The requested uses: camping, events, and year-round sale of farm products at a farm stand or market are allowed in the A District with approval of a Conditional Use Permit (CUP). The property is suited for the uses which are permitted in the A District.

ASSOCIATED CASES/OTHER ACTION REQUIRED
• Approval by Board of County Commissioners
• If approved, new and/or converted buildings will be subject to county building code requirements.
• Dedication of easement Recording of affidavit regarding requirement for future easement for septic field lateral lines which extend over the parcel lines.
• Floodplain Development Permit from the Douglas County Office of Zoning and Codes for any new development on parcels which are encumbered with the regulatory floodplain.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING
• Phone call from neighbor expressing concern with parking for the events and other uses on the farm. She felt that adequate parking should be provided on-site so parking on North Street would not be utilized.
• Phone call from Ted Boyle, President of the North Lawrence Improvement Association expressing concern about the negative impact camping may have if it were to be used primarily for people without permanent residences.
• E-mail from Barbara Higgs-Dover requesting that the following link to a newspaper story concerning the Pinwheel Farm be provided to the Planning Commissioners. She said the story is on several pages, but you can pan between pages.
  http://news.google.com/newspapers?id=2199&dat=20000504&id=gpAyAAAAIBAJ&sjid=5ecFAAAAIBAJ&pg=4638,1169832

GENERAL INFORMATION
Current Zoning and Land Use: A (Agricultural) District and Floodplain Overlay District; agriculture and residential land uses.

Surrounding Zoning and Land Use:
To the west:
  A (Agricultural) District, I-1 (Limited Industrial) District;
  residence and open space.

To the north:
  IG (General Industrial) District—City Zoning;
  warehouse/distribution.
  I-1 (Limited Industrial) District; residence and agriculture.

To the east:
  I-1 (Limited Industrial) District; construction sales and residence.
  RS10 (Single-Dwelling Residential) District—City Zoning;
  single dwelling residences.

To the south:
  RS7 (Single-Dwelling Residential) District—City Zoning;
  residential.

Site Summary
Subject Property CUP activity is located on 4 parcels containing approximately 12 acres.
1480 N 1700 Road contains approximately 1.083 acres and has been developed with a residence.
1478 N 1700 Road contains approximately .445 acres and was developed with a residence. The structure is now being used as an accessory farm structure.
The unaddressed parcels without street frontage contain agricultural uses and accessory farm structures.

Parking Requirements:
Total Parking Required: 12 spaces plus parking for farm stand
   1 per 5 seats (or attendees) for event or assembly use — 30
   attendees = 6 spaces
   ADA 1 (for 1 to 25 spaces)
   1 parking space for each camp-site — 6 campsites = 6 spaces
   1 parking space for each 200 sq ft of farm sales stand area

Total Parking Provided: Not noted on plan. The site plan shall be revised to note the number of parking spaces that are required and the number which are provided on site. The site plan shall show the location of designated parking spaces.

I. ZONING AND USES OF PROPERTY NEARBY

Staff Finding — The subject property abuts the city limits in several areas and is bounded by various zoning districts and land uses. The property is on the north side of North Street and the surrounding properties along North Street are zoned for single-dwelling residences (within the city limits) and agriculture (outside the city limits). These properties are developed with single-dwelling residences. The north portion of the subject property is bounded by Limited Industrial (outside city limits), and General industrial (within the city limits) zoning districts. A warehouse distribution facility is located to the north while the remainder of the industrially zoned property contains residences or agricultural uses. The land use and zoning of the area are illustrated in Figure 1.

II. CHARACTER OF THE AREA

Staff Finding — The subject property is adjacent to North Street which was constructed with open ditches as permitted by the alternate City Street Standards. This portion of North Lawrence has a rural/urban character and there are several farm stands, gardens and other agricultural uses included with the predominately residential area. This area is heavily encumbered with the floodplain, including both the floodway and the floodway fringe, and also contains high quality soils. (Figures 2 and 3)

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

Applicant’s response:
“The four properties are zoned “A” Agricultural. They are all Capability Class 1 soil ideal for agriculture in all ways. The location of the property in the river valley with a high water table makes it especially suited to horticultural agriculture and forestry. A portion of the largest property is in the floodway fringe; agritourism use of that portion would be in compliance with applicable regulations to the extent that this can be reasonably determined. A portion of the largest property is currently enrolled in the USDA’s CRP Riparian Protection Program; agritourism use of this area would be in compliance with the terms of the CRP lease to the extent that this can be reasonably determined.
The main farm property has been used since 1997 as an intensively managed, integrated, sustainable small farm including production and sale of animal products and by-products, vegetables, fruits, herbs, nuts, forest products, animal feed and forage, bee products, and value-added processing of raw agricultural products produced on the farm, as well as use of such products by owner, other residents, guests, volunteers and staff. The training of students, volunteers and employees in skills and knowledge related to such agricultural production is an essential part of this operation.

The property surrounding the farm is mostly residential, agricultural production, or vacant agricultural land. Much of that land (to the west and north) is likely to remain vacant or agricultural because it is in the floodway/floodway fringe areas.

**Staff Finding** – A Conditional Use Permit (CUP) does not change the base, underlying zoning. The suitability of the property for agricultural purposes will not be altered with the granting of the CUP. The property is suitable for the uses to which it has been restricted.

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

**Staff Finding** – County Zoning Regulations were adopted in 1966; the southern portion of this property has been zoned A (Agricultural) since that time. The northern 9.8 acres were rezoned from I-1 to A in 1996. The property is currently developed with residential and agricultural structures and uses.

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

**Applicant’s Response:**

“The restrictions that are to be removed are ones that most small-scale agricultural property owners don’t know exist, and not infrequently violate. The activities proposed are ones that are commonly assumed to be acceptable and natural aspects of a small family farm operation and/or residence. Many of these activities are already carried on by nearby neighbors without the benefit of appropriate zoning or CUP.

Occasions for annoyance of neighbors based on removal of these restrictions will be proactively addressed by guidelines, orientation of visitors, and on-site monitoring by the landlord or designated farm participant. Pinwheel Farm already has General Policies applicable to all farm participants that will be part of the camping agreement signed by campers; these General Policies address most potential annoyances and safety concerns.

Neighbors will be provided with contact information and procedures for letting us know of any particular situations that arise, so that we may quickly work to resolve legitimate concerns.
Most obvious annoyances that could occur are ones that we currently suffer from nearby neighbors with no recourse because they are normal activities of daily living. These include, but are not limited to:

- Occasional parking on the street and presence of unusual numbers of people due to special activities;
- Bright lights shining in our eyes outdoors or through windows at night;
- Loud or boisterous human activity including music, laughter, shrieks of happy children;
- A few additional people walking jogging biking, or walking dogs around the neighborhood;
- A few additional cars using North St. and connecting access roads.

Approval of the request will not alter the base zoning district. The proposed uses fall under the following categories listed in Section 12-319.4 Conditional Uses Enumerated, of the Zoning Regulations:

- Camping—Rooming, Boarding and Lodging Houses, and similar uses
- Events—Recreation Facility
- Farm Sales including products from other farms—Farmer's Market

Possible negative impacts on the nearby properties could include:

1) Parking on North Street
   The property is located on, and takes access from, North Street which is classified as a collector on the major thoroughfares map. North Street is identified as N 1700 Road when it is outside the city limits. North Street is a narrow street with 20’ of pavement (which is the minimum clear area which can be provided for emergency vehicles) and ditches on each side. Parking may create safety issues for vehicles exiting residential driveways on North Street and may obstruct emergency vehicles.

   The applicant anticipates about 25 to 30 attendees at the events, although larger events, such as sheep shearing days, may occur. The number of attendees should be limited to 30 people and adequate parking should be provided for that number in addition to the parking provided for the camping. Parking requirements for event centers are based on square footage, when the events occur within a structure. Parking requirements for outdoor events are based on attendance with a ratio of 1 parking space per 5 seats (attendees). 6 parking spaces are required for 30 attendees. An overflow parking area should be designated on the site plan to accommodate larger events.

2) Camping
   The impact of people residing in tents or RVs is greater than that of a mobile home, guest house, or home because of the additional exterior activity that is involved. Camping often involves exterior storage of materials, an outdoor living area with lawn chairs and ropes for drying towels or clothes and often an outdoor cooking area. Staff considered setting limitations on the length of time a camper could camp, to differentiate the camping use from a residence. The applicant pointed out that the impact would be the same whether you had one camper that stayed for 9 months or 9 campers that stayed for 1 month each. The number of campsites/campers should be limited and a size limitation placed on RVs to minimize the impact on the nearby properties.
3) Events
   Negative impacts could be created if events are too large for the parking to be accommodated on site, are noisy (amplified music), extend late into the night, or use exterior lighting which is not adequately shielded.

CAMPING
The applicant provided Camping Guidelines which are included as an attachment with this report. The camping guidelines indicate that the primary purpose for the camping use is to house short-term farm volunteers. Camping may also house visitors to the farm or farm events. The guidelines limit camping to 6 campsites, which would be a mixture of RVs and tents. There would be a maximum of 4 RVs or 4 tents, with the number of campers limited to 12 adults. The applicant indicated that 2 RVs may be there permanently; however, they may be vacant part of the time. When vacant they would still count toward the number of campsites.

To reduce negative impacts from the camping activity, staff recommends that the campsites be setback 15 ft from property lines adjacent to residences or residential zoning.

The impact of the campsites would be lessened with screening from the adjacent residences. The applicant indicated they would install vegetative screening along the west property line. Screening in the form of vegetation or fencing should be provided to screen the camping use from the adjacent residential uses to the west and south.

Small campers and tents would be more in keeping with the farm character and staff recommends that RVs be restricted to those 20’ 30’ or less in length.

Staff recommends that the camping area nearest North Street (Figure 3) be pulled back to maintain a setback of 50 feet from the right-of-way. The camping in this area shall be limited to 2 camping units to minimize the impact on the adjacent residences.

The following were taken from the Camping Guidelines, and should be made conditions of the CUP as they will serve to minimize negative impact of camping:

- No more than 4 self-contained camping trailers or RVs and/or up to 4 tents at a time, with a maximum of 6 units housing up to 12 adults at any given time.

- Vacant RVs or other camping units will count toward the number permitted on the site.

- Camping will be operated as an adjunct to farm operations, not as a stand-alone enterprise intended to make a profit.

- Camping will not be publicly promoted in any way, although it may be mentioned as a housing option in farm volunteer opportunity descriptions.

- Name, permanent address, phone numbers email address, etc shall be kept on file for each person using the camping facilities. A yearly report will be provided to Planning Staff which lists the number of campers, type of unit and dates of stay; the names and contact information shall not be included.

- Fire extinguishers shall be required in all camping units.
- No engines or gas generators will be used for power supply to campers on the farm, except for emergency use in the case of neighborhood failure.

- Bright lights will be shielded to prevent glare or light trespass to neighboring properties.

- Camping areas will be kept in a neat, safe and sanitary manner.

- Camping units in active use shall be placed in areas that are reasonably screened from view of street or neighbors.

- Adequate on-site parking will be provided to accommodate the campers.

- Campers must be properly tagged and roadworthy.

**EVENTS**

The small size of the events should reduce the negative impacts on the neighborhood. The following restrictions will further reduce any negative impacts:

- No sound amplification
- Hours of events limited to 7 AM to 9 PM Sunday through Thursday and 7 AM to 11 PM on Friday and Saturday.
- If any events are proposed which would have more attendees, it is the applicant’s responsibility to arrange for adequate parking so parking on North Street will not be utilized.
- The site plan shall show the parking location as well as an ‘overflow’ area for parking with larger events.

**Staff Finding** – Approval of the request will allow for additional activity in the area which may result in negative impacts such as increased activity due to camping and events. The farm is adjacent to residential properties and special steps are necessary to minimize the impact of the additional uses on the nearby properties.

VI. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE PETITIONER’S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNERS

**Applicant’s Response:**

“I don’t think there would be any benefit to the community from my request being denied, for two reasons:

- It is the community that is demanding the opportunities for activities for which I must get the CUP in order to provide.
- Others in the neighborhood and throughout the county are currently providing these opportunities without realizing they require a special CUP to do so legally.

The hardships imposed on my use of my land by denying the request would include:

- Restricting my pursuit of happiness through my peaceful enjoyment of outdoor living on my farm, and through sharing my passion for and knowledge of
sustainable farming and the natural farm ecology with interested people of all ages.

- Significantly reducing my access to volunteers/interns during intense times such as lambing;
- Significantly diminishing the comfort of volunteers.
- Reducing my ability to extend hospitality to guests visiting the farm, especially out-of-town or international visitors. Instead of bringing the world and its money to Lawrence, I would have to travel and thereby take my money outside of the Lawrence community to meet such a diverse array of people interested in farming.

Denying the request would deprive the community of innumerable agritourism and agri-educational opportunities for all ages. In the long run, this would depress the number of trained sustainable farmers and home gardeners in the region, reducing the supply of fresh fruits and vegetables for consumption by Lawrence area residents.”

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

The approval of the CUP would provide temporary living facilities for farm volunteers and others interested in visiting the farm and would benefit the applicant’s agritourism programs as well as provide a low cost labor force for the farm. A variety of events will be held, with the majority being agritourism in nature. Others may include outdoor weddings, spiritual meetings, or other similar events. The applicant indicated that the events were tied to the farm and were meant to provide education or appreciation of farm life.

Denial may benefit the surrounding property owners as negative impacts such as noise, lighting, and parking issues may be associated with the uses the additional activity associated with camping, may create negative impacts unless effective management techniques are utilized to minimize these impacts. Denial would prevent the land-owner from engaging in this form of agritourism and would reduce the amount of volunteer labor they could use.

**Staff Finding** – Denial of the Conditional Use Permit may negatively impact the community as a year-round market for farm products could not be established the production of organic products from this farm may be reduced. Denial would negatively impact the landowner as her agritourism programs would be curtailed which could limit the farm’s production.

**VI. CONFORMANCE WITH THE COMPREHENSIVE PLAN**

**Applicant’s response:**

“This request supports the overall vision of Horizon 2020 and other long-range planning efforts by contributing to the environmental health of the community, providing essential goods and services, supporting local businesses, providing jobs and training for local residents and protecting high-value agricultural soils.”

**Staff Finding** – The proposal is in general conformance with the comprehensive plan. The requested uses would preserve the agricultural use of the land, and the high-quality agricultural
soils, by allowing the property owner to further develop an agritourism use which would not require development of the property or result in non-farm residential development.

**STAFF REVIEW**

While this is a CUP request for agriculturally zoned property, it is unique in that the property is across the street from a residential neighborhood within the city and abuts the city limits on two sides. The subject property is located within Service Area 2 of the Urban Growth Area. The applicant’s goal is to continue farming in this location for the long term. If the property is annexed, it would be zoned UR and all agricultural activities which were permitted prior to annexation would be permitted to continue until development was proposed and rezoning to an appropriate zoning district was approved. The applicant has asked for guarantees that the City would not require annexation or that the rights to farm would never be limited. While this is not possible, it may be appropriate to include an Urban Agriculture use, with standards, in certain zoning districts of the Development Code. At the present time, the property is not required to annex and the farming activities are not limited.

Possible negative impacts which may occur from the proposed uses were reviewed earlier in this report and conditions recommended which would minimize these impacts.

The **Farm Sales** use was not discussed earlier as no adverse impacts are anticipated with this use. Currently, there are various farm stands along North Street and the applicant does operate a seasonal farm stand, as is permitted in the A District. The proposal is to operate a year-round rather than seasonal farm stand and invite other farmers to bring their products to the sale. This classifies as a **Farmer’s Market** which requires a CUP. Parking must be provided for the farmer’s market in relation to the size of structure or stand. The farmer’s market would be considered a retail store and if a structure is used parking shall be provided at a ratio of 1 space per 200 sq ft. of floor area. Parking regulations have not been established for a farm stand and would vary with the size of the stand. Using the ratio for the retail use, 1 parking space would be required for each 200 sq ft of stand area. The applicant will need to note the anticipated size of the stand area and identify the required parking spaces on the plan. The commercial building codes would apply to any structure used for the **Farmer’s Market**, but do not apply to stands, tents or mobile trailer units.

**Parking:** Required parking for the event use is one space per 5 seats for Auditorium, theater, gymnasium stadium, arena or convention hall or 1 space per 100 sq ft of building (Section 12-316-1 County Zoning Regulations). These events will occur outdoors; therefore, the parking requirement is calculated at the ratio of 1 space per 5 attendees, similar to the 1 space per 5 seats for events in buildings with fixed seating. As the number of attendees is expected to be about 25 to 30, 6 parking spaces are required for the event use. One parking space is required for each camping unit. The maximum number of camping units is capped at 6 units; therefore, 6 parking spaces must be provided for the camping use. The **farmers market** would require parking at a ratio of 1 space per 200 sq ft of floor area if a structure were used. The applicant indicated she would use a stand at this time. The zoning regulations do not provide a parking requirement for a farm stand. Per Section 12-316-2.06 of the Zoning Regulations, a parking requirement of a use with similar parking demand generation will be used. The stand would have the same traffic generation as a retail use, but parking would need to be calculated on stand area rather than floor area. 1 parking space is required for each 200 sq ft of stand area. The site plan will need to be revised to indicate the dimension of the farm stand being proposed and show the location of the required parking. If a structure is proposed for the farm stand at a
later time, the approved CUP site plan would need to be revised. The total parking required is 12 spaces, in addition to the parking required for the farm sales use. If the number of total parking spaces is below 25, one ADA parking space is required.

Drives and parking areas are required to be graveled. Experimental, permeable pavement materials require the County Engineer’s approval.

**Access:** The farm uses two entrances from North Street to make a circular drive, which reduces the need to back out onto North Street. One entrance is located on 1480 North 1700 Road, which is a separate parcel that has been developed with a residence. A right-of-way easement has been dedicated to allow cross access from this parcel to the farm; however, the existing drive was not constructed within the easement. To insure the circular drive remains for the use of the farm, the drive should be constructed on the right-of-way easement or the easement should be revised to include the drive location.

**Screening:** The two southernmost camping areas are in close proximity to nearby residences. (Figure 4). Camp sites in these areas need to be screened from view of the nearby residences and from the street right-of-way. This screening may be vegetation, fencing or a combination.

**Water and Sewage:**
The applicant is working with Richard Ziesenis, County Health Officer, on the water supply and sewage management. Richard indicated that the well water could be used but if more than 25 people are present for more than 60 days of the year, bottled water is required. He highly recommended that that bottled water be used to provide drinking water to the workers or visitors because well water quality is an unknown because it is not continually disinfected.

He also indicated that the existing privy could be used; however, he recommended a chemical toilet considering the odors and general cleanliness of a privy. He stated that the recommended rate for portable chemical toilet is 1 per 100 people. The Camping Guidelines indicate that the RVs could empty their sewage holding tanks at KOA or Clinton Lake. Small cassette type chemical toilets can be emptied into the pit privy or a household toilet or taken to KOA's dumping facility. The use of well water and the privy are acceptable except for events with more than 25 attendees. Bottled water and chemical toilets are required at these times. The privy will need to be shown and labeled on the site plan.

The lateral lines for the residence at 1480 N 1700 Road are located across the parcel lines. The County Health Officer indicated that either the lateral lines should be relocated onto the 1480 parcel or an easement could be dedicated which states that the property may be used for lateral lines for 1480 N 1700 Road for perpetuity, that no structures or other uses will be installed on the property, and it will be used strictly for sewage management. The applicant indicated that they would dedicate this easement prior to selling the property. As there would be no trigger to dedicate this easement in a real estate transfer, staff recommended that this easement be dedicated with this CUP; however, the County Health Officer indicated that recording an affidavit which states the requirement that the easement be dedicated prior to the sell of either property if the lateral lines are in use when the property is sold would be acceptable. This condition has been revised.

**Time Frame:**
The applicant requested a 100 year approval period for the CUP with occasional reviews. Given the fact that the farm is adjacent to the city limits and is in Service Area 2 of the Urban Growth Area, Staff recommends that the CUP be approved for 10 years with a review in 5 years to determine if the use is still appropriate with the level of urbanization that has occurred. The 10 year approval period with 5 year administrative review is the standard time frame for recently CUPs. The Planning Commission indicated that a longer time frame may be appropriate for this use, and the applicant suggested a one-year probationary period for the use. The time frame has been revised to extend the term of the CUP to 20 years, and to require a 1-year review of the camping use followed by 5-year reviews thereafter.

**Conclusion**

The proposed CUP, as conditioned, complies with the County Zoning Regulations and the land use recommendation of Horizon 2020.

![Figure 1. Land use and zoning of nearby properties. Zoning of properties in the unincorporated areas are shown in colors, zoning of properties within the city limits are labeled.](image-url)
Figure 2. Floodplain in the area. Red denotes the regulatory floodway, pink denotes the regulatory floodway fringe.

Figure 3. High quality soils (class 1 and 2) highlighted in brown.
**Figure 4.** Existing residences in the area (Residence on the subject property shown in green). Proposed camping areas in yellow.
ITEM NO. 10  CONDITIONAL USE PERMIT FOR PINWHEEL FARM; 1478 N 1700 RD (MKM)

CUP-2-1-10: Consider a Conditional Use Permit for camping, sale of farm products, and events at Pinwheel Farm, approximately 11.79 acres, located at 1478 North 1700 Road. Submitted by Natalya Lowther, property owner of record. Deferred by Planning Commission on 4/26/10.

STAFF PRESENTATION
Ms. Mary Miller presented the item.

Commissioner Moore asked about a timeline for the maintenance of structures.

Ms. Miller said staff had not considered a timeline but that it could be included.

Commissioner Dominguez asked if there was a charge for camping.

Ms. Miller said there is no charge, this is just to house the volunteers.

Commissioner Dominguez asked if Ms. Lowther would keep a log of the campers.

Ms. Miller said yes. Staff recommended camping for 2 week intervals.

Commissioner Dominguez inquired about the alternative pavement.

Ms. Miller said it would be wood chips.

Commissioner Dominguez asked if campers would need to be in a tent, not just a sleeping bag on the ground.

Ms. Miller said the applicant has asked for tents and mobile homes.

Commissioner Rasmussen stated that the original application included components for operating a farmers market or vegetable stand.

Ms. Miller said the applicant has decided to stay with the temporary stand.

Commissioner Rasmussen asked what a registered natural landscape is.

Ms. Miller said it is landscaping you allow to grow intentionally. She said there is a registration process through Development Services.

APPLICANT PRESENTATION
Ms. Natalya Lowther, Pinwheel Farm, said when she read the comments from the North Lawrence community there were several people’s names she did not recognize so she said they must not live all that close. She said Pinwheel Farm is here to stay. She said what the neighborhood is afraid of is not the farm and that she’s just the scapegoat. She presented alternative conditions on the overhead. She said she cannot justify moving forward with the current restrictions of the staff report.
Commissioner Moore asked if she wouldn’t proceed with the Conditional Use Permit as presented by staff.

Ms. Lowther said that was correct. She said she is being asked to do a lot of things and they would have to be in place before camping.

Commissioner Harris asked if her objections were based on principal or cost.

Ms. Lowther said more on cost, time, and energy. She said she is trying to run a farming operation and this is the busy season and she needs to do what needs to be done. She said it is looking like it would be quicker to put in a septic system and mobile home. She said she just can’t comply with all of staff provisions.

Commissioner Rasmussen asked if staff have seen the alternative conditions she presented on the overhead.

Ms. Lowther said no.

Commissioner Rasmussen said he liked her suggestion of a 1 year time period. He asked her to comment on the two month time limit on volunteers.

Ms. Lowther said some of the volunteers want to learn the farming process through the seasons of the year.

Commissioner Carter expressed concern about the months of the year where vegetation would not shield tents and toilets.

Ms. Lowther said if someone camps year round it would probably be a self contained camper, not just a tent. She said she would like to install bamboo screening. She said she would not have a problem with putting a wood fence around a chemical toilet.

Commissioner Finkeldei asked staff to comment on the applicants proposed conditions.

Mr. McCullough said staff prefers hard expiration dates but that sometimes a use demands a short timeframe to demonstrate to the neighborhood that it cannot impact the neighbors. He said he could not offer an official answer since this is the first time staff has seen the revised conditions.

Commissioner Dominguez asked if the item should be deferred since the applicant was not willing to accept it.

Mr. McCullough said it may be worth going through the public hearing because the applicant has not withdrawn the application. He said it was the will of the Commission.

PUBLIC HEARING

Mr. Ted Boyle, president of North Lawrence Improvement Association, said the signatures that were submitted were from individuals who live in the North Lawrence area. He said they did not have a problem with the agricultural part of this. The only objection is the camping part. He said this is not a camping area and that there is a KOA nearby for people wanting to camp. He said during the discussion of Bluejacket Winery the owner said they have volunteers who help with the harvest that only come during the day and do not stay overnight. He wondered why Pinwheel Farm couldn’t do the same. He said there have been past problems with campers who moved from the river to
Pinwheel Farm. He felt it would set a precedence. The said their only objection was to the camping part of it.

Commissioner Rasmussen asked if he would have the same objection if there were bunk houses instead of camping.

Mr. Boyle said no, as long as there were water and sewer facilities. He said he did not know a property owner could not pitch a tent and felt that policy was a bit too strict.

Ms. Laylee Campbell said she was opposed to camping of any kind. She said she used to live next to Ms. Lowther and moved because of her. She said she was in favor of a water line being installed. She said yesterday she was walking on the levee and was hassled by transients and that transients have been a problem in the area.

Ms. Diane Hamblin, 509 North Street, said her property is separated from Pinwheel Farms by 6’ privacy fence on the north side and half of a privacy fence on the west side. She appreciated the cleanup that Ms. Lowther has done lately to clean up. She expressed concerns about the main access driveway being a mud puddle and that it is 22’ from her property line. She would like to see requirements for how far away chemical toilets would be from her back property line. She wondered how often the toilets would need to be dumped. She was concerned about an increase of mosquitoes and flies.

Ms. Kristen Walker asked for clarification on camping and wondered if any of the state/federal regulations on camping would apply.

Ms. Sarah Campbell expressed concern for the neighborhood children’s safety and wondered about background checks for the volunteers. She was concerned about increased traffic and how to keep track of the people camping.

Commissioner Hird asked if Ms. Campbell knew of any instances where workers from Pinwheel Farm molested a child in the area.

Ms. Campbell said no, but that there is a large population of transients in the area.

Commissioner Hird asked if KOA requires a background check of their campers.

Ms. Campbell said she did not know but that the people coming and going from Pinwheel Farm would not be known to the neighborhood.

Ms. Barbara Higgins-Dover said in the past homeless individuals have been pushed away from the river and ended up living at Pinwheel Farm. She said that Ms. Lowther has even mentioned she has received physical and verbal threats.

Commissioner Carter asked if she was referring to past incidences of violence that were directed at Ms. Lowther.

Ms. Dover said yes that is what she understands, physical and verbal violence toward the property and owner.

Motioned by Commissioner Finkeldei, seconded by Commissioner Dominguez, to close the public comment.
Motion carried 9-0.

APPLICANT CLOSING COMMENTS
Ms. Lowther said she would like to correct the misunderstanding. She said the Lawrence Journal World ran an article about 10 years ago where she explored the idea of camping. She said nobody actually camped there. She said she did offer those people a piece of garden land which they used responsibly. She said there were a lot of other misconceptions of truth stretching. She said it does not sway her from wanting to camp on her land. She said she did not know how she could summon the courage to knock on her neighbors doors who have expressed negative comments and does not want to be thrown off their property for trespassing.

Commissioner Carter asked how many people have stayed at the farm recently.

Ms. Lowther said the most number of people staying at the farm would probably have been 9 for a short period and several were in the residence.

Commissioner Carter asked if there were any issues with people staying there.

Ms. Lowther said there was one person that lived in the structure who displayed belligerent behavior so she asked him to leave. She said she does not tolerate inappropriate behavior.

COMMISSION DISCUSSION
Commissioner Dominguez said he was torn. He said he admires what she does in teaching a skill to people but can empathize with the neighbors. He said he was willing to think about the applicants proposal if staff wants. He said he would like to see a police record of calls made to the area. He said the way it stands now he would not vote for it.

Commissioner Moore said he would lean more toward staff recommendations but felt the applicants proposal should be looked at. He asked staff to look into initiating a Text Amendment for camping on own property.

Ms. Miller said staff talked to Keith Dabney, Director of Douglas County Zoning and Codes, he suggested that it be included in the revisions of the County Zoning Regulations.

Commissioner Moore said that might resolve some of Ms. Lowther’s issues.

Mr. McCullough said there are different levels of camping, private and public.

Commissioner Rasmussen inquired about county enforcement.

Ms. Miller said it is complaint driven.

Commissioner Finkeldei gave an example of abuse in the county where a house had three RV’s where people were living for long periods of time and let the raw sewage run into the yard. He said it is very hard to regulate agriculture property in the context of a neighborhood. He agreed with Ms. Lowther that these recommendations on the Conditional Use Permit go far beyond what could ever be required of someone who lives in an agriculture zone but that they are appropriate recommendations.
Commissioner Hird said part of Horizon 2020 talks about conserving class 1 and 2 soils and this is one of those uses that promotes it. He said he visited Pinwheel Farm and Ms. Lowther was not there so the workers gave him a tour and they were fully committed to learning the agriculture process and made a favorable impact on him lessening the fear that the people camping there were pedophiles. He felt the fear of the workers and transient issue is unfounded. He said he liked the idea of a trial period and that it would give the neighbors the chance to see what it is about.

Ms. Miller pointed out the condition that says the camping would be reviewed after one year.

Commissioner Rasmussen asked who would review it.

Mr. McCullough said that language could be worked on to firm it up. He said review is typically administrative but that it could be brought back to the governing body or Planning Commission for a formalized review. As long as the conditions are being met then the Conditional Use Permit remains.

Commissioner Finkeldei asked if it is denied then the applicant could reapply for the Conditional Use Permit in one year.

Mr. McCullough said it would have to be reviewed.

Commissioner Rasmussen said property owners should be able to camp on their own property. He said he was not worried about people staying there. He stated he is not worried about visitors to his own neighbors house or who they might rent a room out to. He said there has been a negative foundation laid in the neighborhood. He said he was more concerned about camping on the south end of the property with how close it is to the neighborhood. He said he wouldn’t be as concerned if the camping was restricted to the northern portion of the property. He liked the idea of a one year trial period. He was optimistic that the neighbors would not be back because it would be working. He said the location for this application is important and should be held to a different standard because it is at the edge of the city. Micromanaging may be necessary given the location of this particular piece of property. That being said there are 4 pages of recommendations and restrictions and that was a red flag to him. It all seems to go back to the camping. If camping is so important to the WWOOFing activities maybe they should consider turning one of those structures into a bunkhouse. Almost all of the proposed recommendations from staff deal with camping. He felt they should encourage this type of activity and figure out a way to make this application work.

Commissioner Carter said at this point he would be in favor of deferring the item instead of denying it. He suggested a way to identify farm workers and perhaps having volunteers sign something regarding their commitment to the neighborhood. He suggested maybe something such as an armband to identify to the neighbors who the volunteers are to better associate them to the neighborhood.

Commissioner Finkeldei said he would not support deferring the item. There are rules in the County Code that allow great possibilities to allow Ms. Lowther do what she wants to do under the existing rules. He recommended non-approval.

Commissioner Harris agreed with what Commissioner Hird said earlier about the project. She was in favor of deferring. She said she visited with some of the workers at the farmers market, not about the project, and found them to be intelligent and delightful. She did not feel it was their job to regulate the people who are there because the same farm workers could live by right on the farm in another type of structure. She said a Conditional Use Permit can contain sensible restrictions that address proximity to neighbors but should not restrict farm operations that are allowed by right. She
objected to the word micromanage when talking about a Conditional Use Permit. She said it was their job to create restrictions that they feel are appropriate. She said she would vote for a deferral.

Commissioner Moore said he would support a deferral.

Commissioner Dominguez asked if they defer the item what will change.

Mr. McCullough said it would help to get direction of what they hope the outcome of deferral would be.

Commissioner Hird said a deferral could allow time to examine and explore alternatives that Ms. Lowther has presented tonight. He said the best alternative for camping would perhaps be to move to the north end of the property which may reduce impact issues. He said they need to examine whether there have been too many conditions created and see if they can be simplified. He felt the main issue of the timeframe for the Conditional Use Permit is for the camping and he felt there should be review of that.

Commissioner Finkeldei inquired about condition 1 regarding the physical appearance condition.

Commissioner Hird said to his understanding if those are buildings used for agricultural purposes they are exempt anyway and he was not sure they had right legally to impose conditions on those.

Mr. McCullough said there is a nexus between the conditions and request. He said the applicant handed him a note that said if the item is deferred she cannot get back to it until January because of the season.

Commissioner Blaser said the physical conditions should be included. He said he got the feeling the camping is only a means for the neighbors frustrations to come out about the physical condition of the property.

Commissioner Harris inquired about timing.

Mr. McCullough said if the County Commission approves it then Ms. Lowther would have a year to act on it or it expires and she would have to make the request again.

Commissioner Blaser asked Ms. Lowther what she would prefer.

Ms. Lowther said she was not sure she could predict the outcome of either option.

Commissioner Moore said they need to make a motion to approve, deny, or defer.

Commissioner Rasmussen said the only two options he would support would be denial or deferral. He thought it needed to be reworked. He said if deferred he would like the applicant attempt to talk to neighbors.

**ACTION TAKEN**
Motioned by Commissioner Hird, seconded by Commissioner Harris, to defer indefinitely, subject to the applicant requesting placement on the agenda.

Motioned carried 7-2, with Commissioners Blaser and Finkeldei voting in opposition.
A BRIEF HISTORY OF THIS CUP

The original CUP -2-1-10 sought permission for Pinwheel Farm, a state-registered Agritourism facility located in Grant Township, to engage in these agritourism activities at the farm:

- Camping in tents or RVs for hands-on farm participants and family members;
- An on-farm Farmer’s Market that would be allowed to sell produce grown by other farmers and gardeners; and
- Hosting non-farm-related events such as weddings and receptions.

At the April Planning Commission meeting in 2010, significant adverse comments against camping and the farm in general (but not the Farmer’s Market or events) were made in the Public Hearing, for which the PC proposed additional rigorous conditions on the permit. The PC also directed Staff to research the existing regulations purportedly banning camping (there are none) as well as other avenues of approaching the matter of camping. By mutual agreement, the matter was deferred to the May PC meeting.

In May, we presented a revised CUP request focused only on the camping, including the additional conditions as directed by the PC. Additional strong adverse comments were made against camping. The CUP was deferred indefinitely at my request.

The CUP was tentatively brought forward again in early 2011, but was once more deferred by the applicant because of these new understandings:

- A statement from the County Zoning and Codes Administrator that no actual county regulation specifically prohibiting camping existed, yet the county had always enforced against camping as if it were illegal because of citizen complaints about sanitation violations (which could have been referred to the Health Dept. for enforcement);
- Realizing that previous regulatory reviews with the Zoning and Codes Administrator had been based on a definition of “Mobile Home” that was different from, and not applicable to, the code setting forth allowable uses within Agricultural zoning, and that the applicable definition of “Mobile Home” did include RVs and campers whereas the erroneous definition did not; and
- Realizing that the “farm worker mobile home” clause of the “Agricultural” zoning in fact specifically allows use of mobile homes, including RVs, to house those “employed at the farm” (a term which, taken literally, includes contract labor, volunteers, apprentices, etc. as well as employees on the farm’s payroll).
A Letter of Determination, in response to my formal request, allowed only the landowner and paid employees of the farm (the farm has none, by farm policy) to use a camper for a single purpose for a limited time in spring of 2011. This very limited permission to camp was somewhat helpful, but still unduly restrictive and prevented essential farm operations. An appeal was filed, but the BOZA upheld the Zoning and Codes Administrator’s assertion that volunteers could not camp for any reason, and camping could not be done even by the farm owner for any other reason than supervising lambing on pasture.

In 2012 the County intensified its work to put clear zoning regulations in place to allow a much wider range of activities to occur as “Agritourism”, and to create a process to register Agritourism sites with Douglas County. I decided to delay any further action on the camping CUP until this regulation was in place, to see what the new regulation would allow without a CUP. This was finalized in early 2013, and Pinwheel Farm soon because the first Agritourism site registered with Douglas County (our State of Kansas Agritourism Registration started in 2007). In March, Pinwheel Farm became the first Douglas County Agritourism site to be approved by the County Commission to host events with more than 100 attendees.

Concurrent with the CUP, BOZA appeal, and Agritourism regulation development process, the North Lawrence Sector Plan was created and approved by all affected governmental bodies. It places a priority on preserving Class 1 and 2 soils such as those at Pinwheel for agricultural use, discouraging any new development. The low-impact camping proposed by this CUP offers a way to house farm participants that had no lasting adverse impact on the use of the soil for agriculture, unlike constructing a permanent bunkhouse with separate septic system such as neighbors suggested in 2010. Using alternative paving materials and grass lanes ensure that the soil is actually improved by the proposed camping activities (through decay of wood chips and growth of legume/grass roots), continues to fulfill its essential runoff buffer role, and is protected from erosion.

Now, after operating under conditions severely limiting the farm’s economic growth for more than 6 years (since the County threatened a $500/day fine for using a tent camper as a temporary office and occasional overnight accommodations for the farmer on the farm), I am requesting that CUP-2-1-2010 be placed on the Planning Commission agenda once again. Due to the progress that has been made in the regulation of Agritourism in Douglas County, on-going changes in the character of the neighborhood, and changes in the farm operation itself, this re-submittal presents a new list of proposed conditions under which Pinwheel Farm should be permitted to allow camping (both tent and RV) on the farm for farm participants and family members.

WHAT REMAINS THE SAME?

The original submittal includes Pinwheel Farm Policies (General and Environmental), which remain in effect. Other policies and guidelines are in need of updating; this will be over the coming year as needed. The camping guidelines will be substantially re-written
to reflect the final CUP conditions prior to any camping. The context of the CUP as presented in the “Long Range Planning” table outlining all activities and uses anticipated at the farm in the next 100 years remains the same.

The maps for the original CUP will be updated as overlays to the Agritourism Site Plans, to reflect improvements already made and plans already approved by the County Commission after consultation with appropriate County staff. The information contained will be substantially equivalent to the original submittal, and changes previously recommended will be considered.

WHY NOW?

After several years of struggling with problems related to unreliable local farm participants, including most recently a co-farmer who suddenly broke significant long-term agreements on less than 2 weeks’ notice, with long-lasting adverse consequences to the farm, I’ve been engaged in an intensive review of Pinwheel Farm operations with the support and guidance of the Small Business Development Center.

As we reviewed the farm’s volunteer and farmer training experiences, it became clear that local residents tend to be highly unreliable in this context, for a variety of reasons: distraction of friends, life changes, economic needs, school or job schedules, poor time management, starting their own farm, relationships, families, etc. Conversations with other local vegetable farmers that employ paid help showed similar problems even with paid workers.

In contrast, visiting out-of-town volunteers and trainees tend to be intensely focused on Pinwheel Farm if they have traveled across the country specifically to participate and learn here. They tend to have few distractions in a community where they don’t have many connections, and their lives and finances have been carefully planned around this grand adventure they have chosen. They may also have out-of-town dollars that they want to spend on “the local experience”—dining, concerts, shopping, etc. Thus, they bring additional resources to the local economy, unlike local farm participants who are already part of the local economy.

In the past, home stays at the farmhouse have worked well, when this has been an option. However, we have had to turn away a number of people who were traveling to farms across the country with an RV... or we have had to arrange for these volunteers to drive off-site to sleep in their home-away-from-home at another farm in Jefferson County or at Clinton Lake. This puts Douglas County in a bad light to visitors, is inefficient for everyone, deprives both parties of congenial evening relaxation together, and prevents trainees from being present for night-time learning opportunities at the farm. It also creates more traffic on North St.—a long-standing neighbor concern.

With the Agritourism registrations recently achieved, this CUP to allow carefully limited farm participant camping, if granted, will (hopefully) be the final piece of a long effort to put in place all the permits, registrations, licenses, etc. necessary for Pinwheel to operate
effectively and profitably; achieve its potential; and blossom into an asset to North Lawrence and the broader Lawrence/Douglas County community. We’ll be able to recruit the volunteers we need to put on agritourism events such as the Annual Sheep Shearing Open Farm Day that give local families the opportunity to really connect with a farm. We’ll be able to give trainees the hands-on experiences of 24-hour-a-day farm life that they are craving. We’ll be better able to share our farm’s fascinating diverse ecology with others.

There have been several changes in the character of the neighborhood in recent years that also make this an appropriate time to bring this low-impact, environmentally friendly proposal forward again:

- Industrial type activity has increased at zoned Industrial property adjacent to the farm, as well as non-code-compliant industrial and residential RV uses by immediate neighbors, giving the neighborhood a more industrial than residential character from the perspective of the areas where we will allow camping. This lessens the past argument that camping would be out of character with the residential nature of the neighborhood. Also, a few RVs can hardly be considered an eyesore when compared to septic pumping trucks, semi trailers, wreckers, landscaping installation and maintenance equipment, and salvaged heavy industrial rolling stock.
- Security issues on our pasture have arisen with trespassers taking apart electric fences and trafficking stolen items from the neighboring Industrial property across the pasture. If there are lights on the pasture at night, and word gets out that the pasture may be occupied at night, trespassing is likely to be less of an issue, and it will be much easier to monitor the integrity of our electric livestock fences on a daily basis. This will be especially important if the Water transmission main is eventually constructed.
- We have been unable to replace the guardian llama that formerly provided security to the sheep while out on the pasture. A more frequent human presence on the pasture, esp. at night, will help prevent predator attacks.
- The non-code-compliant operation of a septic pumping truck that is parked and dispatched from a near neighbor’s agricultural land adjacent to my farm ground (including two documented discharges to the open ground of fluids from the tank) invalidates the neighbors’ assertion that they are afraid of “fecal contamination” of their land due to camping on my land.
- One formerly opposing neighbor no longer owns property adjacent to me. The new neighbors operates large diesel engine wrecking trucks at all hours of the night and day along the driveway next to my property line; hosted a large, intense Independence Day party with cars parked for hundreds of feet on all sides of the intersection at 5th and North St. (which was nearly blocked); and invites family and friends to operate multiple unmuffled ATVs at high speeds for recreational purposes on their property. Neighbor concerns about noise, traffic, dust and other nuisances due to a very limited number of camping units might better be directed towards this neighbor’s greater adverse impact on our neighborhood.
• The manufactured home community very near the farm has had increasing disturbances requiring police attendance, and is also aging. With a manufactured home community already so close, a few well-screened RVs are not likely to degrade the neighborhood.

In short, it is hard to imagine any way in which allowing the limited number of camping units that I am requesting could significantly worsen the neighborhood as it exists today, especially since they will be almost completely hidden from North St. and neighboring residences, and all associated non-sleeping activities are already allowed as part of our Agritourism regulations.

DEFINITIONS

“Camping” is not defined in the Douglas County codes. Pinwheel’s definition is that “camping” means sleeping overnight in a) a tent, yurt, tipi, or other temporary dwelling constructed primarily from fabric and poles or from natural materials; b) a vehicle meeting the definition of “Mobile Home” that is not permanently attached to a foundation nor permanently connected to a water or sewer/septic system; or c) sleeping in the open with or without a mosquito net.

“Camping” does not include cooking or eating outside, having a fire in a fire pit or other outdoor fire containment; parking a motor vehicle; doing laundry, attending to personal hygiene, etc. These outdoor living/recreational activities are already permissible activities under Pinwheel’s Agritourism registration, Douglas County Zoning codes, health and safety conventions, etc. They are also common activities for people living in conventional houses. “Camping” also does not include parking of an RV if it is used solely for a purpose other than sleeping, except that a parked, un-slept-in RV would be included in the total number of camping units present at the farm since it would have the same visual impact as a slept-in RV.

“Campsite” means a localized area where one or more camping units are in use at the same time, most likely sharing some resources. Two adults, each in single-occupancy tents pitched near one another and sharing food, equipment, fire pit, etc., would be two tent units but only one campsite. A family using an RV for the adults with a tent nearby for the children would be one RV unit and one tent unit, but only one campsite.

“Camping unit” means any RV, camper trailer, conversion van, slide-in camper, tent, yurt, tipi, etc. in which a person sleeps at night.

“Unit/night” means one camping unit occupied by at least one person for one night. Unoccupied RVs are not included in this number, although they count towards the maximum units allowed on any given night.

PROPOSED CAMPING ACTIVITIES AND CONDITIONS

This section lists the parameters under which the applicant is requesting to operate.
Duration of CUP:

The Camping CUP will follow the farm’s Agritourism Registration, which is renewed every 5 years.

1. A two-day demonstration camping event including at least one RV and one tent will be conducted. County staff and elected officials, emergency services, and immediately adjoining neighbors will be invited to an open house at the camping demonstration event. If this event reasonably adheres to all conditions of the CUP, reasonably meets the approval of the Douglas County Health Dept., and does not impose undue disturbance to the neighborhood, then further camping will be allowed within the CUP conditions. If significant shortcomings are noted, a second demonstration event will be held to demonstrate the implemented corrections.*

2. The Camping CUP will be reviewed [by _____________] at each renewal date for the farm’s State and Douglas County Agritourism registrations to ensure that all camping at Pinwheel is being done consistent with the CUP and that it is not unreasonably disruptive to the neighborhood.*

3. If there are substantial changes to the State or Douglas County Agritourism regulations, the CUP will be reviewed and revised if needed.

4. Because the purpose of the CUP is to encourage the participation in agricultural production activities, the CUP may remain in place without any Agritourism registrations. However, there should be a special review upon cessation of participation in the Agritourism programs, if this should ever happen, and any reasonably indicated adjustments should be made to the CUP conditions.

Location of camping:

While this CUP allows for up to 6 separate campsites at one time, in most cases, people camping will tend to aggregate to one or two sites.*

5. Campsites for tents will be located on the 10 acre “farm ground” parcel, out of view of any neighboring residences. Tent camping will be allowed within the floodplain areas of the farm only if no flash flood warnings are expected for Grant Township. Tent sites within the floodplain will have a weather radio set for alarm mode.*

6. Camp sites for RVs, camping trailers, etc., will be on the “farm ground” parcel, outside the floodplain areas, in locations reasonably accessible by normal farm lanes, except for self-mobile RVs (pickup with slide-in, conversion van, etc.) used as “daily drivers”. *

7. Self-mobile RVs that are used as “daily drivers” may be used for sleeping while parked in any usual on-farm parking spot/overflow parking area as shown on the Agritourism Site Plan, provided no outdoor activities ancillary to camping (cooking, outdoor sitting, etc.) occur at that location.
Scope of camping:

To address neighbor concerns that large, non-farm-related camping events might occur, we propose the following conditions to limit camping to a small number of people:

8. Camping shall be an ancillary use to agricultural production. In order to camp at Pinwheel, adult campers must actively participate in Pinwheel Farm agricultural operations related activities at least 5 days for every 7 days of camping. For camping stays less than one week, some agricultural-related activity shall occur each day.*

9. Number and type of camping units: No more than 4 RVs (occupied or not) on the farm at one time; no more than 4 tents in use at one time; no more than 6 total camping units at one time. Exception: Multiple tents sharing a campsite and other resources, and operating as a single unit, may be counted as one unit if there are no more than 2 adults (for example, a family camping where the adults occupy one tent and their children occupy another, or a youth group in separate tents with two chaperones). These maximums will rarely be realized; they are set to allow for a brief overlap of two smaller groups of campers.*

10. Maximum size of RVs shall be consistent with the farm’s site and infrastructure at the time of use.*

11. No more than 12 adults may camp at any one time, regardless of number or type of units.

12. Camping at Pinwheel Farm will not be publicly promoted except as an option for accommodations when recruiting farm participants.

13. No per-night camping fee will be charged, although a one-time administrative fee may be charged for each party to offset the time involved in paperwork and assisting in setting up camp sites to meet the CUP conditions.

Time and duration of camping:

The goal of these conditions is to allow maximum flexibility for farm participants wishing to camp, while limiting the overall scope of camping. Longer stays by fewer participants actually result in a lower overall impact of camping, compared to more, but shorter, stays, because there is less coming and going from the farm. All camping reduces traffic compared to people commuting to the farm from other sleeping places. Camping should be allowed year around if desired by both the campers and the farm, in case of winter lambing, a youth group practicing survival camping while doing a work project at the farm, etc.

14. A maximum of 1000 occupied unit/nights per year shall be allowed.*

15. Individuals camping for more than 31 consecutive days will participate in a monthly review with the farm’s Consulting Social Worker and the farm’s owner/manager to ensure that the situation remains mutually beneficial, meets health and safety needs, has a minimal environmental impact on the farm, and does not create an adverse effect on the farm or disturbance to the community.*
16. Prior to being allowed to camp, each camping participant must review these conditions, the Pinwheel Farm General and Environment Policies and fill out an information sheet. The information sheet will include information about when the camping participant plans to end their stay at Pinwheel, and where they plan to lodge after their stay at Pinwheel. This should preclude camping by persons meeting generally accepted definitions of “homeless”.

17. A participant/camper may be asked to leave at any time, for any or no reason, as long as this is not done in a discriminatory manner.

Health and safety conditions:

Since the farm produces fresh vegetables for human consumption, sanitation, health and safety are carefully considered in all Pinwheel Farm activities. Pinwheel Farm has a long history of working closely with Douglas County Health Dept. on sanitation and drinking water related infrastructure and practices at the farm. The farm’s Agritourism registrations detail approved provisions for water and sewage facilities. Specific camping-related requirements simply underscore Pinwheel’s longstanding General Policies:

18. Each campsite shall have the following items: A fire extinguisher; a first aid kit; an off-grid, non-flammable light source; drinking water; hand sanitizer; and some means of communication (cell phone, two-way radio).

19. Each camping participant or group of camping participants shall have written sanitation, evacuation and emergency plans.

20. Proper fire prevention measures must be observed at all times.

21. Open flames or liquid fuels of any kind are not permitted inside tents.

22. Proper sanitation measures must be observed at all times. All sewage and wastewater from cleansing the human body or clothing must be disposed in an approved septic or sewage system or a holding tank that is emptied into such a system.

23. The farm’s licensed pit privy, portable chemical toilet, RV toilets, farmhouse toilets, or other approved toilet facilities shall be used for all elimination of human body wastes. At a minimum, hand sanitizer shall be provided at each toilet facilities; preferably, a handwashing station or sink will be provided where feasible.

24. Cleansing of the human body may be by sponge bath in private at any camping unit, in such a manner that all waste water is contained and properly disposed; at the farmhouse; off-site shower facility (health club, etc.); or other approved bathing facility.

25. Water from private wells may be used as approved by the Douglas County Health Dept.—generally this is for washing purposes but not drinking. Private well is currently tested at least annually.

26. Drinking water from an approved public water source will be used as directed by the Douglas County Health Dept.

27. Violence against or harassment of any human, animal or plant is cause for Pinwheel to ban apparent offenders from Pinwheel Farm immediately.
28. Fireworks or other explosives are strictly prohibited at Pinwheel Farm.
29. Possession or use of firearms or other weapons at Pinwheel Farm is allowed only after completion of a Pinwheel Farm Firearms Permission Form.*
30. Smoking is not permitted except in designated areas equipped with proper waste receptacles.
31. Alcohol use is not permitted at Pinwheel Farm except for bona fide religious purposes.*
32. Pinwheel Farm has a zero tolerance policy for illegal drugs. Offences will be promptly reported to the Douglas County Sheriff Dept. Reasonable suspicion is sufficient for Pinwheel to ban apparent offenders from Pinwheel Farm immediately.*

“Good neighbor” conditions:

Pinwheel will ensure that camping related activities are respectful of neighbors’ rights to peaceful enjoyment of their property, to the same extent that Pinwheel’s similar rights are respected. This includes:

33. Campsites will be located where they are screened from view of neighboring residences. A campsite is adequately screened if no residential windows on adjacent properties are visible by a person standing in the middle of the campsite. This may change seasonally or with environmental changes over time.* Screening is not required for daily-driver RVs parked in designated parking spaces.
34. Portable chemical toilets, if used, will be screened and will be located at least 100’ from any neighboring residences.*
35. Camping participant will avoid shining bright lights on neighboring residences;
36. Voices, music, vehicles, and machines will be kept at least as quiet as the neighbors during nighttime hours as required by the Douglas County Nuisance Ordinance.*
37. Overnight parked vehicles will be kept at least 15’ from residential neighbors’ property lines when used for sleeping.
38. Pets must have all appropriate vaccinations, parasite control, be reasonably quiet, and be good neighbors with Pinwheel Farm residents, guests, and neighbors. Animals demonstrating aggression against people, livestock or other pets will be banned immediately.
39. Pinwheel will provide immediate neighbors and neighborhood organizations with a way of contacting me to cooperatively resolve any bona fide issues that may arise from the camping use.

Access and parking:

Site access and parking are already addressed by Pinwheel Farm’s Agritourism registration, which includes site plans for several types of uses (Farmer’s Market, Open Farm Day) that show 30 or more parking places available on the farm. On-street parking is legal but strongly discouraged by Pinwheel Farm, and will not be allowed for anyone at the farm through this CUP.
40. Grass lanes will be used for access to pasture camping areas. These lanes have easily stood up 2 or more round trips per week with a car and trailer for agricultural purposes this summer without any rutting or puddling despite our recent heavy rains. Should they show excessive wear, they will be reinforced or replaced with permeable paving material (probably wood chips).*

41. Wood chip lanes have shown remarkable durability and utility under daily traffic for the past several years, out-performing gravel in this particular site. They help to manage storm water, never puddle, control dust, and are easy to repair if rutted. They will be kept in good condition.*

42. ADA parking will be provided to meet the specific needs of eligible participants.*

43. ADA toilet and other sanitation facilities will be provided to meet the specific needs of eligible participants.*

Infrastructure:

It is not anticipated that any infrastructure will be added solely to support Pinwheel Farm participant camping. The following information addresses related future plans, but should not be considered required conditions for the CUP.

- A stand-alone portable solar 12-volt battery charging unit is available to charge RV batteries if needed, so it should be unnecessary to plug in an RV.*
- Any water system improvements such as upgrading to a public water system will be first and foremost for agricultural, agritourism, and permanent residential purposes, although if done they will also improve our participant camping.*
- A sanitary station is planned that will simplify on-site disposal of wastewater directly into an approved septic system on a batch basis (similar to RV dump station). This will primarily serve agricultural handwashing stations, but also facilitate on-site disposal of waste from portable chemical toilets, RV holding tanks, etc. The structure may also include an ADA accessible toilet to serve agritourism events, as well as a shower to primarily serve daily (as opposed to camping) farm participants in situations of extreme dirt, contact with irritating substances, heat relief, and chigger mitigation. Details of a phased implementation have been discussed with Douglas County Health Dept., but no timeline is in place. All required permits will be obtained prior to construction. Location will be north of the building at 1478 N. 1700 Rd. Appearance from street and neighboring residences will be that of a small shed.*

PAST NEIGHBOR CONCERNS

During the 2010 Public Hearings and the BOZA Public Comments, neighbors brought forward a number of concerns. Some of these had merit, some were exaggerated or demonstrated that the commenter had not understood the proposal. This re-revision attempts to address all valid concerns in a manner that allows for the implementation of the CUP uses to adapt to changing circumstances over the years, with a minimum of overhead and paperwork as well as minimal use of County staff time.
A key concern related to a few neighbors’ belief that my request was a “ruse” for starting a big homeless encampment at the farm...or hosting large “camping events” like WakarusaFest. This was based in part on incomplete media coverage from 1999 incident which did not, in fact, result in any homeless person staying on my property. A careful reading of the proposed conditions will readily show that neither a homeless encampment nor a rock festival is possible within the proposed conditions. Most importantly, people applying to camp at Pinwheel as part of their volunteer experience will be required to disclose their estimated departure date and lodging plans after their Pinwheel Farm visit. Someone who has planned their stay at Pinwheel ahead of time, and knows where they will be staying after they leave is not likely to meet agency definitions of “homeless”.

The items marked with asterisks (*) in the above conditions directly or indirectly implement solutions to concerns that have been raised by neighbors and/or regulators.

NEIGHBOR INPUT

By the time I realized that anyone opposed my initial submittal, certain neighbors had already decided that they would not speak to me except at the Public Hearing. This made it very difficult to address misunderstandings on a timely basis, and helped to create the hostile environment I suddenly found myself in at the Public Hearing. One of the Planning Commission’s requests upon our deferral of the CUP was that I try to establish communication with these neighbors prior to resubmitting it.

Further complications with neighbor misunderstandings occurred during my BOZA appeal. Neighbors thought that the CUP was being discussed, and made adverse presentations against the CUP when it wasn’t even the issue at hand. Around that time I received an anonymous threatening email from the “Northside Community Alliance” that was based on, but badly misconstrued, a conversation I had recently had with the NLIA president.

In May of 2011, I hosted a “listening session” which was attended by a number of near neighbors who had opposed the 2010 CUP with strong public accusations against me that I had not been given a chance to rebut in the public forums in which they were presented. The listening session gave them a chance to gain a better understanding of property value concerns through direct discussion with the County Appraiser, and hear from Utility Dept. staff that I had never obstructed the Water Transmission Main project slated to cross my farm ground (currently indefinitely deferred). It was not a problem-solving nor a negotiation session, but rather a chance for neighbors to meet some of my family and friends face to face, get facts from city and county staff, and hear my responses to their misunderstandings/misrepresentations in a relatively private setting.

When I decided to request that the CUP be placed on the Sept. 2013 PC agenda, I arranged to meet with North Lawrence Improvement Association president Ted Boyle to let him be the first to know about my plans to renew this CUP effort. He met with me and
Small Business Development Center staff member Will Katz to discuss obtaining community input for the CUP.

We decided that the best course of action is for me to pay the building rental for NLIA to call a special meeting on August 22, 2013, so that I can make a formal presentation to the neighborhood association prior to the Public Hearing notice letters going out on Sept. 3. This NLIA meeting will be followed on August 24 (rain date, August 25) with a Site Visit Open House at the farm to allow the many neighbors who have never actually been to the farm to see where we hope to camp, and truly appreciate how well screened the farm is from neighboring properties. I will promote these sessions to other neighbors that are not active with NLIA.

When the Notice of Public Hearing letters go out, I will try to notify all who receive the letters of an additional Site Visit Open House on September 14 (rain date 15). I will also try to establish an online public forum, probably via FaceBook, for information and ideas to be exchanged on the proposed CUP prior to the Public Hearing.

SUMMARY

Camping means many things to many people. When people react in fear to the concept of “camping” and interject their personal feelings and preferences into someone else’s proposal that is unrelated to their fears, it’s not surprising that misunderstandings occur and a difficult situation is created. Some people don’t camp themselves, and based on media hype associate all “camping” with homelessness, lawlessness, substance abuse, violence, anarchy, etc. Some people think of “camping” as a fully rigged RV plugged into utilities at KOA or a State Park, sitting right next to countless other RVs.

I, on the other hand, grew up doing extended low-impact off-grid wilderness camping trips as our normal family summer recreation, and learned extensive outdoor skills and interests that led me to a career of farming. I, and many others, know camping as a wholesome individual or family activity—a perspective shared by national outfitters like Cabela’s and REI; local businesses like Sunflower Outdoor; Kansas University researchers who’ve found that many aspects of farming and camping, when combined, are able to cure intractable depression; writers who pen books about Nature Deficit Disorder, highlighting the necessity for us to make more opportunities for outdoor activities for ourselves and our kids. For some, it’s a chosen way of life where the house and job is only a means to the next extended camping trip, and opportunities to camp and volunteer on a small farm like Pinwheel are a way of making the most of their recreational dollars.

It’s natural that I want to enjoy the fruits of my own labor on my own land by pitching a tent or rolling a sleeping bag out under the stars. It’s also natural that I also want to share my passion for the outdoors with others by letting them include camping in their Agritourism experience at Pinwheel Farm. This CUP re-revision carefully outlines a comprehensive set of conditions for safely allowing off-grid camping experiences at the farm as part of the farm’s hands-on Agritourism activities.
Allowing this kind of camping, in these conditions, will make Pinwheel Farm, North Lawrence, and all of Douglas County an exciting destination for a small, select group of hard working, highly motivated people each year, contributing to both the community and farm economies with virtually no adverse environmental impact (including stormwater), no government spending or subsidies, and no adverse effect on the surrounding community when compared with existing uses.
A HISTORY OF CAMPING AT PINWHEEL FARM
(Copied from the Pinwheel Farm Web Site)

**Approx. 1999**  COUNTY PROHIBITS ME FROM ALLOWING OTHERS TO CAMP AT MY FARM: A family which I had personally known ever since moving to Lawrence, who had been squatting in home-made structures along the Kansas River, had their homesite bulldozed. I offered to let them camp on unused land on my farm, as well as to replant a garden on my farm. My very clear expectations regarding no smoking (fire safety hazard) and proper attention to sanitation regulations led them to refuse my offer of a campsite, but they accepted my offer of using garden space. The press got wind of my offer, and printed an article that referenced my offer but not their refusal of it. In discussing the situation with County officials, I learned that I could not legally allow others to camp on my agricultural land, anyhow. At that time, since the inquiry was for a specific situation, I did not realize that this ban applied even to myself camping on the land in any way, or to the use of “camping” equipment for short-term guests or non-residential (office/break room) situations.

**A TENT IS USED AT THE FARM FOR NON-CAMPING PURPOSES:** My housemates got married at the farm, and pitched a large rented canopy in the pasture for several days as the wedding site. It came to light this past spring that some neighbors thought this activity was homeless people—lots of them—camping there.

**APPROX. 2002:** A house guest at our home, who practiced meditation, constructed an eclectic temporary meditation space/shelter using the satellite dish that we intend eventually to use as the roof of a shade structure for the sheep. He did this on the pasture near the tabernacle that we use for outdoor sunrise services. He spent time meditating there, but lived with us in the house. This seemed acceptable as an exercise of freedom of religion, and we received no complaints about it. He was with us for a few months during the late fall and winter.

**APPROX. 2003:** My 14-year-old nephew stayed with me for the summer. To afford each of us some privacy, he pitched a “bedroom” tent outside my bedroom window where we were within speaking distance through the open window. He dined and used sanitary facilities in the house. This was in full view of the neighbors to the east, and we did not receive any complaints.

**May, 2006- Oct. 2006**  THREATENED WITH STEEP FINES FOR CAMPING AT MY OWN FARM FOR AGRICULTURAL PURPOSES: After a year abroad, I returned to Lawrence a year before the lease on my farm ended. I negotiated with the tenants to use some garden space, have access to tools, use the driveway for access, and put a tent camper in the barnyard area for me and volunteers to use in relation to resuming my vegetable crop production for Farmer’s Market. I lived in town, and worked full time off-farm as well for some of the time. In addition to the camper, we pitched a very small tent in a shady spot on the edge of the pasture for a cool resting area on hot afternoons.
The tenants became disgruntled (we were engaged in mediation to try to settle some $23,000 of damages they had done to the farm) and reported to the Douglas County Zoning and Codes (DCZC) officials that I was living in a camper. Keith Dabney, Dept. head, went over the regulations with me with a fine-tooth comb, but we could not find any loophole that specifically allowed me to even possess a non-erected tent camper on agricultural land, let alone to use it for any purpose whether as storage, an office, rest area, or for actually sleeping in. He generously allowed me 30 days to “cease and desist” camping and remove the camper. The notice letter threatened to levy a $500/day fine for the code violation of camping, using a camper for any other purpose, or even possessing a camper on my own land. I complied fully with the cease and desist notice. Since then, my parents in another Kansas county have had to store the camper they gave me as a birthday gift.

AUGUST-OCTOBER, 2007:  House guests in August and September spent a lot of time outdoors, in preference of indoors, for religious and comfort reasons. For increased privacy and convenience, we rented a conventional portable chemical toilet during the time they were here. All were entitled to full use of the house at all times. During their stay, they worked in the gardens and rebuilt the barn that had been allowed to deteriorate by the tenants during my absence from the farm 2004-2006.

2008-2009 INCREASED WORK WITH VOLUNTEER/LEARNERS: I joined the WWOOF network as a host farm, and became active with Growing Growers in the KC “foodshed” area. These programs link people who want to learn to farm through volunteering their labor with “host farms” that want to teach and share farming experience in exchange for free help. WWOOFers depend on the host farm to provide room and board, as well as learning experiences, in exchange for their voluntary labor. With Growing Growers, some (but not all) learners want lodging on their host farm in order to more fully experience the farm life. Between 2008 and May, 2010, I hosted many volunteers in my home on the farm. Working with volunteers became a significant aspect of the farm operation, with the goal of promoting “ag literacy” and laying the foundation for future generations of farmers.

WINTER/Spring 2010: COMPREHENSIVE LONGRANGE PLANNING FOR PINWHEEL FARM REAL ESTATE AND ACTIVITIES: I began working with Lawrence/Douglas County Planning Department (LDPD) staff and other officials to flesh out details of a comprehensive long-range plan for the farm and its real estate. Of the 5 parcels that comprise the farm, not one is entirely compliant with current codes. My goal is to work towards bringing each of these properties into a more compliant condition, eventually combining 3 of them to end up with a 10+ acre farm property which will be properly vested to allow a new energy-efficient farmhouse to be built on it some day, and 2 small residential properties (the main farm house on 1+ acre, and the little house on a city lot), which will generally be occupied by people involved in the farm operation. This effort will likely take 10-20 years. This seems like slow progress indeed, but in the context of our 100-year plan for the farm, it is reasonably quick.
OPPORTUNITY TO PUT FARM SUCCESSION PLAN IN ACTION: Concurrently, I found a compatible family wishing to be involved long-term with Pinwheel Farm, and arranged to lease them most of the main farmhouse. The plan is to renovate the small home which I am purchasing adjacent to the farm, and I will live in that smaller house while working the farm. This is a key part of my retirement and farm succession plan...to “cultivate” a new family of farmers to gradually work into sharing the farm operation, and eventually perhaps take over the entire farm, while ensuring living space for myself as long as I wish.

HEIGHTENED NEED FOR LEGAL AG-RELATED CAMPING: Renting the main floor of the house left me with no lodging for volunteers, hence far less participation at the farm from volunteers in the 2010 summer/fall season. Also, since I was occupying basement space in the farmhouse, I was further removed from the farm environment which makes it more difficult to operate the farm. These limitations contributed to the death from heat-related causes of the guardian llama who protected the sheep flock from stray dogs, coyotes, etc. Until the llama can be replaced, the flock is extra vulnerable. Camping on the pasture was my first thought for compensating for this terrible loss, but it is illegal for me or a volunteer to do so under current enforcement conditions. This was confirmed by my request for an exception to the Director of the DCZC, which was turned down.

CONDITIONAL USE PERMIT (CUP) SOUGHT THROUGH REGULAR CHANNELS, TO ALLOW CAMPING AT THE FARM: Knowing that leasing the house would force the need for a different scenario for housing volunteers, I incorporated the need for legal camping into my conversations with LDPD. From the information we had, and the firm precedent for zero tolerance on camping on ag land expressed by DCZC, we determined that the best way to work through the existing legal structure was to apply for a Conditional Use Permit (CUP) to allow strictly supervised camping for farm-related people only—farm volunteers, and farm residents’ family and friends. (CUP-related materials will be posted elsewhere on this web site).

CUP PROTESTED BY NEIGHBORS: Since this neighborhood prides itself on “live and let live”, and many long-time residents carry on non-compliant activities with impunity, I expected that our modest request for strictly limited camping would be supported or at least tolerated by my neighbors. As near as we knew, past “family and friend” camping had not been an issue, since no complaints had been filed except by the disgruntled tenants.

Alas, this was not the case with a number of very vocal neighbors, who organized themselves to fight the proposed camping. The Planning Commission clearly wanted to approve the CUP but felt the neighbors should be appeased. This led to conditions being proposed such as disallowing any guns other than those owned by me on the farm, requiring my volunteers to wear armbands when walking on the city streets, and many requirements more stringent than those applicable to neighboring city residents. Any
violation of such onerous conditions would result in withdrawal of the permit at any time. This scenario was clearly unworkable from many perspectives, and severely abridged the constitutional rights of potential volunteers. We asked that the CUP be deferred.

THE PUBLIC BELIEVES NON-COMMERCIAL PRIVATE CAMPING IS LEGAL IN DOUGLAS COUNTY: Aside from neighbors, virtually everyone I’ve talked to believes that it is legal to camp, and to allow friends to camp, on one’s own property. Most people are astounded to learn that it is punishable by a $500/day fine, and freely admit to having broken this regulation. Even one of the Planning Commission members admitted this in the public hearing.

Late Summer, 2010: INCREASED INQUIRIES FROM POTENTIAL WWOOFERS: Between late July and early December, 2010, an estimated 3,000 hours of volunteer labor throughout the fall and winter season were offered, contingent on the farm being able to provide even the most rudimentary lodging. Many WWOOFers prefer to camp, to have some private time after working long hours with a host farmer. The farmer, too, appreciates privacy. These opportunities to host WWOOFers have been lost because they decided to go elsewhere because we could not allow them to camp.

A NEW PERSPECTIVE ON THE REGULATIONS: In reviewing the zoning regulations and various correspondences once again, in light of learning from the Farm Bureau Legal Foundation (FBLF) web site that there is a State law that ag uses should be exempt from more stringent local regulation, I realized that in fact the issue has never been the zoning regulation itself, but rather the way in which the regulation has been interpreted and enforced by the county. The zoning regulations do not explicitly prohibit camping, use of tents, or possession of RVs/campers. They are silent about such things. They do provide for various other, more permanent, less flexible, ways of housing guests, farm workers and family members on land that is zoned agricultural, so that the use—non-rent housing of farm-related people—is clearly allowed. They do not specify that the listed means are the only way such people can be sheltered.

My hope was that the FBLF and I could work cooperatively with DCZC staff to develop clearer guidance for the enforcement of zoning codes relative to private camping connected with agricultural enterprises as a legitimate “ag use” in some cases, and a legitimate extension of other allowable uses (residential guest house, etc) where appropriate. Handling this as a clarification of interpretation relative to the precedence of state law could have allowed a rapid change in enforcement without being subject to the annoyance of having to gain the approval of a non-farming neighborhood which is already aroused against me. This could fast-track approval for me, my family and my volunteers to camp, allowing me to make use of some of the volunteer labor that has been offered for the fall, and to camp for security purposes.

An interesting twist is that the county regulations are equally silent on the matter of
hunting on agricultural land (as well as a great number of other activities not directly associated with the production of food or fiber). Since the regulations are utterly silent on camping; hunting is allowed; and the state law prohibits local governments from restricting agricultural uses; it seems awfully shaky that the county feels it has grounds to prohibit the use of tents or campers for agricultural-related purposes. Furthermore, the state has, in recent years, expressly decided to promote “agritourism” (which would include the “immersion” agricultural experience of camping and working on a farm through WWOOF or similar program), created a department to manage it, and passed regulations to create a safer liability environment to facilitate agritourism.

However, Douglas County Farm Bureau (DCFB) needed to approve the issue in order for the FBLF to work on it. DCFB postponed discussing the matter for several months, and the window of opportunity for utilizing current WWOOF offers closed. Meanwhile, the farm season was one of the farm’s most disastrous, due to the inability to utilize the available, eager, out-of-town volunteers. Until DCFB makes a favorable recommendation, the KFLF cannot officially proceed to look into the situation, although the KFBLF seems interested in doing so. One KFBLF attorney suggested that I might try to seek a declaratory judgment against the county in the matter, with by myself or with the aid of a lawyer.

2011: In January, I requested the CUP be placed on the Planning Commission agenda once again. It was scheduled for March 30. This time we narrowed it down to just camping (a mix of tents and RVs/campers) on the parcels for which I currently hold title—the 10 acres farm ground, and the white farmhouse grounds (north of the house only), due to opposition from the seller of the other 3 properties.

I tried to arrange for a facilitator for a community meeting regarding the CUP, but was turned down by many individuals and organizations specializing in meeting facilitation and conflict resolution. I asked the CUP be deferred until April 25 to give more time for a meeting.

Meanwhile, years of research and experiences began to settle into a new pattern. I learned that the Douglas County Board of Zoning Appeals (BZA) could, in fact, hear an appeal of the County’s interpretation of their zoning code. This information regarding my right to appeal DCZC decisions had never been provided to me, and in fact was recently denied by DCZC staff until I quoted the State regulations to them. Had I realized that I had this right, I would have taken this action at several points along the way.

I also realized that the zoning code does, in fact, specifically allow “mobile homes” including RVs and camper trailers to be used to house persons employed at the farm, with a few conditions. I realized that the definition of “mobile home” which I had been shown at the time I was cited for a zoning violation was a highly restrictive definition from the Subdivision codes, not the broader definition from the zoning codes. I realized I
could easily meet the sanitation conditions, based on the work I’d done with the Dg. Co. Health Dept. for the CUP, and that siting conditions were met by most of the locations I was asking for camping in the CUP.

I formally requested, with extensive citation of applicable regulations, a determination from DCZC on using non-permanent mobile homes for housing myself and farm volunteers, including a checklist documenting proof that Pinwheel is a bona fide “farm” as well as a memo from the Douglas County Health Dept. approving my sanitation arrangements. In response, I was granted a 90-day approval to use one particular camper to house myself and/or one “bona fide paid employee of the farm.”

I filed an appeal of this determination with the BZA ($100 non-refundable fee). It is scheduled to be heard (a Public Hearing) at 10 a.m. on April 18, 2011. The appeal requests a broadly construed interpretation of each phrase in the zoning code that applies to farm use of mobile homes. If the appeal is successful, I will defer the CUP until it seems like the broad interpretation is being appropriately honored by DCZC. Otherwise, I will continue to pursue the CUP.

LOOKING FORWARD: If I am allowed to use my permitted rights for non-permanent mobile homes for persons employed at the farm, then I will be satisfied to wait and see what new camping and agritourism regulations are promulgated by the County in the next couple years, regarding tent camping. This regulatory development process is currently under way but as of this writing, draft regulations are not available to the public.

It is important to me, as well, that other Douglas County farmers—esp. small vegetable operations with high labor needs and many dedicated people eager to serve apprenticeships and internships—will be allowed to use their permitted right for RVs and campers to be used as flexible, sustainable housing for persons employed at their farms.

Are you tired after reading all this? Think how tired I am of living it all these years!
CUP-2-1-10: Conditional Use Permit to allow seasonal camping accessory to farm operations, on approximately 12 acres, located at and adjacent to 1478 N 1700 Rd

Lawrence-Douglas County Planning Office
September 2013
To the Commission

As a life long resident of North Lawrence and being in our house for 35 years, we strongly oppose camping of any kind at Pinwheel Farm. We live next door and our opinions are shared by the homeowners of properties adjoining hers.

I hope as professional people making determinations that effect those living in the community, you will listen and support the majority of homeowners in this matter.

thank you

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

RE: ITEM NO. 4: CONDITIONAL USE PERMIT; SEASONAL CAMPING; 1478 N 1700 RD
(MKM)

Dear Chairman Culver and Planning Commissioners:

The League of Women Voters of Lawrence/Douglas County believes that planning for
Douglas County should emphasize the conservation of agricultural land and open
space at the county level. We commend the efforts of Ms. Lowther to create a creative
educational environment to study agriculture on site, allowing participation by
students and members of the general public. This project supports the County’s local
agritourism efforts and we are lucky that it is located in Lawrence’s backyard.

We support staff’s recommendation of the Conditional Use Permit and ask that you
approve it Monday evening.

Thank you.

Sincerely yours,

Cille King                          Alan Black
Co-President                        Chairman

Cille King                          Alan Black, Chairman
Co-President                        Land Use Committee
Mary,

I was a volunteer at Pinwheel Farm in 2011, and am currently serving in the Peace Corps in Zambia. The experience at Pinwheel helped me get this position with Peace Corps and Natalya taught me skills that I am able to put into practice in my village. I was not able to stay at Pinwheel overnight, although I wish I had. Farmers work at the cooler parts of the day, but due to my having to stay elsewhere while volunteering at Pinwheel Farm, my schedule had to fit where I was staying—going to bed later and waking up later. Also, having to travel to and from Pinwheel cut out time working. I lost the chance to gain full Pinwheel experience, and therefore could not bring those skills with me to Peace Corps due to this.

Please consider Natalya's petition to allow volunteers to stay the night at Pinwheel.

Thank you,
Hannah "Evy" Adamson
Hi Ms. Miller,

I heard from Natalya Lowther, owner of Pinwheel, that Lawrence is again revisiting the Camping CUP for her farm. I just wanted to put in my two cents.

Volunteering on Pinwheel farm was a wonderful, empowering learning experience for me. Luckily I was living just on the other side of the river, so getting to and from was no big feat for me. However, there were times when I would need to tend to something late at night and again very early in the morning and being able to put up a small tent would have been very helpful to me.

Natalya is a wonderful person who contributes to the community in a lot of positive ways. I know that not being able to allow her volunteers to camp on her premises has been difficult for their recruitment and accommodations.

Please let me know if you have any questions about this. I would be glad to give more details if it would help.

Thank you,

--

Katelyn McGill
mcgillk@gmail.com
(402) 350-8886
Ms. Miller,

I have know Natalia Lowther for many years. She is a good friend, a gracious and very caring person who is always working to build community by bringing people together and living by the motto, "Live simply so that others might simply live." I worked with her several years ago as I was a volunteer teacher for a local private school working with junior high age students. Natalia graciously provided her farm as a place for the students to visit and volunteer one day a week. Natalia and I worked together to develop lessons each week for these students to learn about farm life, animal care, food preparation from locally grown foods, and community development through work and meal preparation and meal sharing.

As mentioned before Natalia is constantly striving to develop community and providing a warm environment where community can grow and flourish. I believe that her current plans for an agri-tourism project at her farm where guest can stay and camp for an extended period of time is an excellent and unique idea that will greatly encourage many people from near and far to better understand community and strive to “live simply so that others might simply live.”

sincerely,

John Rasmussen
PC Staff Report
09/23/2013

ITEM NO. 5  UR TO CO; 15,625 SF (SLD)

Z-13-00319: Consider a request to rezone approximately 4.767 acres, including right-of-way, from UR (Urban Reserve) District to CO (Office Commercial) District, located at 4930 Overland Drive and 450 Wakarusa Drive. Submitted by Colliers International on behalf of EBRPH LLC, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the request to rezone approximately 4.767 acres from UR (Urban Reserve) District to CO (Commercial-Office) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Applicant’s Reason for Request:
These lots are currently assigned a zoning classification of UR. The UR classification does not provide potential uses with any clarity on whether or not their specific use would be allowed, which make the properties almost impossible to effectively market. If the properties were to be rezoned under the CO classification, we believe that would be attractive to a number of uses which would be compatible with the surrounding area, blend with current traffic patterns, and provide the proximate neighborhoods with increased availability of desired goods and services.

KEY POINTS
- Existing UR zoning is not suitable for development of property.
- Proposed district includes two parcels of land located on the north side of Overland Drive bisected by Wakarusa Drive.
- The 1.12–acre parcel located on the east side of Wakarusa Drive is adjacent to USD 497 property – Lawrence Free State High School.
- The 1.65-acre parcel located on the west side of Wakarusa Drive is adjacent to a future city park.
- The proposed CO District is platted property included in the Wakarusa Place Addition.

ATTACHMENTS
- 2001 Zoning Map
- Wakarusa Place Addition Final Plat

ASSOCIATED CASES/OTHER ACTION REQUIRED
- A-12-21-00 – part of a 49.536 acre annexation generally known as Wakarusa Place.
- Z-12-56-00 – part of a 52.326 acre (included ROW) request for PCD-2 zoning. [Application was withdrawn and a revised set of applications were submitted]
- Z-8-30-01 part of an 8.440 acre request from A to POD-1. Approved subject to conditions. Conditions of approval not met. Ordinance 7472 was not published.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING
- Telephone request for clarification from USD 497 regarding allowed uses in the CO District.
Project Summary:
Proposed request is for rezoning two undeveloped platted lots and adjacent right-of-way to a commercial-office district as a preliminary development action. These properties are located on the north side of Overland Drive and are separated by Wakarusa Drive. The properties are also bounded on the north and east by existing public properties.

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN
Applicant’s Response: The request is compatible with Goal 3 of the Criteria for Commercial Development on page 6-30 of Horizon 2020. Under Section F; Compatibility with adjacent Land Uses: it states “Encourage the location of commercial nodes where they can efficiently utilize local resources, where their adverse impacts on adjacent uses are minimized, and where they will effectively provide the community with desired products, services, and employment opportunities. The change from UR to CO would allow for a limited list of locally oriented services businesses that would fit within the goals and criteria of Horizon 2020.

Key features of Horizon 2020, listed in Chapter 3, General Plan Overview, provide the framework for more specific land use recommendations in the Plan. Features applicable to this request include the following:

- "The Plan supports infill development and redevelopment which provides a range of residential, commercial, office, industrial and public uses within these parcels, consistent with and compatible with the established land use pattern in surrounding areas."

- "The Plan proposes the progression of land uses to help achieve a transition in land use and intensity levels, and to help avoid major or abrupt changes in density and building type."

Nodal commercial development is recommended in Horizon 2020. Along Wakarusa Drive commercial uses are clustered along W. 6th Street. Overland Drive is the northern boundary of the commercial area. Uses north of Overland Drive transition from the intensive commercial activity along W. 6th Street to lower intensity residential uses to the north. The proposed district is bounded on the north by public property owned by the City, for a future park and USD 497 as the Free State High School campus. The boundary of the proposed CO District will not expand beyond these boundaries unless there is a change in both the land ownership and land use plans for the area.

Horizon 2020 does not provide specific land use recommendations for this area. It does provide policy recommendations related to land use transition between higher and lower intensity uses, building orientations and compatibility to the surrounding area. These elements will be evaluated with the submission of a site plan for specific development of the lots included in this request.

Horizon 2020 addresses new commercial areas in Chapter 6 – Commercial Land Use. The Plan states:

“All new commercial and office development shall occur in accordance with the plan recommendations. New commercial, retail and related uses shall be developed as a node with shared parking areas, common access drives, and related design and appearances…”

“Commercial nodes include other important community services and facilities, such as satellite post offices, police, fire and emergency services, religious facilities, community centers and other services and institutions. Inclusion of these uses assist the integration of
the commercial into the overall neighborhood, serving multiple communities and service needs in a single location, and creating physically distinctive use areas apart from traditional commercial areas.

The proposed request is not part of the W. 6th Street and Wakarusa commercial node. This area is transitional between W. 6th Street to the south and lower intensity uses to the north. The CO District accommodates transitional land uses within the surrounding neighborhood.

**Staff Finding** – The proposed request is consistent with the general policy recommendations included in *Horizon 2020*.

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

**Current Zoning and Land Use:**
- UR (Urban Reserve) District; undeveloped platted lots.

**Surrounding Zoning and Land Use:**
- GPI (General Public and Institutional District) to the east and northeast (west side of Wakarusa Drive and north side of Overland Drive); USD 497 Lawrence Free State High School Campus.
- PD-[Bauer Farm PCD] to the southeast developing commercial area.
- CO (Commercial Office) District and PD- [6Wak PCD] to the southwest, south side of Overland Drive; Wal-Mart and undeveloped commercial pad site.
- OS (Open Space) District to the north on the west side of Wakarusa Drive. Future park site.

**Staff Finding** – This property is surrounded by commercial and public zoning. The area to the north is generally associated with open space and includes a future park site and athletic fields. The area to the south is a developing commercial node.
3. **CHARACTER OF THE NEIGHBORHOOD**

Applicant’s Response: *The neighborhood is a mix of retail and public uses, along with a blend of several multi-family apartment projects and further north there is a single-family subdivision. The lots are central to this mix with the immediately surrounding uses being largely retail and public.*

This property is located within the West Lawrence Neighborhood Boundary. The area between W. 6th Street and Overland Drive, along Wakarusa Drive, is a developing commercial node. The area north of Overland Drive transitions from intensive commercial uses along W. 6th Street to public uses and low density residential uses north toward the Peterson Road alignment. The area to the immediate north and east of the proposed CO District is zoned OS (Open Space) and GPI (General Public and Institutional) District. The area includes a future park and the existing Lawrence Free State High School campus.

If approved, the CO District boundary will be expanded from the southwest corner of Wakarusa Drive and Overland Drive to the northeast and northwest corners of the intersection. The district boundary is limited by the public ownership of land along the north and east sides of the property.

**Staff Finding** – This portion of the West Lawrence Neighborhood is characterized by commercial development between W. 6th Street and Overland Drive. Lower intensity uses are located north of Overland Drive.

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

This property is located within the boundary of the *Northwest Plan*. Within this general area land east of Wakarusa Drive and north of Overland Drive was anticipated as **Intuitional**. Land west of Wakarusa and north of Overland Drive was anticipated for **Office/Multi-Family Mix**. The existing School District boundary for Lawrence Free State High School campus does not include the 1.21 acre lot on the northeast corner of the intersection as originally anticipated by the *Northwest Plan*.

![Figure 3 Future Land Use](image-url)
The following graphic shows the future land use layer with the parcel boundary at the time of the plan preparation. At the time the alignment of Overland Drive and Wakarusa Drive had not been fully established. Additionally, ownership boundaries have changed as the area has developed. The future land use boundaries depicted in the plan were not intended to be site specific since some land uses bisect land parcels as shown below.

![The Northwest Area - Real Estate Parcels](image)

The resulting pattern of land use, zoning boundaries, and parcel boundaries are a result of land use decisions since the adoption of the plan in January 1997. Portions of the planning area have been modified by the more recent nodal plans for 6th and Wakarusa, 6th and K-10 and the West of K10 Plans.

**Staff Finding** – The north side of the intersection of Overland Drive and Wakarusa Drive was anticipated for mixed uses including office/multi-family and institutional uses. The current zoning and land use patterns are the result of both more recent planning and development actions within this area.

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

Applicant’s Response: There are no suitable uses for the property under the current zoning classification. In section 20-233 of the Development Code the UR classification it states in article (b)(1) “The only principal uses allowed in the UR district are crop agriculture...”
Staff concurs that the UR zoning is no longer desirable given plans expressed by the property owner to develop these lots. The current zoning serves as a holding zone until property is ready for development. The proposed request is for the CO District to accommodate limited commercial and office development.

The CO District includes various design standards and use restrictions contained in Article 5 of the Land Development code. These standards and restrictions limit the amount and intensity of commercial activities allowed within the CO District. Section 20-525 (3) Retail Sales, General standards that apply in the CO District limit the floor area of the use not to exceed 10% of the total gross floor area of the office building or of all buildings in the office complex in which the use is located.

![Figure 5 floor area graphic](image)

In the CO District, this same standard is also applicable to:
- **Fast Order Food, 20-511 (4);**
- **Food and Beverage Sales, 20-522 (2);** and
- **Retail Sales, General, 20-525 (3)**

The CO District prohibits the following uses:
- **Household Living;**
- **Sexually Oriented Businesses;**
- **Transient Accommodations;**
- **Vehicle Sales & Service;** and
- **Industrial Uses** with the exception of Research Service uses.

This district provides a land use transition between the commercial areas to the south and the open space and school facility uses to the north.

**Staff Finding** – The existing UR (Urban Reserve) District is no longer a suitable zoning district for this property since development applications are intended to be submitted. The proposed CO District is suitable for this location.

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

Applicant’s Response: *The subject property has been vacant as zoned for 11 years.*

This property is undeveloped and zoned UR (Urban Reserve). This zoning was established in 2006 with the adoption of the Land Development Code. Prior to 2006 the property was zoned A (Agricultural), a County zoning district designation.
This property was part of a development request in 2001 that included multiple zones. The graphic above highlights the subject property and various zoning requests from 2001. This property has since been subdivided and development plans have been approved for commercial and residential development for areas south of Overland Drive.

**Staff Finding** – This area is currently vacant and zoned as Urban Reserve, a temporary pre-development district.

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

Applicant's Response: The rezoning should not have any detrimental effect on nearby properties. The surrounding area is already zoned PCD and CO on the west lot, and PCD and GPI on the east lot. The surrounding uses are a Wal-Mart, car wash, a variety of fast food and sit down food vendors, and community facilities including Free State High School and Theater Lawrence.

The proposed CO District is adjacent to a variety of other non-residential zoning districts including Planned Commercial Developments to the south and an undeveloped lot zoned CO. The area is platted establishing a framework for future development of the subject property.

The subdivision plat, including this property, included access restrictions for both lots. Lot 1, Block 1 is prohibited from direct access to Wakarusa Drive (west side of Wakarusa Drive). Lot 1, Block 4 (east side of Wakarusa Drive) is limited to an access point at the north 50 feet of the lot. This pre-planning of the lot development was intended to address traffic concerns as the area developed and; anticipating development of these two properties.

The CO District includes limitations on development intensity as part of the structure of the zoning district. The purpose of the CO District is “intended to function as a medium-intensity office zoning district. This district is intended to prevent strip commercial development by allowing office uses but not allowing other commercial uses and to serve as a land use buffer between arterial or...
collector streets and residential neighborhoods. The District allows freestanding office buildings as well as office parks.” [20-209, Land Development Code].

**Staff Finding** – The proposed request is consistent with the purpose of the district in terms of location. Previous planning approvals have addressed access to the properties which will limit impact on adjacent properties.

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

Applicant’s Response: *There would definitely be gain to the public health, safety and welfare if these properties were to be rezoned. If they were rezoned, there would be an increase in valuation, thus in collected property taxes if a viable user were to purchase the lots and construct improvements. A new business would also provide employment opportunities for local residents, and depending on the nature of the business, sales taxes might also be collected. Denying the application will not allow the land owner to effectively market or sell the property to any prospective users.*

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

Staff concurs with the applicant’s conclusions that the existing UR zone is not beneficial for future development of these properties. Denial of the request will postpone development of the property and its inclusion in the commercial/office inventory within the community.

**Staff Finding** – Public benefits are nominal for this property. The area was anticipated for development as expressed in both *Horizon 2020* and in the *Northwest Plan*. The property has been platted and is ready for development with access restrictions in place to ensure appropriate vehicular circulation as the lots related to the adjacent street network.

9. **PROFESSIONAL STAFF RECOMMENDATION**

This property was anticipated to be developed and zoned for offices uses as anticipated in the 2001 rezoning applications and platting of the property. The proposed CO District is a mixed commercial office district but does not include a residential element.

Staff recommends approval of the proposed CO (Commercial-Office) District.

**CONCLUSION**

This request is consistent with anticipated development of the area. The proposed district provides an appropriate land use transition within the neighborhood.
6th & Wakarusa
Z-08-29-01 A to POD-1 8.44 Acres
Z-08-31-01 A to PCD-2 19.19 Acres
Z-08-32-01 A to O-1 5.65 Acres

Z-08-30-01 A to PRD-2 20.18 Acres

Lawrence-Douglas County Planning Office
Area Requested
August 15th, 2001
Scale: 1 Inch = 500 Feet
A FINAL PLAT OF
Wakarusa Place Addition
A TRACT OF LAND IN THE SOUTHWEST QUARTER AND IN THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 12 SOUTH, RANGE 19 EAST OF THE SIXTH PM IN DOUGLAS COUNTY, KANSAS
Z-13-00319: Rezone approximately 4.767 acres, including right-of-way, from UR District to CO District at 4930 Overland Dr and 450 Wakarusa Dr

Lawrence-Douglas County Planning Office
September 2013
ITEM NO. 6: RS7 TO RM12; 2.119 ACRES; 2518 RIDGE CT (MKM)

Z-13-00288: Consider a request to rezone approximately 2.119 acres from RS7 (Single-Dwelling Residential) District to RM12 (Multi-Dwelling Residential) District, located at 2518 Ridge Court. The portion of the property proposed to be rezoned is located on the east half fronting on Cedarwood Avenue. Submitted by Tenants To Homeowners, Inc., for Douglas County, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning request for approximately 2.1 acres from RS7 (Single-Dwelling Residential) District to RM12 (Multi-Dwelling Residential) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report subject to the following conditions:

1) The lot at 2518 Ridge Court (Lot A, Block 7, Southridge Addition No. 3) will be divided through the Minor Subdivision process to create a separate lot for the property that is the subject of this rezoning request prior to the publication of the rezoning ordinance.

2) The RM12 Zoning is conditioned to limit the permitted uses to single-story Duplex dwellings.

APPLICANT’S REASON FOR REQUEST

“Tenants to Homeowners would like to create a seven duplex-unit affordable senior housing project. RS-7 zoning does not allow multiple dwelling units on a single lot. RM-12 zoning is required for project development. While 12 units per acre zoning is requested, conceptual plan for project is 6.6 units per acre.”

KEY POINTS

- The subject property is a portion of a platted lot. A minor subdivision dividing the lot into 2 separate lots to match the rezoning will be submitted prior to publication of the rezoning ordinance.
- Duplex development is being proposed; however, RM12 zoning is being requested rather than RM12D as the structures will be placed on one lot as multi-dwelling development rather than with each duplex on an individual lot. The multi-dwelling development will require site plan approval prior to construction.

ATTACHMENTS

A: Proposed rezoning exhibit
B: Proposed site plan for residential development
C: Communication

Figure 1. 1528 Ridge Court outlined. Property that is the subject of this rezoning request is highlighted in yellow. (approximate)
GOLDEN FACTORS TO CONSIDER

CHARACTER OF THE AREA
The neighborhood contains a mix of residential uses with single- and duplex- dwellings that are surrounded by multi-dwelling structures (apartments). Commercial uses along Iowa Street bounds the neighborhood to the west and open space (Naismith Valley Park) bounds the neighborhood to the east.

CONFORMANCE WITH HORIZON 2020
The proposed rezoning request from the RS7 (Single-Dwelling Residential) District to the RM12 (Multi-Dwelling Residential) District is consistent with land use recommendations found in Horizon 2020.

ASSOCIATED CASES/OTHER ACTION REQUIRED
There are no other cases associated with this rezoning.

Other Action Required:
- City Commission approval of rezoning request and adoption/publication of ordinance.
- Submittal and administrative approval of Minor Subdivision for division of lot into two lots.
- Recording of Minor Subdivision.
- Administrative approval of site plan for proposed development.
- Application and release of building permit prior to development.

PUBLIC COMMENT
- A neighboring property owner called to express concern with possible impacts from the stormwater drainage from the new development.
- A letter in opposition to the project was provided by Judy Williams.

Project Summary
This project is the rezoning of approximately 2 acres, the east half of the property addressed as 2518 Ridge Court, from the RS7 (Single-Dwelling Residential) District to the RM12 (Multi-Dwelling Residential) District to accommodate a Tenants to Homeowners’ senior housing project. The use, multi-dwelling residences/duplex, are permitted in both the RM12D and the RM12 District. Duplexes in the RM12D District must be located on individual lots. The proposed duplexes will be located on one lot; therefore, RM12 Zoning is necessary.

A PD Overlay would be a possibility for this development. The PD Overlay is intended to: ensure development that is consistent with the Comprehensive Plan; ensure that development can be conveniently, efficiently and economically served by existing and planned utilities and services; allow design flexibility that results in greater public benefits than could be achieved using conventional zoning district regulations; preserve environmental and historic resources; and promote attractive and functional developments that are compatible with the character of the surrounding area. As discussed throughout this report, the regulations of the base district result in a development that meets these intentions. The development is consistent with the Comprehensive Plan; is an attractive and functional development that is compatible with the area; and is conveniently, efficiently and economically served by existing and planned utilities and services. There are no environmental or historic resources to preserve on the property and the greater design flexibility that is possible with a Planned Development was not needed for this project. The Planned Development would have allowed the construction of a private street rather than the
access drive to provide access to the residences throughout the development. A private street is desirable when there is the possibility of multiple owners on a private drive, as the maintenance responsibility may be unclear. In this case, Tenants to Homeowners will be the owner of the property and they will be the entity responsible for maintaining the shared drive. As noted earlier, the property will be divided from the larger lot through the Minor Subdivision process. A note could be added to the Minor Subdivision plat which requires that in the event that any of the duplexes are sold, a shared access easement must be recorded for the drive. The easement would note the standards for the drive and identify the entity that will be responsible for maintenance of the access drive. With this provision and with the condition limiting the uses, the Planned Development Overlay is not necessary for this development.

A conceptual site plan has been provided with the rezoning application. Prior to development, a site plan must be submitted and approved by the Planning Director.

The property will be divided through the Minor Subdivision into 2 lots, one for the existing office building and the other for the multi-dwelling residential development.

**REVIEW & DECISION-MAKING CRITERIA**

1. **CONFORMANCE WITH THE COMPREHENSIVE PLAN**

   Applicant’s Response:
   “The project consists of infill development of residential with little infrastructure required. The density is consistent with the surrounding neighborhoods and promotes integration between multi-family and single-family units. Timing is appropriate as affordable senior housing is very much needed. Comparable zoning is adjacent to property.”

   Staff’s discussion of the Comprehensive Plan recommendation follows with staff’s comments in red.

   - The Lawrence Future Land use Map (Map 3-2, page 3-4) shows this area as ‘low density residential’ with the subject property identified as ‘community facility--public/semi-public’.

   - Horizon 2020 provides the following recommendation for low density residential development:
     “While existing single-family neighborhoods are essentially built-up, several vacant parcels are scattered throughout the existing community where new low-density residential development, should occur in the future. In general, new development should be of a scale and character, including building type, the same as and compatible with existing or planned homes in the immediate area”. (Page 5-4)

   - The residential chapter’s strategies include:
     “A mixture of housing types, styles and economic levels should be encouraged for new residential and infill developments.”

     “The character and appearance of existing residential neighborhoods should be protected and enhanced. Infill development rehabilitation or reconstruction should reflect architectural qualities and styles of existing neighborhoods.” (Page 5-1)
Goal 3 of the Residential Chapter ‘Neighborhood Conservation’, Policy 3.3: ‘Encourage Compatible Infill Development’ encourages redevelopment and infill as a means of providing a variety of compatible housing types within neighborhoods and recommends that infill development should conform to lot size, housing type, scale and general architectural style of the area in which it is proposed. This policy also discourages concentrations of high-density multiple-family infill within neighborhoods.

This policy provides the following principles for maintaining the physical form and pattern of existing established neighborhoods to the extent possible (Pages 5-15 and 5-16):

1. Building orientation should reflect the predominant neighborhood pattern and existing street/roadscape.  
   2 units will face and take access from Cedarwood Avenue similar to other properties in the area. The units to the north and south will face inward and will have a ‘rear to rear’ orientation to the adjacent properties.

2. Continuity of vehicular and pedestrian circulation patterns should be considered.  
   The vehicular and pedestrian circulation patterns will not be altered.

3. Open space patterns and front, wide and rear yards characteristic of the neighborhood should be maintained.  
   The front and side setbacks will be similar to those in the area. The rear yards of the neighborhood are larger than being proposed with this development as the senior citizens would have less use of the large yard.

4. Building height should be compatible with the average height of homes in the neighborhood, especially adjacent residences.  
   The adjacent residences are primarily single-story residences. The proposed duplexes will also be single-story.

The renderings in Figure 2 illustrate the building type and development pattern being proposed with this development. The type of development being proposed will be compatible with the surrounding neighborhood and will protect and enhance the character of the existing neighborhood. A condition should be applied to the rezoning which limits the permitted uses to ‘single-story duplex dwellings’.

![Figure 2a](image1.png) View of the proposed development looking northeast from the United Way Building parking lot.  
![Figure 2b](image2.png) View of the proposed development looking to the west from Cedarwood Avenue.

Affordable housing usually requires smaller lot sizes in order to keep development costs down. The Comprehensive plan recommends that affordable housing options be provided in low density residential areas throughout the city through the adoption of residential zoning classifications with modified minimum lot sizes and setbacks. (Page 5-17)
Proposed density: 14 dwelling units are proposed with nine being 2-bedroom and five being 1-bedroom. The development would have a density of 6.6 dwelling units per acre. The density proposed is slightly higher than the Comprehensive Plan designation for low density as the plan classifies low density development as 6 dwelling units or less per acre.

This development proposes one lot with several units rather than reduced lot sizes or setbacks but the end result is the same. Developing on smaller lot sizes would also result in greater density as density is a factor of lot area. Rather than dividing the property into numerous lots which would then require the extension of a street to serve the various lots, the applicant is maximizing the usable space by using a shared drive to access the various residences. This is an acceptable treatment for multi-dwelling structures, but would not be possible if the property were divided into small lots.

The development will be located to the rear of most of the other properties within the block. The Comprehensive Plan recommends rear to rear building orientation between uses of different intensities. (Page 5-21) While the density being proposed is slightly higher, the rear to rear orientation should mitigate any negative impact.

**Staff Finding** – The proposed rezoning request conforms with Horizon 2020 policies related to residential development in that a slightly higher density than that permitted in the low-density zoning districts is being used to facilitate affordable housing. The proposed design of the development complies with the principles set out in Policy 3.3 for Neighborhood Conservation.

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

**Current Zoning and Land Use:**  
RS7 (Single-Dwelling Residential) District; Undeveloped.

**Surrounding Zoning and Land Use:**  
To the north and south:  
RS7 (Single-Dwelling Residential) District; *Single-Dwelling Residences.*

To the west:  
RS7 (Single-Dwelling Residential) District; *Office* uses on remainder of lot at 2518 Ridge Court. Further to the west, *Single-Dwelling Residences.*

To the east:  
RM12 (Multi-Dwelling) District; *Duplex-Dwellings.*

(Figure 3)

**Staff Finding** – The surrounding properties are zoned RS7 and RM12 with the predominate uses being *Single- and Duplex-Dwelling Residences and Office* uses.

### 3. CHARACTER OF THE NEIGHBORHOOD

**Applicant’s Response:**  
“The property to the north, west and south is single-family dwelling and property to the east where the entrance to the project will be located is multi-family. The building on remaining portion of the lot that rezoning is requested houses generally non-profit community help organizations, including Tenants to Homeowners.”
The subject property is located within an established residential neighborhood. The area consists of a mix of single-dwelling and duplex residences with the office building on the west half of 2518 Ridge Court being an exception. An area about two blocks wide of single- and duplex- residences is bounded by multi-dwelling structures (apartments) to the west along Iowa Street, to the north along W 24th Street, and to the east along the Naismith Valley Park open space.

**Staff Finding** – The neighborhood contains a mix of residential types with single- and duplex dwellings being bounded by multi-dwelling structures (apts) to the west, north and east.

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

**Staff Finding** – The subject property is not located within an area that has an approved area or sector plan.

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

Applicant’s Response:

"The proposed project for which rezoning is requested would partially reside on a single lot zoned RS7 with a single structure and multiple offices. As platted and zoned, a single residence would not be possible or realistic. For single family use, the property would have to be replatted into multiple lots with additional streets required. The property is ideally suited for residential uses provided it can be rezoned to allow multiple dwellings on a single lot."

The property is suitable for the uses to which it is restricted under the RS7 zoning. Single-dwelling residential uses would require the extension of a street from W 25th Street to form an interior block layout to allow the creation of several lots with street frontage. The RM12 District is also appropriate for this lot as several dwellings can be developed on one lot while maintaining the character of the area.
Staff Finding – The property is suited to the uses permitted within the RS7 and to the duplex use being proposed with the RM12 rezoning.

6. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED
Applicant’s response:
“Over 25 years.”

Staff Finding – The Douglas County Appraiser records indicate that the building on the west half of the property was built in 1963 as a County-owned nursing home. A review of old aerial photographs show no development has occurred on the east half of the property.

7. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES
Applicant’s response:
“The rezoning will have no detrimental impact on nearby properties because there is RM12 zoning adjacent to the site on Cedarwood Ave. The proposed multi-family residential is compatible in location and scope with the existing single family and multi-family residences.”

The development will utilize duplex residences, similar to those in the RM12 District on the east side of Cedarwood Avenue. The density will be very similar to that which is permitted in the RS7 District. One dwelling unit is permitted per lot in the RS7 District and lots are required to be 7,000 sq ft at a minimum. The maximum density possible in the RS7 District is 43,560 (sq ft in an acre) / 7,000 sq ft = 6.2 dwelling units per acre. The proposed RM12 development will have 14 dwelling units on 2.13 acres for a density of 6.6 dwelling units per acre.

The density will be very similar to that in the RM12 District across Cedarwood Avenue. The difference will be that this development will have a common area and a common building for the use and enjoyment of the residents.

The units will have an access drive with 2 access points on to Cedarwood Avenue as well as 2 individual driveways for the units which front Cedarwood. A Traffic Impact Study will be required with the site plan for this development. This study will evaluate the impact the number of trips proposed with the development may have on adjacent streets and will recommend improvements, if necessary, to mitigate the impact. Stormwater management will be addressed with a drainage study which is required with the site plan. The City Stormwater Engineer will review the drainage study and will require stormwater management to prevent negative impacts to the surrounding properties, and possibly improve stormwater management in the area.

The density will be slightly higher than that of the surrounding properties to the north and south, but the development will be designed so that the uses have a back to back orientation. The building type will be similar to that of the surrounding properties.

The RM12 District permits uses that are not allowed in the RS7 District. The following lists the uses which are permitted in the RM12 District that are not permitted in the RS7 District:

- Duplex
- Attached Dwelling (Requires a SUP in the RS7 District)
- Multi-Dwelling Structure
As this rezoning request is specific to the development of senior citizen affordable duplex housing, the use permitted should be restricted to *duplex dwellings* to insure compatibility with the surrounding area.

**Staff Finding** – The rezoning could have detrimental impacts to the surrounding properties if multi-dwelling structures, such as apartments, which are permitted in the RM12 District were constructed. Restricting the use to duplex use as shown on the concept plan would help insure that the development would be compatible with the existing area. Impacts from the development will be minimized through the site planning process.


Applicant’s Response:

"There is a strong demand for affordable senior housing, especially as our community increases its efforts to market Lawrence as a retirement destination. The proposed uses are consistent with the City’s long-range planning and are compatible with existing neighborhoods and provide appropriate housing adjacent to services needed by the residences."

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

Denial of the rezoning would require the site to be developed as a traditional residential design with the extension of a City street to create a block layout with individual lots for residential development. This could result in a more uniform lot layout with the surrounding properties; however it would also preclude the development of affordable housing in this location.

The approval of the rezoning would result in the development of a large area of open space that the neighborhood has had the opportunity to utilize and enjoy for a number of years. Neighbors may be concerned about drainage issues resulting from the development; however, a drainage study will be required with the site plan. It is very likely that the drainage from the site will be improved with the stormwater management measures that are implemented with the development.

With property site planning and design the approval of the project should result in an affordable housing project that will have minimal impact on the surrounding area and will provide a mixed type of housing in the area and provide additional affordable housing in Lawrence.
**Staff Finding** – The approval of the rezoning will remove an area of open space that the neighborhood has enjoyed for many years, but will allow for the development of affordable housing for senior citizens. The benefit the community will achieve from the approval of the rezoning outweighs the benefit the surrounding properties would achieve from the denial.

**PROFESSIONAL STAFF RECOMMENDATION**
This staff report reviews the proposed location for its compliance with the Comprehensive Plan, the Golden Factors, and compatibility with surrounding development. The rezoning request is compliant with recommendations in *Horizon 2020*. Staff recommends approval of the rezoning request for approximately 2 acres from RS7 (Single-Dwelling Residential) District to RM12 (Multi-Dwelling Residential) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report with the conditions that the property be replatted prior to publication of the ordinance and that the Zoning be conditioned to permit only single story *Duplex* development.
Z-13-00288: Rezone approximately 2.119 acres from RS7 District to RM12 District, located at 2518 Ridge Ct

Lawrence-Douglas County Planning Office
September 2013
Mary and Planning Commission:

Attached is a timeline of interactions with the neighborhood around the United Way Center where the proposed senior housing development will be located. I have also included information and site plans/3d graphics that have been provided to neighbors throughout our process. We have had much support from senior prospective tenants, including some neighbors in the area who want to move in. Our goal is to provide active independent senior housing for moderate income seniors--retired teachers, nurses and social workers who can't afford high-priced senior housing, but have enough to be good neighbors. We have also had a few disgruntled neighbors whose main complaint is that they don't want any development by their homes.

We have met with the neighborhood twice, sent several mailing, offered to answer any questions and given phone numbers and e-mail for the last two years through the county process and now again. These neighbors have had a vacant piece of land next to their homes for many years and we understand change is hard, but I think that you will find neighbors' concerns about more rental housing and the typical problems associated with rental housing do not apply to this project as it is restricted to seniors and will be maintained by Tenants to Homeowners, Inc. whose office is on site. The other more reasonable concerns about sanitary sewer capacity and drainage can and will be addressed in the city development process and TTH has already paid particular attention to drainage design, rain garden landscape and ways to improve the drainage in this area, where there currently is no designed drainage. In this case designed drainage will improve the current situation. The requested project does not need the density of the requested zoning change as we are much less dense than RM12 at 14 units per 2.2 acres. We however are required to change zoning because we want to create affordable townhome style units that have some cost advantage, better enable energy efficient design and create community that seniors are asking for in this project. This will be a great example of affordable independent senior living within the community. This type of residential yet intentional community of seniors can be replicated in other infill projects and will meet the needs of the moderate income seniors that we want to retain or attract in retirement. If their housing is affordable and connected to our community they will be able to spend the money in our community and advance some of the economic development goals that Lawrence is looking for from this community. We have provided site plans and lots of information to the neighborhood and have listened to their concerns. Tenants to Homeowners, Inc. has always built and will continue to build high quality, energy efficient units that will blend in and enhance the neighborhood and
we will be good landlords who steward this needed housing and ensure its quality is maintained over time.
Sincerely,
Rebecca

Rebecca Buford
Executive Director
Tenants to Homeowners, Inc.
The Lawrence Community Housing Trust
Creating Permanently Affordable Housing in Lawrence!
785-760-2058
Proposed Cedarwood Cottages & Gardens
Public Information Timeline:

**Summer & Fall 2011:** Three meetings with the Older Women’s League (OWL) and other Senior Services representatives to discuss OWL request for affordable retirement housing and assess senior housing needs.

**December 12, 2011:** Informal public meeting with 10 interested neighbors notified via flyer distribution on 2500 Ridge Court, 2500 Cedarwood and 1700 W. 25th Street. Preliminary site plans & drainage designs were available.

**February 8, 2012:** Presentation to Housing Subcommittee of Senior Attraction Task Force; Concept included in final report as example of affordable housing community for active retirees.

**February 15, 2012:** First County Commission meeting to consider Tenants to Homeowners, Inc. request for conveyance of 2.2 acre lot behind United Way Center for use as an affordable senior housing community. Staff spoke with concerned neighbors after the meeting and answered questions.

**August 8, 2012:** Second County Commission meeting to consider conveyance; unanimous vote to convey land contingent on completing approval process. Executive Director spoke in person with five neighbors.

**September 21, 2012:** Project information sheet mailed to all neighbors listed on County Records, living within 200 feet of the proposed project; sheet welcomed neighbors to call if they had questions or wanted to discuss design improvements.

**August 25, 2013:** Notification of filing and September 11 public information meeting mailed to all property owners listed within 200 feet of proposed Cedarwood Cottages and Gardens.

**September 11, 2013:** Meeting to show neighbors site plans and answer questions.
Dear Neighbors:

In December of 2011 Tenants to Homeowners informally met with some neighbors living close to the United Way Center concerning possible senior cottages at the vacant lot behind the Center. This was followed by an informational sheet mailed in late August 2012 to all property owners living within 200 feet of the proposed cottages. The sheet also invited owners to call regarding any questions or suggestions they might have about the cottages.

Plans for the Cedarwood Senior Cottages and Gardens have been filed and you should receive notification about the filing soon. Tenants to Homeowners, Inc. has all the current information available upon request and has also scheduled a meeting for property owners within 200 feet of the
project. The meeting is scheduled for Wednesday, September 11, from 6-7pm, at the United Way Center.

Thanks,

Tenants to Homeowners
Information about the proposed Cedarwood Senior Cottages

**Myth:** The proposed Senior Housing Cottages could be "Section 8" housing.
**Fact:** These 14 cottages will be occupied by moderate income seniors who make below 80% of the median income in Lawrence. A household of 1 can earn up to $39,750 and a household of 2 can make up to $45,350. These homes will be marketed to retired, active seniors--the retired teachers, social workers, and others who deserve affordable housing after retirement.

**Myth:** Rentals will automatically bring down property values in the neighborhood.
**Fact:** New, high quality, accessible, Energy-Star senior cottages in great demand, even if they are rented, will not only increase property values, but will certainly have more value than a vacant lot. Seniors at the proposed cottages would have long term leases as though they were homeowners. The developer’s office would be next to the cottages to provide hands-on maintenance and oversight.

**Myth:** Development of new housing could encourage crime, such as theft, vandalism and mugging.
**Fact:** Studies have shown vacant land without security lighting or the presence of residents is more likely to attract crime. This development would add security lighting and a resident presence to a dark area of the neighborhood. There were no crimes reported on 2500 Cedarwood in the last two months and the only 6 crimes were reported along 23rd Street, east of Iowa to Ousdahl.

**Myth:** The development would increase traffic and noise from entertainment.
**Fact:** The proposed 14 cottages would be one and two bedroom homes with separate off street entrances, garages and driveways. Fewer seniors drive. Seniors who no longer drive may use the current neighborhood mini-T pick up route. Our higher efficiency construction uses thicker walls and foam insulation that actually insulates neighbors from noise better than traditional housing.

**Myth:** This will be a multifamily apartment complex.
**Fact:** The 14 proposed cottages are designed like single family housing in style and overall design. They each have front and back porches, garages and front and back entrances. They would be only one story and fully accessible. The shared wall on each of these buildings would be between the attached garages.

**Myth:** The project will be all pavement, with little green space.
**Fact:** The development has a lot of designed green space. The interior circle between all the homes will be common green space with a walking path and community gardens. The neighbors have been offered the use of this path as well since there are no sidewalks on Cedarwood. The back porches of every unit will look out on the central green space and gardens. There will be extensive landscaping throughout the development and this will be maintained by Tenants to Homeowners. This landscaping will include rain gardens and other greenery that will improve drainage on the site.

**Myth:** The new development will worsen any current drainage and sewer problems in the neighborhood.
**Fact:** The vacant lot currently has no managed drainage, so after a rain the water goes downhill, towards neighbors’ houses. Development requires storm water engineers to design drainage systems that manage the water flow to the sewers. During the planning process, extensive drainage studies and management plans must be reviewed by the engineers at the city and state level to ensure that sewer capacity and storm water drainage is well equipped for the new houses. If planners determine there is a need, storm water drainage systems would be expanded for new development at the cost of the developer.
Myth: *There is no room for this development in the neighborhood.*

Fact: 14 small, one story cottages on 2.2 acres would be considered modest density by development standards. If during the planning process the new homes require additional sewer lines, it would be paid for by the developer. Sewer backup caused by tree roots is an ongoing homeowner maintenance issue that would not be fixed with new lines.

Myth: *TTH is a bad developer who doesn't care about the neighborhood.*

Fact: TTH is a not-for-profit housing developer who has worked in Lawrence building housing for 20 years. In that time TTH has put 345 people in their first homes, stewards 62 affordable homes in trust, and manages 54 rental properties. TTH has developed over 75 new construction homes in 5 different developments as well many infill lots. TTH is proud to be a part of the Lawrence community. Our mission is to strengthen our community and stabilize neighborhoods through housing construction and education programs. Our staff lives and works in the neighborhood and will be here to make sure the Senior Cottages are an asset to the neighborhood.

*If you have constructive questions about the proposed development or wish to meet in small groups to discuss positive ways to improve the design, please contact Tenants to Homeowners at 842-5494.*
Cedarwood Active Senior Housing Project: Stabilizing and Improving the Neighborhood

This Tenants to Homeowners Project will be a small active senior project that will add benefit to the neighborhood in many ways:

- Improved Drainage
- Low Density Development with Light Traffic
- Beautiful Gardens and Landscaping
- Quiet, Retired Neighbors
- Off Street Parking
- Neighborhood Stability
- Local Non-Profit Developer

Interested in learning more about this project? Please plan to attend an informational meeting:

Dec. 12 @ 6pm - Room A - United Way Center - 2518 Ridge Court
To City of Lawrence Planning Commission:

We are an old neighborhood overrun with apartments, duplexes, townhouses, and rental houses. We are protesting against more building of rental property. And being an old neighborhood is this the city of Lawrence’s plan to change all neighborhoods into all rental properties forcing the homeowners to sell and move to the newer South & West neighborhoods. Our streets in our area are also used as a shortcut from 23rd to Iowa St. or reverse to avoid the traffic lights. Our neighborhood has had one murder at 26th Ridge Court, shootings on Red Bud Lane and Murphy Drive, theft ring in 25th block of Cedarwood that was raided by FBI, vandalism, drugs, & arson in the apartments and duplexes buildings in the area, as well as loud parties with music and talking that sound carries further at night.

Cedarwood Ave. is on a monthly schedule by the city of Lawrence to check and clean out the sanitation sewers and storm sewers. I know because we have two manhole covers on our property. Last Spring and Summer “2012” in our block on Cedarwood, we have had 5 main waterline breaks. Some neighbors including us, has experienced structural damage of our homes caused by very heavy downpour of rainfall as well as sewer problem. And we can’t afford to have our house structural damage fixed. (see attached paper). In Fall of “2012” during a very heavy downpour of rainfall, we had clean water come up from the drain in the floor downstairs in our laundry room, hallway, and bathroom. This was not the first time, and now I am afraid to go downstairs during a very heavy downpour of rainfall because I don’t want to find or see water on the floor. In the past our back yard has looked like a pond and our former neighbor next door at 2537 Cedarwood, would say that her dogs learned how to swim in the back yard. The street (Cedarwood), look like a river flowing down the hill, past our house, and at the bottom of the curve a pond or small lake in the front of the storm water drains in the street. Even during these times, 27th St. at the bridge of Naismith Valley and 23rd St. & Ousdaul Rd. are closed due to high water. Living here at 2543 Cedarwood for 36 yrs. we have seen more water pushed into our houses from the additional building that has been added to our area.

First notice in December “2011”, Tenants To Homeowners had one neighborhood meeting that we were notified by a flyer put in our mail slot, 3 business days before the day of the meeting and it was 2 weeks before Christmas and only 4 homeowners of the area were present. I talked to my neighbors across the street and some landlords and found that they were not notified for the meeting before the plans went ahead to the County Commission. My next-door
neighbor and I found by talking to our neighbors in the area that they weren’t notified about the project when gathering signatures for our Protest Petition in July “2012” (see attached paper). One would think that being neighbor friendly, Rebecca Buford of Tenants To Homeowners, resides at the top of the hill on Cedarwood didn’t even come down the street to visit her neighbors to introduce herself before pushing this project thru. Too late now! Buford also stated that it would be fun living up the street (Cedarwood) working and being a landlord down the street. When Tenants To Homeowners can get Federal & State funds for projects, why can’t they buy land elsewhere to build rental housings like O’Connell Rd. Seeing what projects Tenants To Homeowners have or will have it is our conclusion that Tenants To Homeowners is another name for rentals and we have enough landlords in the area!

We Protest that Douglas County Commissioners who represent our County, is giving away county land to Tenants To Homeowners for free, that for 36 yrs. our taxes have paid for on this vacant land behind the United Way building.

The neighborhood preference is to have the land vacant and turned into a park or a community garden that would encourage families with children, back into buying houses in the neighborhood when we have schools close by.

Thank-you.

David & Jean Affalter
2543 Cedarwood Ave.
City of Lawrence Planning Commission

I have lived on my home on Cedarwood Ave for 39 yrs.

Mrs. Janacek to Homewares can think we
in the neighborhood are against Senior Housing
on the Archie Senior Home on the United
Way Lot.

I am a senior myself so many are in the
neighborhood.

I am opposed to building on the lot as seen
half the area in the 200 feet are usable.

We have had 5 water mains break in the
Cedarwood Ave Circle in the past year.
The water mains are old and will not hold up
to more water outlets.

The sewers are not in the utility basement.

I have had a sewer line collapse.

I have structural damage on my home as
you can see from the enclosed letter. I
have already spent $5000 on structural damage
with piles.

What provisions have been made for

LTC, power transformers.

Room for trucks to maneuver to pick
up trash, Ambulances, Fire trucks. What
security measures have been made for the
project.

Cutting into these acres and putting in
Circular drains with more concrete will feed more water onto the property owners land.
I have not met Mr. Lemono to the new area, who lives up the street from me, I have been
neighbor friendly and so,
Flyers were put on our door handles about 3 days before the first meeting on Dec 12th 2012.
Many in the neighborhood did not get
flyers and knew nothing about the project,
when we went around the neighborhood.
We now have a meeting planned for Sept 11, 2013.
They come on the mail, I guess Mr. Lemono
to the new area didn't trust Mr. Lemono to
Home owners to hit and mess the neighborhood.
I hope the architect has more information
so he had not been informed so to what use to take place,

I am very opposed to this regency.
Cutting into that land means more
water problems more water main breaks
and flooding to the property owners.

Barbara J. McDonough
Property owner
Harris Foundation Repair
Project Estimate Sheet

Name: Pan & Barbara McDonough
Address: 2551 Ceaderwood Ave
Phone number: 785-841-1029 Date: June 24, 2009

1. Liability and Workmen's compensation insurance

2. Concrete Removal  front  stoop  square feet  cubic feet

3. Concrete Replacement
   a) Flat work  b) walls  c) Stairs  front  stoop  & walk

4. Concrete sawing  linear feet.

5. Fence removal and replacement.

6. Bush, brush, and or tree removal

7. Excavation  linear feet.

8. Fill types  a) control  b) washed gravel  c) soil

9. Shoring  Types

10. Slab jacking

11. Foundation tiebacks  With or without five inch channel.

12. Laminate wall

13. Underpinning  a) walls  b) fireplace  c) stoop  d) other

14. Footing Drains  linear feet. Sump pump

15. Chip and seal exterior walls.

16. Grading  a) perimeter  b) adjacent yard

17. Seeding, fertilizer, and straw.

18 x 20 = 360
2020
18. Window wells

19. All clean-up

20. Miscellaneous work description

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Stucco four corners $\_

near drive way:

Base price: $10,000

Option: $3500

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This estimate is based on normal working conditions: If we should encounter unknown
obstacles, pervious repairs, rock, extra thick concrete, etc., the final price may vary but
we would discuss and agree to any additional charges prior to the work.

---

Thank you,

Lauren Harris
Harris Foundation Repair
841-5203

766-9415
Foundation Work.

# Foundation is settling on south side of house.
1. We will unhook air-cond. and have hooked back up.
2. Dig out foundation from south side of front porch to south side of room addition on west side of house.
3. Install a pier under existing footing one every 6-8' apart.
4. Raise foundation to original height or as close as possible.
5. Fill in void under footings and floor after raised.
6. Patch cracks on outside of basement walls.
7. Apply 2 coats of foundation coating to outside of basement wall.
8. Install 4" PVC. drain pipe along footings.
9. Cover with washed rock and hay.
10. Tamp dirt in against foundation.
11. Remove and replace concrete patio on west side of house 13'x20'.

Concrete will be 5" deep with ½" rebar on 2" sqs.

"2013" I am told
this price has double in cost.
We have no money to fix.

We Propose hereby to furnish and install above specifications, for the sum of:

[Signature]

All material is guaranteed to be as specified. All work to be done in a workmanlike manner according to standard practices. Any alteration of specifications involving extra costs will be executed only upon written authorization and charge over and above the estimate. All agreements are final and cannot be cancelled or delayed beyond our control. Owner to carry fire, loan, and other insurance policies on the property.

Our workers are fully covered by Workman’s Compensation insurance.

Acceptance of Proposal

and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Date of Acceptance:

[Signature]
Properties highlighted in pink are all rentals.

52 properties within the 200 feet, 26 are rentals.
& 26 properties within the 200 feet are owner occupy.
Information about the proposed Cedarwood Senior Cottages

**Myth:** The proposed Senior Housing Cottages could be "Section 8" housing.

**Fact:** These 14 cottages will be occupied by moderate income seniors who make below 80% of the median income in Lawrence. A household of 1 can make up to $40,050 and a household of 2 can make up to $45,800. These homes will be marketed to retired, active seniors—the retired teachers, social workers, and others who deserve affordable housing after retirement.

**Myth:** Rentals will automatically bring down property values in the neighborhood.

**Fact:** New, high quality, accessible, Energy-Star senior cottages in great demand, even if they are rented, will not only increase property values, but will certainly have more value than a vacant lot. Seniors at the proposed cottages would have long term leases as though they were homeowners. The developer’s office would be next to the cottages to provide hands-on maintenance and oversight.

**Myth:** Development of new housing could encourage crime, such as theft, vandalism and mugging.

**Fact:** Studies have shown vacant land without security lighting or the presence of residents is more likely to attract crime. This development would add security lighting and a resident presence to a dark area of the neighborhood. The only crime reported on 2500 Cedarwood in the last two months was a DUI.

**Myth:** The development would increase traffic and noise from entertainment.

**Fact:** The proposed 14 cottages would be one and two bedroom homes with separate off street entrances, garages and driveways. Fewer seniors drive. Seniors who no longer drive may use the current neighborhood mini-T pick up route. Our higher efficiency construction uses thicker walls and foam insulation that actually insulates neighbors from noise better than traditional housing.

**Myth:** This will be a multifamily apartment complex.

**Fact:** The 14 proposed cottages are designed like single family housing in style and overall design. They each have front and back porches, garages and front and back entrances. They would be only one story and fully accessible. The shared wall on each of these buildings would be between the attached garages.

**Myth:** The project will be all pavement, with little green space.

**Fact:** The development has a lot of designed green space. The interior circle between all the homes will be a common green space with a walking path and community gardens. The neighbors have been offered the use of this path as well since there are no sidewalks on Cedarwood. The back porches of every unit will look out on the central green space and gardens. There will be extensive landscaping throughout the development and this will be maintained by Tenants to Homeowners. This landscaping will include rain gardens and other greenery that will improve drainage on the site.

**Myth:** The new development will worsen any current drainage and sewer problems in the neighborhood.

**Fact:** The vacant lot currently has no managed drainage, so after a rain the water goes downhill, towards neighbors’ houses. Development requires storm water engineers to design drainage systems that manage the water flow to the sewers. During the planning process, extensive drainage studies and management plans must be reviewed by the engineers at the city and state level to ensure that sewer capacity and storm water drainage is well equipped for the new houses. If planners determine there is a need, storm water drainage systems would be expanded for new development at the cost of the developer.
Myth: There is no room for this development in the neighborhood.
Fact: 14 small, one-story cottages on 2.2 acres would be considered modest density by development standards. If during the planning process the new homes require additional sewer lines, it would be paid for by the developer. Sewer backup caused by tree roots is an ongoing homeowner maintenance issue that would not be fixed with new lines.

Myth: TTH is a bad developer who doesn't care about the neighborhood.
Fact: TTH is a not-for-profit housing developer who has worked in Lawrence building housing for 20 years. In that time TTH has put 332 people in their first homes, stewards 55 affordable homes in trust, and manages 50 rental properties. TTH has developed over 75 new construction homes in 5 different developments as well many infill lots. TTH is proud to be a part of the Lawrence community. Our mission is to strengthen our community and stabilize neighborhoods through housing construction and education programs. Our staff lives and works in the neighborhood and will be here to make sure the Senior Cottages are an asset to the neighborhood.

Aerial View from the United Way Parking Lot towards 2500 Cedarwood Avenue

If you have constructive questions about the proposed development or wish to meet in small groups to discuss positive ways to improve the design, please contact Tenants to Homeowners at 842-5494.
in other business, commissioners:

• Unanimously agreed to file the necessary paperwork at Douglas County District Court to start the eminent domain process for a dilapidated, vacant house at 1106 Rhode Island St.

• Unanimously rejected a text amendment that would have allowed homeowners in Old West Lawrence and other RS-5 single-family zoned neighborhoods to build accessory dwelling units on their property. Several residents of single family neighborhoods expressed concern the amendment would make it easier to develop rental properties in single family neighborhood
Lawrence Community Housing Trust (LCHT)

**What is LCHT?**
LCHT is a program in which local lending institutions in Lawrence cooperate with the City of Lawrence and Tenants to Homeowners' Lawrence Community Housing Trust Program to help families with low to moderate incomes become homeowners within the city.

**How does LCHT work?**
LCHT and the homeowner are partners in ownership. The homeowner owns the home and LCHT maintains title to the land. The homeowner has the right to use the land through a 99-year ground lease. This arrangement keeps the cost of the property down and allows the home to remain affordable for future buyers.

**Who makes the LCHT program possible?**
City of Lawrence Development Services  
Capitol Federal Savings  
Federal Home Loan Bank of Topeka, Inc.  
Kansas University Credit Union  
Housing and Consumer Credit Counseling, Inc.  
Tenants to Homeowners, Inc.

---

**Who sponsors LCHT?**
Tenants to Homeowners, Inc. is a non-profit Community Housing Development Organization (CHDO) with a mission to empower tenants to become homeowners. For more information on TTH's services, see our website at http://www.tenants-to-homeowners.org.

**What kind of homes are available?**
- Homes offered for sale on the program are usually built or rehabilitated by TTH. TTH is committed to building accessible, energy-efficient homes in all new construction projects. Sometimes LCHT houses can be purchased from a seller listing on the market, depending on funding availability for the buyer-initiated program.
- LCHT homes must be in the Lawrence city limits, and cannot be in the FEMA 100-year flood plain.
- Property is generally single-family, although LCHT projects can be multi-family or town home units. Check with TTH to see what properties are currently available or in development.

**LCHT Loan Features**
- Pre-approval from a participating lender is required to purchase a LCHT home. Pre-approval still requires a good credit score and 2 years of stable income and payment history.
- Prospective buyers are given a conventional fixed interest rate, with a 30-year non-predatory loan. Often buyers can avoid additional PMI due to the amount of program subsidy.
- Affordable Down Payment Requirement—The LCHT Program requires five percent (5%) of a buyer's annual income but no less than $500 as a down payment. A gift is acceptable for cash requirements exceeding $500.
- If you are a first time homebuyer, the LCHT Program will cover closing costs up to $3,000.

---

**Homeownership Training**
All participants must complete a free first time homebuyer class. Workshops are held in Lawrence every second Saturday of every odd month. No registration is required. See schedule on back, or for class details contact:
Tenants to Homeowners, Inc., 785-842-5494, e-mail: lawrencelandtrust@yahoo.com.
website: www.tenants-to-homeowners.org
Saturday First Time Homebuyer Workshops

Workshops are free and no pre-registration is required. Workshops will be held from 9:30 a.m. to 1:30 p.m. at the United Way Center, 2518 Ridge Ct., Lawrence KS, 66046 on the following dates:

- November 12, 2011
- January 14, 2012
- March 10, 2012
- June 9, 2012

Tenants to Homeowners, Inc.

An Affordable Purchase and Rehabilitation Program for Buyers with Low and Moderate Incomes.
New downtown store opens with focus on selling locally produced goods; Warehouse Arts District hires promoter, moving ahead with second loft apartment project

Even if you are like me and know more about pizzas than Picassos and understand mimosas better than Monet, it is still hard to miss that there is a significant art trend underway in downtown Lawrence.

There’s the Warehouse Arts District that continues to form around the old Poehler grocery warehouse building in East Lawrence, the Final Fridays events seem to be growing larger downtown, the Lawrence Arts Center is in competition for some major grants, and the city recently formed a new “cultural district” to encompass downtown and the surrounding area in an effort to create a more comprehensive effort to showcase the arts. What folks may not be picking up on as much is that the private sector is getting in on the act, too. The latest example is Essential Goods, a new arts and crafts based stored at 15 E. Seventh St.

The store, which is in space above the Java Break, carries the work of local artists and craftsmen, said Molly Crook, an owner of the new shop. The work includes handmade sweaters, purses, local photography, a variety of jewelry, cards and prints, locally made candles and a line of natural body care products. About a third of the space is devoted to a studio that produces the body care products and candles.

The bulk of the store’s inventory, though, comes from other area artists — about 20 at this point — who sell their work on consignment. Crook said that is becoming a real trend in downtown, following on the success of the Massachusetts Street-based store Made, which also sells locally produced products.

“It has been neat,” Crook said. “Stores like Made have really opened up a portal. Before, everybody was just trying to do this online.”

Crook said it will be interesting to see how far the trend goes. Already she is noticing more traditional downtown retailers starting to carry locally produced goods as part of their inventories.

“I definitely think people are looking for more local and handmade works,” Crook said.

The new store currently is open Thursday through Saturday, but Crook said an expansion of hours is being considered.

***

As I mentioned above, the Warehouse Arts District near the area of Eighth and Pennsylvania streets is continuing to make noise. The latest is it has hired a new full-time employee to promote the district.
Patti McCormick, who worked for several years as the main promoter for the local group that owns The Oread and The Eldridge hotels, has been hired by developer Tony Krnsich to promote the district.

McCormick said she is entering the job with the idea that the district has a chance to become a "national creative arts destination." There already are several artists who have their studios in what is called the SeedCo Building, an old warehouse a bit south of the Eighth and Pennsylvania intersection.

The district, though, will make its biggest splash in the coming weeks. McCormick said the Cider Gallery is scheduled to open by the end of the month in a building just west of the renovated Poehler Lofts building. The gallery, as we've previously reported, will be a sister gallery to the Kansas City-based Weinberger Fine Art Gallery. McCormick said the plan calls for the Lawrence gallery to feature "nationally recognized, emerging and museum quality artists."

Also, as we've previously reported, Krnsich and his partners have a plan to build a new building to house apartment lofts on vacant ground just south of the Poehler building. The latest news on that project is that Krnsich has settled on a size and has submitted an application for low-income housing tax credits to the state. According to information provided to the city, Krnsich is planning on a 40-unit loft development, with 34 of the units being designated as low-income units that would have rent-controls placed upon them by the state.

City officials recently wrote a letter of support for the project to the Kansas Housing Resources Corporation, which hands out the tax credits. It looks like the agency is expected to make a decision in May on what projects will be awarded credits.

Rebecca Buford, executive director of Lawrence's Tenants to Homeowners, also confirmed to me today that Tenants to Homeowners will be a partner in the project. The organization will be the nonprofit partner that will allow the project to apply for $400,000 in state HOME funds and $400,000 in funds from the Federal Home Loan Bank.

Tenants to Homeowners main mission is to help people buy affordable housing in the city, but Buford said her organization has seen a need to increase affordable rental units in the city.

"There are plenty of apartments in Lawrence," Buford said. "That's not the problem. There is just a gap in affordability."

Once the project is built, the development group — not Tenants to Homeowners — will serve as the manager of the project, but Tenants to Homeowners will have an oversight role.

... 

One last art item to get out of the system. If you are an actual artist who has a Lawrence-based project on your mind, there's a grant program out there wanting to hear from you. But the deadline is quickly approaching. The deadline for the city of Lawrence's Community Arts Grant program is 5 p.m. on March 25. The program uses city funds to provide grants of $500 to $2,000
for projects that “promote awareness and appreciation of the arts in Lawrence and encourages arts collaborations within the community.” Click here for an application.

Reply 7 comments from

Posted by Chad Lawhorn on March 14, 2013 at 10:23 a.m.

- permalink
Ms. Affalter,

The developer will be required to do a drainage study for the proposed development. That study will have to show what will be done with the runoff from the project and its effects on the watershed.

Matt Bond, P.E., CFM  
Stormwater Engineer | mbond@ci.lawrence.ks.us  
Public Works Department | City of Lawrence  
PO Box 708, Lawrence, KS 66044  
office: (785) 832-3142 | fax: (785) 832-3398

From: Jean Affalter [affalter@att.net]  
Sent: Monday, September 09, 2013 11:04 AM  
To: Matt Bond  
Subject: sewer

2543 Cedarwood Ave.

I was just checking back with you to see if you have any updates information on the storm sewers in our area. Can they withstand more building in this area when we have a very heavy down pour of rainfall. Has there been a survey done in this area?  
Thank-you for your help.

Jean Affalter

---

No virus found in this message.  
Checked by AVG - www.avg.com  
Version: 2013.0.3392 / Virus Database: 3222/6650 - Release Date: 09/09/13
Ms. Affalter,

Sanitary sewer flows are a function of land use, density, and equivalent population. Sanitary sewer capacity is reviewed with all proposed projects within the City of Lawrence. This is a requirement per Administrative Policy 76. If there is a capacity issue it will be addressed as part of the project.

Please let me know if you have any questions.

Thanks,

John D. Shutak, P.E., CFM, Utilities Engineer - jshutak@lawrenceks.org
Department of Utilities | City of Lawrence, KS
PO Box 708, Lawrence, KS 66044
office (785)-832-7801 | fax (785)-832-7806

---

2543 Cedarwood

Can Cedarwood Ave. carry 30 or more people added to our sanitary sewer system if more buildings is added on our street? Thanks-you.

Jean A.
2583 Cedarwood Avenue

Re: Proposed colony of homes for low-income seniors behind the United Way Building between Ridge Court and Cedarwood Avenue by Tenants to Homeowners:

To the Lawrence Planning Commission:

Dear Commissioners:

This letter is to state my objections to the above proposal, for the following reasons:

1. The neighbors strongly object because
   a. The site is too small for the project
   b. produces water and sewage problems already damaging properties in the area
   c. The proposal would bring even more traffic and noise: cars and motorcycles use neighboring streets to avoid 23rd and Iowa St. lights
   d. The neighborhood already has too many rentals and dwellings for more than one family
   e. The neighborhood has problems with crime: fights, drug searches, arson, traffic accidents; there was a murder at 26th and Ridge Court

2. The value of existing homes would be affected

Yours sincerely,

[Signature]

Beverly M. Boyd

Professor Emerita of English, K.U.

(785-843-7598)
Apartment Buildings in area & Some with Duplexes

1. Campus Court at Naismith
   1301 W. 24th St.
2. Eddingham Apartments
   W. 24th St. across the St. Campus Court
3. Cedarwood Villa
   2411 Cedarwood Ave.
4. Crescent Heights
   1815 W. 24 St.
5. Hampton Court
   2350 Ridge Ct.
6. Oaks
   2357 Ridge Ct.
7. Parkway Terrace
   2340 Murphy
8. Hillview
   24th St. & Ridge Ct.
9. Park Plaza
   1912 W. 25th St. Located on Red Bud Lane
10. Blue Jay
    2310 W. 26th St.
11. Windmill
    Ridge Court & 27th St.
12. Naismith Place
    1502 W. 25th Ct.
13. Red Bud Lane
A - Apartments
D - Duplexes

Naismith Place
1502 W. 25th Ct.
My Map

apartments

D - Duplexes
A - Apartments

Campus Court
1301 W. 24th St.

Cedarwood Villa
2411 Cedarwood

Eddingham Apartments

Copyright 2011 Esri. All rights reserved. Thu Sep 12 2013 10:35:19 AM.
A- Apartments
D- Duplexes
A- Apartments

Campus Court
1301 W. 24th St.
My Map

Apartments

A - Apartments

D - Duplexes

Hampton Court
2350 Ridge Ct.

Cedarwood Villa
2411 Cedarwood

Oaks
2357 Ridge Ct.

Crescent Heights
1815 W. 24th

Hillview
24th Ridge Ct.
A - Apartments

Oaks
2357 Ridge Ct.

Hillview
24th St. & Ridge Ct.

Parkway Terrace
2340 Murphy
My Map

A - Apartments
D - Duplexes

PARK PLAZA
1912 W. 25th
Located on Red Bud Lane

Blue Jay
2310 W. 26th

Windmill
Ridgect. & 27th St.

Red Bud Apartments
My Map
Apartment

D - Duplexes
A - Apartments

Park Plaza
1912 W. 25th
Located on Red Bud Lane

Red Bud Apartments
D - Duplexes

A - Apartments

Red Bud Apartments
Protest Petition against the Senior Housing Project on Cedarwood Ave.
2518 Ridge Court

This letter is to state the objections homeowners in the Cedarwood Ave. neighborhood of the planned residential development for low income senior citizens in the vacant land behind the United Way building of this plan by Tenants to Homeowners for the following reasons.

1. Overpopulation- We are already overpopulated with duplexes, rental homes, apartments, and townhouses, with consequent strain on the utilities. Many homeowners are experiencing sewer and drainage problems (flooding), which are causing damage to our existing properties. This housing property could become Section 8 housing of 14 units. While we do not object to adding more seniors to the neighborhood, what we do disagree to is the addition of more rental property.

2. The planned development would increase traffic and could encourage more crime, such as theft, vandalism, mugging and worse, etc. We have already experienced these things as well as shootings.

3. The development will also increase the noise level from traffic and entertainment in the area.
This will also affect our property values.
Please Sign below.

__ Name__

Charlotte Montgomery
Barry W. Boyd
Nama Welch
Bob Welch

__ Address__

2558 Cedarwood Ave
2563 Cedarwood Ave
2561 Cedarwood Ave
2561 Cedarwood Ave
2540 Cedarwood Ave

Vice President
Landlord
Landlord 2516 Cedarwood Ave

(President)
Landlord 2516 Cedarwood Ave

Protest Petition against the Senior Housing Project on Cedarwood Ave.

_Name_  
Jean Affalter  
Dane Affalter  
Steena Nathan  
Helen Call  
Judy Williams  
Christine Williams  
Greg Williams  
Rebekah Haber  
Karen Green  
Deirdre Savage  
Lee Griffin  
Helen J. Renick  
John B. Renick  
Carmen Allen  
Matthew Nelson  
Helena Deahl  
Sandra Klein

_Address_  
2543 Cedarwood Ave.  
2543 Cedarwood  
1729 W 25th St.  
1735 W 25th St.  
1732 W 25th St.  
1732 W 25th St.  
2426 Ridge Cl.  
1733 Kent Terr.  
1727 Kent Terr.  
1716 Kent Terr.  
1715 Kent Terr.  
2564 Cedarwood Ave.  
2564 Cedarwood Ave.  
2565 Cedarwood Ave.  
1724 W 25th St.  
1724 W 25th St.
Protest Petition against the Senior Housing Project on Cedarwood Ave.

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
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<tbody>
<tr>
<td>Ronald &amp; Arnold</td>
<td>2503 Ridge Court</td>
</tr>
<tr>
<td>Kermit Aldridge</td>
<td>2565 Ridge Court</td>
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<tr>
<td>Emily Lange</td>
<td>@ 1733 W. 26th St.</td>
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<td>Elizabeth Cooper</td>
<td>1724 W. 26th St.</td>
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<td>Edine Trout</td>
<td>2556 Ousdahl Rd.</td>
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<tr>
<td>Barbara McDannough</td>
<td>2531 Cedarwood Ave.</td>
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<td>Douglas Trout</td>
<td>2556 Ousdahl Road</td>
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<td>Daniel Waters</td>
<td>2552 Cedarwood Ave.</td>
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<td>B Waters</td>
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<td>Daniel Waters</td>
<td>1613 W. 26th Street, Lawrence</td>
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<td>1703 W. 25th Street</td>
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<td>2541 Ousdahl Rd.</td>
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<td>2514 Ousdahl Rd.</td>
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<td>Steven E. Davids</td>
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<td>Katherine L. Davids</td>
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</tbody>
</table>
Protest Petition against the Senior Housing Project on Cedarwood Ave.

_Name_
BARBARA GIRARD
Laura Hollinger
Alan Hollinger
DOMIN Griffin
David Griffin
Donald Harely
Robert J. Harely
Melody Powers

_Address_
2557 Owensdale Rd.
1609 W. 26th St.
1607 W. 26th
1604 W. 26th

2551 Cedarwood
2529 Ridge Ct.
2546 Cedarwood
2546 Cedarwood

2539 Ridge Ct.
Lawrence, KS 66046
2539 Ridge Ct.
2529 Ridge Ct.
Lawrence, KS 66046

1714 W. 25th St.
Lawrence, KS 66046
1621 W. 26th
Lawrence, KS 66046
Protest Petition against the Senior Housing Project on Cedarwood Ave.

_Name_

1. Mattie L. Tubbs-Adeleja
   Vivian L. Tubbs

   Jamie Bone
   Sean Metzinger

_Address_

2557 Cedarwood Ave
Lawrence, KS 66046

2537 Cedarwood
Lawrence, KS 66046
REZONING (SPECIAL USE PERMIT) PROTEST PETITION

Protest Petition against Cedarwood Senior Housing by Tenants to Homeowners 2518 Ridge Court Behind United Way Building Vacant land Cedarwood Ave.

We, the undersigned property owners, do hereby protest the proposed rezoning by the Board of City Commissioners of Lawrence, Kansas from R57 Single-Dwelling Rescinded (existing zoning) to RML2 Multi-Dwelling Residential (proposed zoning) of (or the SUP to permit for ___________________________ on) the following described property:

[Attach or insert legal description or general description of the real estate proposed to be rezoned (or for the proposed SUP). A description of the real estate is available through the Lawrence-Douglas County Planning Office.]

We, the undersigned, are owners of real property located within the statutory area of notification related to the area for which the rezoning (or SUP) is sought. See K.S.A. 12-757(f). Note: Print name legible below or beside signature. All owners of the property must sign.

<table>
<thead>
<tr>
<th>PRINTED NAME AND SIGNATURE OF OWNER</th>
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<tr>
<td>VSM Properties LLC 2546 Cedarwood Ave.</td>
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<td>Vicki Taylor 2546 Cedarwood Ave 2915 Alabama St 9/7/13</td>
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<td>Vicki Taylor</td>
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<tr>
<td>Melody Powers 2546 Cedarwood Prairie Village KS 66028 9/7/13</td>
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<td>Melody Powers</td>
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<tr>
<td>Stephen C Cleverly 817 Mulberry Dr 2546 Cedarwood LAW. KS. 9/7/13</td>
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**STATE OF KANSAS**

**COUNTY OF DOUGLAS**

I am the circulator of this Protest Petition and a resident of the state of Kansas and possess the qualifications of an elector of the State of Kansas. I have personally witnessed the signing of the Protest Petition by each person whose name appears thereon.

Circulator Signature: _____________________________  Printed Name: _____________________________

Circulator's Residence and Address: 2905 Alabama St  Date: 9-7-2013

Signed and sworn to (or affirmed) before me on this 7th day of September.

2d P. by _____________________________, circulator of this Protest Petition.

Notary Public
My appointment expires: 4-01-2017

Revised 07/30/07
REZONING (SPECIAL USE PERMIT) PROTEST PETITION

Protest Petition against Cedarwood Senior Housing by Tenants to Homeowners
2518 Ridge Road Behind United Way Building

We, the undersigned property owners, do hereby protest the proposed rezoning by the Board of City Commissioners of Lawrence, Kansas from "existing zoning" to "proposed zoning" of (or the SUP to permit for ______________________ on) the following described property:

[Attach or insert legal description or general description of the real estate proposed to be rezoned (or for the proposed SUP). A description of the real estate is available through the Lawrence-Douglas County Planning Office.]

We, the undersigned, are owners of real property located within the statutory area of notification related to the area for which the rezoning (or SUP) is sought. See K.S.A. 12-757(f).

Note: Print name legible below or beside signature. All owners of the property must sign.

PRINTED NAME AND SIGNATURE OF OWNER  DESCRIPTION OF PROPERTY WITHIN NOTIFICATION AREA  RESIDENCE ADDRESS  (IF DIFFERENT)  DATE

Virginia Bondreau  Directly Across Street 2548 Cedarwood Ave  9/8/13

Virginia Bondreau  Almost

State of Kansas  ss:  Douglas County

Signed before me on this 8th day of September, 2013.

BARBARA J. TROUSLOT  Notary Public

Note: When we bought our house, we were told that no housing project would be built. It would always be a field.

The storm sewer is at the bottom of my driveway. When it rains hard the rainwater comes up in my driveway. One time water came up to the door. I have seen a river of water flow down the hill then flow into a stream.
REZONING (SPECIAL USE PERMIT) PROTEST PETITION

Protest Petition against Cedarwood Senior Housing by Tenants to Homeowners
2518 Ridge Court Behind United Way Building
Vacant land-Cedarwood Ave.

We, the undersigned property owners, do hereby protest the proposed rezoning by the Board of City Commissioners of Lawrence, Kansas from RS7 (Single-Dwelling Residential) (existing zoning) to RM2 (multi-Dwelling Residential) (proposed zoning) of (or the SUP to permit for ___________________________ on) the following described property:

[Attach or insert legal description or general description of the real estate proposed to be rezoned (or for the proposed SUP). A description of the real estate is available through the Lawrence-Douglas County Planning Office.]

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<td>MARY L. SPENCER</td>
<td>1715 W 25th</td>
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<tr>
<td>CRISTINA MONTGOMERY</td>
<td>2553 Cedarwood</td>
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<td>JAMIE BONE</td>
<td>2537 Cedarwood</td>
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<td>SCOTT MCKINLEY</td>
<td>2537 Cedarwood</td>
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<tr>
<td>DANIEL E. WATERS</td>
<td>2552 Cedarwood</td>
<td></td>
<td>8/26/13</td>
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<td>ROBERT L. HAMMERSMITH</td>
<td>2503 Ridge Court</td>
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<td>8/27/13</td>
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<td>RICHARD HAMMERSMITH</td>
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<td>VIRGINIA HAMMERSMITH</td>
<td>2529 Ridge Court</td>
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<td>8/27/13</td>
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<tr>
<td>Helen Ackle</td>
<td>1736 W 25th</td>
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<td>Kathy J. Affleck</td>
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<td>Judy Williams</td>
<td>2543 Cedarwood Ave.</td>
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<td>8/28/13</td>
</tr>
<tr>
<td>Reg Williams, deceased (100 yr)</td>
<td></td>
<td></td>
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<tr>
<td>Steve Nathan</td>
<td>1729 W 25th</td>
<td></td>
<td>8/28/13</td>
</tr>
<tr>
<td>Sharon Nathan, deceased (100 yr)</td>
<td>1729 W 25th</td>
<td></td>
<td>8/28/13</td>
</tr>
<tr>
<td>Sandra Loope, deceased (100 yr)</td>
<td>2539 Ridge Ave.</td>
<td></td>
<td>8/29/13</td>
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<tr>
<td>Enrique Penalosa</td>
<td>2539 Ridge Ave.</td>
<td></td>
<td>8/29/13</td>
</tr>
<tr>
<td>Jen Decker</td>
<td>1703 W 25th</td>
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<td>9/3/13</td>
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</tbody>
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STATE OF KANSAS  
COUNTY OF DOUGLAS  

I am the circulator of this Protest Petition and a resident of the state of Kansas and possess the qualifications of an elector of the State of Kansas. I have personally witnessed the signing of the Protest Petition by each person whose name appears thereon.

Barbara L. McDonough
Circulator Signature

Barbara L. McDonough
Printed Name

Circulator’s Residence and Address: 2551 Cedarwood Ave. Date: 9-12-2013

Signed and sworn to (or affirmed) before me on this 12th day of September 2013 by Barbara L. McDonough, circulator of this Protest Petition.

Debra J. Liatkos  
Notary Public  
My appointment expires: 10/14/2013

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DEBRA J. LIAKOS  
NOTARY PUBLIC  
STATE OF KANSAS  
My Appt. Exp. 10-14-2013

Revised 07/30/07
Funeral services for Rex A. Williams, 64, Lawrence, KS will be at 9 a.m. Thursday, August 2, 2012 at the Warren-McElwain Mortuary- Eudora Chapel. Burial will follow in the Eudora Cemetery. He died on Sunday, July 29, 2012 at his home in Lawrence.

Rex Williams was born July 28, 1948, in Mountain Home, AR, the son of Eugene and Betty Bearden Williams. He grew up in Eudora, KS, graduating from Eudora High School in 1969. Rex married his wife of 42 years, Judy Taylor, in 1970.

His work experience included Dillons, manager of Jayhawk Towers, and manager of Jayhawk Training Table in Lawrence, until 1975, when he changed careers and worked for Mid-Central Fish and Frozen Foods, in Kansas City, KS. When the company was sold to SYSCO, Rex transitioned from truck driver into sales, and later became a supervisor over the truck drivers. Rex remained a dedicated employee until he became disabled with COPD.

He received a lung transplant in 2003. The Williams Family is forever grateful to the family of Matthew LeBeau for giving Rex the ability to live another 9 years. Rex took advantage of every opportunity to speak at schools, telling his story of smoking, and how it ruined his life, and became a spokesperson for organ donation. Rex became very involved with KU’s International Students. Through this program, the family has grown in numbers, and in great relationships. Rex has been an “American Dad” to many – Ranata, Hyo Jung, Angel, Jade, Shon Kin, Calvin, Tinsa, Kai Chin, and even “Grandpa” to Gianna – just to name a few. The entire Williams Family has reaped the benefits of consistently adding new “family” members and increased knowledge and respect of other countries and their customs. A lot of love has been exchanged back and forth with the Williams’ International Family, and these relationships will continue to be a source of joy and encouragement for the family.

Rex loved babies – all babies – and wanted to be a valuable member to the Family of God. He took care of several infants during his time of disability, often volunteering to care for babies of parents experiencing financial difficulties. He was always available to do whatever was needed, to the extent that is health allowed. Wherever he saw a need – he stepped up to the challenge. Most recently, he saw the need in his Church Family in Lawrence, to learn how to run the sound system during services. He quickly mastered this task, and taught others to be able to duplicate and/or take-over this ministry as well. Rex was a vital part of the Worship Team. He never missed a rehearsal, and always made himself available to any one of the FCL Family who needed practice with the sound system. This ministry, among others, was a true joy for him.

Rex found his greatest pleasure in God, and the family that God blessed him with. His grandchildren – Makenna, Tessa, Kelsey, Sara, Liz, Gianna, and Brent – have had many “memory making moments” with their PaPa. He will be extremely missed by his children – LaVonda Norcross, Craig Williams, and their respective spouses, Jody and Christine – are a living legacy for Rex. They, along with his wife, Judy, were Rex’s biggest supporters. He is also survived by his mother, Betty King, of Eudora, KS, a brother, Larry Williams, of Lawrence, KS, two sisters, Hope Candiff and Frances Dunavin, both of Eudora, KS. He was preceded in death by his father. The laughter, and the tears, will always bring smiles to the hearts of his favorite kids.

The family will greet friends from 7-9p.m. Wednesday, August 1st at Warren-McElwain Mortuary- Lawrence Chapel.

The family suggests memorials in his name to the Family Church of Lawrence and may be sent in care of the mortuary.

Online condolences may be sent to www.warrenmcelwain.com.

Please sign this guestbook at Obituaries.LJWorld.com.
REZONING (SPECIAL USE PERMIT) PROTEST PETITION

Protest Petition against Cedarwood Senior Housing by Tenants to Homeowners
2518 Ridge Court - Behind United Way Building
Vacant land - Cedarwood Ave.

We, the undersigned property owners, do hereby protest the proposed rezoning by the Board of City Commissioners of Lawrence, Kansas from RS7 Single-Dwelling Residential (existing zoning) to R M12 Multi-Dwelling Residential (proposed zoning) of (or the SUP to permit for ________________________) on the following described property:

[Attach or insert legal description or general description of the real estate proposed to be rezoned (or for the proposed SUP). A description of the real estate is available through the Lawrence-Douglas County Planning Office.]

We, the undersigned, are owners of real property located within the statutory area of notification related to the area for which the rezoning (or SUP) is sought. See K.S.A. 12-757(f).

Note: Print name legible below or beside signature. All owners of the property must sign.

<table>
<thead>
<tr>
<th>PRINTED NAME AND SIGNATURE OF OWNER</th>
<th>DESCRIPTION OF PROPERTY WITHIN NOTIFICATION AREA (IF DIFFERENT)</th>
<th>RESIDENCE ADDRESS</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Robert Welch</td>
<td>2561 Cedarwood Ave</td>
<td>8-20-13</td>
<td></td>
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<tr>
<td>Nema Welch</td>
<td>2561 Cedarwood Ave</td>
<td>8-20-13</td>
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<tr>
<td>Helena Delk</td>
<td>2565 Cedarwood Ave</td>
<td>8-20-13</td>
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<tr>
<td>Dustin Delk</td>
<td>2565 Cedarwood Ave</td>
<td>8-20-13</td>
<td></td>
</tr>
</tbody>
</table>
STATE OF KANSAS  

COUNTY OF DOUGLAS

I am the circulator of this Protest Petition and a resident of the state of Kansas and possess the qualifications of an elector of the State of Kansas. I have personally witnessed the signing of the Protest Petition by each person whose name appears thereon.

Barbara L. McDonough  
Circulator Signature  

Circulator's Residence and Address  
2531 Cedarwood Ave.  
Date 9-12-2013

Signed and sworn to (or affirmed) before me on this 12th day of September, 2013 by Barbara L. McDonough, circulator of this Protest Petition.

Debra J. Liakos  
Notary Public  
My appointment expires: 10/4/2013
REZONING (SPECIAL USE PERMIT) PROTEST PETITION

Protest Petition against Cedarwood Senior Housing by Tenants to Homeowners
2518 Ridge Court Behind United Way Building Vacant Land -
Cedarwood Ave.

We, the undersigned property owners, do hereby protest the proposed rezoning by the Board of City Commissioners of Lawrence, Kansas from RS7 Single-Dwelling Residential (existing zoning) to RM2 Multi-Dwelling Residential (proposed zoning) of (or the SUP to permit for 2527-2529 Osuala) on) the following described property:

[Attach or insert legal description or general description of the real estate proposed to be rezoned (or for the proposed SUP). A description of the real estate is available through the Lawrence-Douglas County Planning Office.]

We, the undersigned, are owners of real property located within the statutory area of notification related to the area for which the rezoning (or SUP) is sought. See K.S.A. 12-757(f).

Note: Print name legible below or beside signature. All owners of the property must sign.

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<th>RESIDENCE ADDRESS (IF DIFFERENT)</th>
<th>DATE</th>
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<tbody>
<tr>
<td>J Rosario Ramirez</td>
<td></td>
<td>9/3/13</td>
<td></td>
</tr>
<tr>
<td>Maria N Ramirez</td>
<td></td>
<td>9-03-13</td>
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</tbody>
</table>
STATE OF KANSAS
COUNTY OF DOUGLAS ss:

I am the circulator of this Protest Petition and a resident of the state of Kansas and possess the qualifications of an elector of the State of Kansas. I have personally witnessed the signing of the Protest Petition by each person whose name appears thereon.

Circulator Signature: ___________________________

Printed Name: ___________________________

Circulator's Residence and Address: 1015 Ward St
Date: 9/3/13

Signed and sworn to (or affirmed) before me on this 3 day of September 2013 by Rosana Ramirez and __________________________, circulator of this Protest Petition.

Notary Public
My appointment expires: 12-19-16

NOTARY PUBLIC - State of Kansas
STEPHANIE OSPWALD
My Aptt. Exp. 12-19-16

Revised 07/30/07
To Whom it may concern:

I am the property owner at 1732 W. 25th street. My husband and I purchased this home many years ago. We raised our family in this home and hoped to continue living here until we pass it on to our children. My husband passed away last year and I am feeling more unsafe with each passing month as my neighborhood becomes more renters than homeowners.

I understand that a rezoning is proposed for property in my neighborhood. (Z-13-00288) PLEASE do NOT do this to us. The children in this part of town have no park to play ball or just run in, unless they cross heavily traffic streets like Iowa or 23rd street. That property is used by my grandchildren as well as the children and young people in the neighborhood for recreation.

When I moved in there were a few rental properties in this area, now most of the properties are rental units. Our clean, quiet neighborhood has turned into a place where guns and drugs and police cars park daily. I have gone from knowing all my neighbors to not being able to keep up with what car belongs in whose driveway, from visiting across the street to not knowing who REALLY lives across the street. It is sad.

I ask again PLEASE DO NOT ALLOW ANY MORE HOMES TO BE BUILT IN THIS NEIGHBORHOOD,

Judy Williams

[Signature]
September 22, 2013

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

RE: RS7 TO RM12; 2.119 ACRES; 2518 RIDGE CT

Dear Chairman Culver and Planning Commissioners:

The local League has extensively studied development and environmental issues here in Lawrence and has positions on storm drainage and related environmental concerns. One key position is that “Development should avoid such alteration of land as to produce hazard, nuisance, [or] deterioration...”

In studying the issue of the development of the Tenants to Homeowners proposed rental housing for the elderly, Z-13-00288, we discovered that there is an extensive storm drainage and sewer backup problem for residents living adjacent to this proposed development and in the general area. Because this development will considerably reduce the soil absorption of rainwater in this subject lot, several unfortunate outcomes could result:

1. The runoff from the lot will increase unless the detention pond draining it has the capacity for a 100-year storm or greater.
2. Depending on the direction of storm drainage flow, the subject lot could receive water from neighboring land, which would cause problems for it.
3. The sanitary sewer backup problems could increase from the increased load on the system from use as well as from stormwater problems. (In the older neighborhoods some houses’ foundation drains are also hooked onto the sanitary sewers.)

All of these drainage problems could lead to a seriously failed project, which in turn, once the zoning has been granted, would not be reversible. If the residents of the project suffer because of the environmental problems, it is likely that the project would fail. Should this happen, it is likely that the project would be sold. In that case, with the RM12 zoning, there would be real uncertainty as to the outcome of the project and of its impact on the neighborhood. Conceivably the future landowners would suffer along with the residents of the neighborhood. For this reason, we ask that you not approve this or any project on this land or in this neighborhood that would lead to further drainage problems. Furthermore, we ask that you not consider rezoning this property except to OS until the drainage problems have been corrected.

We further need to point out that this is a general planning problem here in Lawrence. The planning process is reversed from how it should proceed. Before any rezoning on any land has been initiated, the potential drainage
problems should be assessed and the limitation of the land known in advance, including vacant as well as developed areas. If there are known problems, they must be corrected first. We have a Stormwater Management Plan and study that was made following the initiation of the stormwater management utility. It identified areas with problems and made plans for correcting them. This area should have been included and the neighborhood problems should have been corrected. If this neighborhood was missed, we ask that you request a study of its drainage and sewer backup problems and that the problems be corrected before you consider intensifying any of its zoning districts.

Thank you.

Sincerely yours,

Cille King
Co-President

Alan Black, Chairman
Land Use Committee
Dear Bryan, Patrick and Clay,

Thank you all for your public service on the Planning Commission. I shared this verbally with Patrick yesterday, but wanted to formally tell you that while I can’t attend your meeting on Monday evening I would like to express an opinion.

The United Way of Douglas County Center for Human Services will be one of the neighbors of the proposed senior housing development championed by Tenants to Homeowners. We are thrilled by the opportunity for seniors of different income levels to have access to high quality housing in a central location. We believe that this community can be an asset to this neighborhood as engaged community members, and even volunteers.

We strongly support the proposed plan. Please feel free to contact me if you have any questions.

Thanks,
Erika Dvorske
President/CEO
United Way of Douglas County
2518 Ridge Court, Room 200
Lawrence, KS  66046
785-843-6626
FAX 785-843-3728
uwdirector@unitedwaydgco.org

http://www.unitedwaydgco.org
September 20, 2013

Lawrence-Douglas County Metropolitan Planning Commission
PO Box 708
Lawrence, KS 66044

Regarding: **Z-13-00288**: Consider a request to rezone approximately 2.119 acres from RS7 (Single-Dwelling Residential) District to RM12 (Multi-Dwelling Residential) District, located at 2518 Ridge Court

Kaw Valley OWL supports the Cedarwood Senior Cottages project and encourages the approval of the request for a zoning change to multi-family residential. Building in an established neighborhood avoids the pattern of building on the outskirts of town, isolating seniors in designated communities and reducing access to transportation. Infill development is a sound planning principle that accommodates growth with less infrastructure cost.

Tenants to Homeowners has worked with our members in planning this development. The physical design considers the needs of aging adults. The plan for long term leases will create a sense of ownership while respecting the financial needs of retirees. It is intended to meet the needs of moderate income seniors, many of them long term residents of Lawrence and Douglas County.

In addition to serving the needs of seniors, this development will benefit the neighborhood. It will replace an empty lot with attractive homes and well designed green space. The development process will address drainage issues that have long been a concern of neighbors. The current plan includes public space that will foster interaction between area residents.

Tenants to Homeowners is an established and respected part of the Lawrence community. They can be trusted to build and maintain these cottages in a manner that strengthens the immediate neighborhood and Douglas County community.

Respectfully,

[Signature]
Gayle Sigurdson, President
Kaw Valley OWL
From the beginning the idea of having the vacant lot behind the United Way has been flawed. From the start the people who live and own property in the neighborhood were never properly notified of the idea of building units of this nature in this area. For a person who actually lives on the same street to not tell her neighbors of the intentions of Tenants to Home Owners is unexcusable. The first meeting was where the drawings of this project were first shown to the property owners that would be affected by the units.

From the start those of us who live here started asking questions, we were meant with hostilily from Rebecca Buford. There are so many problems now with the antiquated sewage system, water from the entire developement going into one area affecting several homes, sewage lines are on private property requiring neighbors consent to work on the sewage lines, etc. There have been several water line breaks requiring several properties to have their yards to be dug up to repair lines same with gas lines. I would hate to think I drove down Cedarwood for years and never noticed that there were city trucks and plumbers trucks all over the place so often.

Another problem is the large number of rental units in the area. No one is saying all renters are bad, but we have in the past had problems with some of them. So many of these rentals have absentee owners who can’t be contacted if their tenants cause problems or are not caring for their properties which diminish the value of our homes. Ms. Buford has changed the intended use of these units several times, to this day there is nothing in writing from Tenants to Home Owners. The question of children came up at the first meeting - then the architect said that there would be no children and no design was done to accommodate them; then Ms. Buford said that children could live there - which is right? Then the number of pets - last meeting it was one. Problem there is that people walk their dog down Cedarwood and never pick up the waste left by their pet. Animal control has been to Buford’s home several times because of animals at large, so will she make sure that animals are not a problem when she thinks she will run these homes?

Then there is how old can the people be that qualify for living in these units - one time Ms. Buford said 55 then 65 - who knows? Fact is ANY question posed to Ms. Buford has never been completely or honestly answered to this date. Then there is the traffic on Cedarwood, the entire developement empties on to Cedarwood. Even the police said that this was already one of the most dangerous streets in Lawrence because its hills and its crooked. Cedarwood is always the last street in Lawrence to be cleaned of snow, another problem. The city did replace the black top street that was in need of repair for years, now there will be construction vehicles and trucks for months now. All the people on the 2500 block of Cedarwood are concerned about traffic except Ms. Buford I guess.

There was no consideration for the use of the land by Ms. Buford. Some wanted nice homes to help the resale of our homes, some wanted a nice park, others wanted an expansion of nursing needs in the community, and others just wanted it left alone because that is why they bought the property to start with. This is all an example of Tenants to Home Owners to shove their
idea on the neighborhood with no input from the people who own property here

To give an example of the way concerned property owners have been treated by Ms. Buford is any question addressed to the architect has been meant with compassion and respect. He never raised his voice like Ms. Buford or acted disrespectful to our questions. I ask about the lighting in the development, how can the lot be made level without a drainage problem, how the utilities would be done, etc. Never once did he make negative remarks, those were always from Ms. Buford. If he and the developer can try to build this rental property without making property owners mad what the story with Ms. Buford. In short if she is the person that property owners must contend with before the units are made, just think how impossible it will be to work with her then?

The fact is all the homes on Cedarwood are in need of some very expensive work, from the worthless locally made siding we have that needs to be replaced or painted to a neighbor who must do around $70,000 of foundation work. You can see if we all have to put a lot of money into our homes and there is something that can negatively affect the value after we all have spent so much money we will be very unhappy. Most of our neighbors have already spent thousands on their homes, foundations, painting, remodeling, etc. We just don’t want it to be wasted because of a poorly thought out development like Ms. Buford is pushing with out regard to property owners. Probably the most blighted property on Cedarwood is hers right now.

To sum it up, if this is the way Tenants to Home Owners treats people in established neighborhoods they should be eliminated from doing business. Ms. Buford has the old idea of block busting like when blacks started to move into white areas, which this practice was supposed to be illegal. This caused what was called white flight. Now Tenants to Home Owners wants to put rentals in neighborhoods hoping property owners will move - same difference. When everything is taken into account it is clear Ms. Buford does not have the ability, personality, background, or the qualifications to oversee this project. And if Tenants to Home Owners have this quality person doing their bidding maybe they also should be disbanded from destroying neighborhoods in the future.

Donald G. Hawley 2551 Cedarwood, Lawrence, Kansas, 66046

Phone 785-865-8306, email ghaw17@sbcglobal.net

RECEIVED
SEP 20 2013
City County Planning Office
Lawrence, Kansas
Planning Commission:

I'm writing in support of the proposed Cedarwood Senior Housing Project by Tenants to Homeowners (TTH). I am a 71 year old single senior, living in my home at 2409 Ridge Court, where I have lived for the past 16 years. I am also a retired architect with a speciality in design for the disabled and am on the board of TTH.

I believed the Cedarwood project is an excellent location to provide downsizing and cost effective housing for active middle class seniors such as myself. I personally take advantage of many of the amenities in my neighborhood by walking to the drug store, groceries, coffee shop, bank and other businesses and have used the bus to go downtown.

Active seniors are very interested in the community and provide many volunteer services. I volunteer at LMH, at the Senior Center for SHICK Medicare Part D enrollment, and as an AARP Taxaide, and I am not an exception. We seniors are looking for housing such as the Cedarwood project, with less hassle (exterior repairs & maintenance) to allow time and energy to continue to be part of the Lawrence community.

As rental housing, the Cedarwood project would free up home equity to be available for major health issues (if they occur) and to simplify estate settlements. This project would also provide more security and community for myself and other seniors who want to “age in place” and could be quite a long term commitment. For example, my mother lived at Babcock Place from the age of 82 to 95 until she required assisted living services.

The need for senior housing for the middle class is increasing rapidly with the aging of the Boomers and at the same time individual retirement funds are decreasing due to the economy. Many of us are just one major health issue away from dropping out of the middle class and are worried about burdening our families in that event. Lawrence has a wonderful opportunity to support its senior population by endorsing the Cedarwood Senior Housing project. I appreciate your consideration in this respect.

Sincerely,

Linda L Troxel
2409 Ridge Court, Lawrence
785-838-3711
ITEM NO. 7:  RM12D-UC TO CS-UC; .27 ACRE; 804 PENNSYLVANIA ST (MKM)

Z-13-00287: Consider a request to rezone approximately .27 acres 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.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning request for approximately 0.27 acres from RM12D-UC to CS-UC with conditions (see options below) and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

Staff provides the following options for the condition associated with the CS Zoning:

Option 1: Approve the rezoning request maintaining the condition established with Ordinance 8054:
   The following uses are excluded from the zoning district:
   - 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
   - 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

Option 2: Approve the rezoning request revising the condition established with Ordinance 8054 to replace the restriction on Bars with operational standards to insure compatibility with the surrounding properties and maintain the character of the area:
   The following uses are excluded from the zoning district:
   - Bars [unless the following operational standards are met:
     a. Restricted business hours. (Require that business hours end at midnight for example.)
     b. Restrict amplified music on the outdoor seating area past a certain time such as: 10 PM on weeknights, 11 PM on weekends.
     c. Limit the size of the outdoor seating area. (For example, set a maximum occupancy limit for the outdoor area.)]
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

APPLICANT’S REASON FOR REQUEST

“To allow the land use to conform to the proposed use of a small bistro/bar in the 8th & Pennsylvania Neighborhood Redevelopment District.”

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). The Historic Resources Administrator approved the proposed project and made the determination that the proposed project does not encroach upon, damage, or destroy listed historic properties or their environs. This determination is on the HRC September 26, 2013 agenda for confirmation.

- The subject property and the area around the subject property has been master planned through the design guideline process for the 8th and Penn Neighborhood Redevelopment Zone.

- The subject property is located within the 8th and Penn Redevelopment Zone and is regulated in part by the 8th and Penn Neighborhood Redevelopment Zone Design Guidelines. (Figure 2)
The commercial zoning which was approved for portions of the 8th & Pennsylvania Neighborhood Redevelopment District was conditioned with Ordinance 8054 to restrict the uses which are permitted. The CS zoning in place for the other 8th and Penn properties permits a *Bar* use only if 55% or more of the sales were from food sales. The subject property was rezoned to the RM12D District in 2011 to remove the nonconformity status from the duplex unit. This request is to rezone back to the CS District but with a revision to the uses restricted with the conditional zoning to allow a *Bar* use on the subject property without a requirement for the 55% of food sales.

**ATTACHMENTS**

A: List of permitted uses in the 8th and Penn CS District as currently conditioned
B: Proposed rezoning exhibit
C: Ordinance 8054
D: 2006 email from East Lawrence Neighborhood Association
E: Proposed site plan
F: Communications

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

Other Action Required:
- Historic Resources Commission approval. The rezoning will have an administrative review with HRC confirmation set for September 26, 2013.
- City Commission approval of rezoning request and adoption/publication of ordinance.
- Historic Resources Commission approval of proposed changes to the site.
- Administrative approval of site plan for proposed development.
- Application and release of building permit prior to development.

**PUBLIC COMMENT**

- A letter from the East Lawrence Neighborhood Association opposing the removal of the condition requiring that food sales make up at least 55% of the total sales for the bar use was received prior to printing this staff report and is included as an attachment.

**ZONING BACKGROUND**

**Z-01-01-06:** a rezoning request for approximately .5 acres from M-2 (General Industrial) to C-5 (Limited Commercial) District and 4.0 acres from M-3 (Intensive Industrial) District to C-5 (Limited Commercial) District. (Subject property was included in this request.)

- **March 15, 2006:** The Planning Commission voted 8 to 1 to forward the rezoning request to the City Commission with a recommendation for approval subject to the condition that the property by platted prior to the rezoning going into effect.
- **July 1, 2006:** The C-5 District converted to the CS District with the adoption of the 2006 Land Development Code.
August 8, 2006. The City Commission voted 4 to 1 to approve the rezoning to the CS District with a condition to restrict the uses. The condition was to be developed and included with the rezoning ordinance.

October 3, 2006. Uses the neighborhood found to be noxious were provided in an email from the East Lawrence Neighborhood Association President, Janet Good.

December 12 and 19, 2006. The City Commission voted unanimously to adopt the ordinance on first and second readings with the condition restricting the uses as suggested by the ELNA president. The following uses were restricted: 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, 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], and Convenience store with Gasoline Sales.

Z-8-23-11:

Z-8-23-11: Rezoning of subject property from the CS (Commercial Strip) to RM12D (Multi-Dwelling Residential) District to remove the nonconforming status for the existing duplex on this property.

September 26, 2011. Planning Commission voted unanimously to forward the rezoning request to the City Commission with a recommendation for approval.

October 11 and 18, 2011. City Commission voted 4 to 0 to approve the rezoning and adopt the ordinance, No. 8677, on first and second reading.

Project Summary
The request proposes to rezone approximately .27 acres, at 804 Pennsylvania from the RM12D-UC District to the CS-UC District to accommodate the conversion of the use from duplex to an eating and drinking establishment use: Quality Restaurant and/or Bar. These uses are both permitted in the CS District; however, the CS District approved for the 8th & Penn Neighborhood Redevelopment District is conditioned to restrict certain uses from the district.

The approved zoning for the 8th & Penn CS District permitted bars only when at least 55% of their total sales receipts were from the sale of food. This rezoning request includes a request to revise the list of permitted uses included in the conditional zoning approved for the rest of the CS-UC District so that a bar would be permitted without requiring 55% of receipts to be from food sales on the subject property. There would be no changes to the conditions which apply to the other properties in the 8th and Penn CS District. A complete list of uses that are currently permitted in the CS District noting those uses restricted with the 8th and Penn CS-UC Zoning are included in Attachment A.

Minor site changes and an outdoor seating area are planned to accommodate the bistro/bar. A site plan has been submitted and is under review.

REVIEW & DECISION-MAKING CRITERIA

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN
Applicant’s Response:
“ The proposed facility and associated land use currently differs from what is noted in Horizon 2020 because that intent was focused toward industrial development in this location. This proposal fits appropriately within the suggested guidelines set
forth for the current area uses as well as the adjacent 8th & Pennsylvania Neighborhood Redevelopment District by providing compatibility for the entire area.”

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

The Lawrence Future Land Use Map (Map 3-2) of Horizon 2020 designates the subject property for office/research, and industrial and warehouse uses. Chapter Six – Commercial Land Use provides the following recommendation for mixed use development (Page 6-6):

"The City of Lawrence includes areas where infill and new development opportunities exist that would appropriately be developed or redeveloped as 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.”

Chapter Six was revised to include the language regarding the mixed use districts in concurrence with the rezoning of the property to the CS District and the adoption of the Urban Conservation Overlay District and Guidelines in 2006.

**Staff Finding** — The future land use map in the Comprehensive Plan notes the previous land uses for this property before the mixed use development was proposed and approved. The Comprehensive Plan recognizes that mixed use development is appropriate in some infill locations and recommends that it be designed to maintain the character of the surrounding neighborhood and achieve integration with adjacent land uses. Compliance with the provisions of the 8th and Penn Neighborhood Redevelopment Zone Design Guidelines will insure compatibility of the design with the physical character of the surrounding neighborhood; however, introduction of a bar use into the area may have an impact on the character of the surrounding neighborhood due to possible negative impacts associated with the noise and activity of outdoor bar areas.

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

Current Zoning and Land Use: RM12D-UC (Multi-Dwelling Residential with Urban Conservation Overlay) District; duplex.

Surrounding Zoning and Land Use:

To the north:
IG-UC (General Industrial with Urban Conservation Overlay) District; utility yard, 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 event and retail space.

To the east:
RM32-UC (Multi-Dwelling Residential with Urban Conservation Overlay) District; Multi-Dwelling Structure
(Figure 3)

*The subject property and the adjacent properties to the south, east 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)]
- 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 8th and Penn Neighborhood Redevelopment District. The predominate uses are Multi-Dwelling Structure, General Retail Sales, Office, and Heavy Wholesale Storage & Distribution uses.
3. CHARACTER OF THE NEIGHBORHOOD

Applicant’s Response:
“The existing neighbors surrounding this property are industrial tenants to the north, the existing Poehler Building to the east, the existing Cider Art Gallery Building to the south and existing vacant ground to the west. The entire area is being redeveloped into a vibrant part of east Lawrence and the entire city.”

The surrounding area contains industrial, retail, office, and residential uses and clearly reflects the mixed use nature of East Lawrence. The 8th 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.

Staff Finding – This is a transitional area which contains a mix of industrial, residential, office, and retail 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 reuse of the Poehler Building for affordable housing, construction of Delaware Street, and rehabilitation of Pennsylvania Street to its historical brick surface.

The 8th 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 notes: "The centerpiece of the redevelopment zone is the group of masonry manufacturing buildings bounded by East 8th 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 zoning standards at the time did not allow mixed-use development; therefore, the UC-Overlay District was used. An overlay district allows the City and developer to tailor the development standards applicable to an area so that mixed-use development of appropriate size, orientation, and setting can be built within a neighborhood or area. The 8th and Penn Neighborhood Redevelopment Zone Design Guidelines were created to define development standards for the area and were adopted by ordinance.

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 deal with physical design elements.

Staff Finding – The proposed rezoning from RM12D to CS 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 area 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 proposed rezoning is in clear compliance with any land use restrictions or guidelines that could happen inside the zoning district. The granting of this rezoning application in no way opposes the general spirit of the Zoning Ordinance, Subdivision Regulations, or city of Lawrence Land Development Code.”

The existing zoning regulations permit duplex residences. The property contains a structure that has been used for a duplex residence since 1984. The property is well-suited for the uses to which it is restricted under the RM12D Zoning. The intended use of the property is for a bistro/bar which is classified in the permitted use table as fast-order food and bar. The RM12D District does not permit the proposed use; therefore, rezoning is necessary.

The property had previously been zoned CS-UC and is suitable for the uses to which it was restricted under that zoning as conditioned. As noted above, the intended use of the property is for Quality Restaurant and Bar. The condition on the rezoning prohibits the development of a bar and rezoning to remove that restriction is also necessary.
Staff Finding — The property is developed with a duplex residence and is well-suited for the uses permitted within the RM12D District. The existing RM12D District is not suited for the proposed use of a bistro/bar.

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

Applicant’s response:
"It was originally rezoned RM12D as a part of the overall plan associated with the 8th & Pennsylvania Neighborhood Development District in 2011 and has remained primarily vacant until the present time. Returning the property to CS zoning fits well within the surrounding intent of the area."

Staff Finding — The subject property was developed in the late 1800s or early 1900s. The industrial building was converted to a duplex in 1984 and has been used as a duplex since that time.

EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicant’s response:
"As noted in the discussion about conformance with the Comprehensive Plan, the proposed use for a proposed small bistro/café conforms appropriately with current and future land use goals laid out by the City of Lawrence. We believe the approval of this rezoning request will in no way detrimentally affect nearby properties or their associated business operations."

Rezoning to the CS District would place the property back into its previous commercial zoning designation which should have no detrimental impact on nearby properties. However, the rezoning is accompanied by a request to revise the condition restricting uses so that a Bar would be allowed without requiring the 55% food sales.

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 over 90 chairs in the outdoor seating area and approximately 20 seats indoors.

The different nature of the Restaurant and Bar outdoor dining or seating areas can result in differing impacts to an area.

Figure 5. Proposed layout shown on associated site plan. Outdoor seating area is highlighted in yellow.
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. 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. There is a bar in the neighborhood just to the south of the 8th & Penn area, but it has no outdoor facilities. In staff’s opinion, it is the outdoor seating area that would be the source of possible negative impacts with the surrounding properties.

There are other bars located in residential areas within the City: Bullwinkles at 1344 Tennessee and Louise's West at Michigan and 7th Street are examples. There have been noise complaints associated with both bars. However, Bullwinkles and Louise's West are located much closer to the residences than the proposed bar and Bullwinkles is located in an area with a high density college student population. The proposed bar is within the interior of the property and is separated from the residences to the west by Pennsylvania Street, and a vacant lot and industrial uses along the west side of Pennsylvania Street. The closest single-dwelling residence is approximately 200 ft from the subject property; however, the outdoor seating area is just across the alley from the new residential apartments developed in the Poehler Building to the east. The distance may help alleviate negative impacts from the single-dwelling residence.

It may be appropriate to place operating restrictions on the 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 and outdoor activity could be a time limit on amplified music in the outdoor area, or a limit on the amount of outdoor area that would be permitted, or an early closing time, midnight, as suggested in the East Lawrence Neighborhood Association (ELNA) letter for accessory bars.

The comments provided with the original rezoning to the CS District in 2006, when the condition was applied, regarding the character of the area generally referred to the quiet, residential nature of the surrounding properties. The character of this area should be maintained either by retaining the 55% requirement for food sales or by adding operational standards as a condition to the rezoning.

**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 adding operational standards as a condition to the rezoning.

**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:

"This is a unique situation and opportunity for the applicant to ensure adequate zoning and proper use of the existing property while offering a potential service benefit for city of Lawrence citizens who use and visit various 8th & Pennsylvania Neighborhood District facilities. The individual hardship being imposed on the property owner with denial of this application would be that fulfillment of any rehabilitation use to maximize the potential of the property into a new asset for surrounding residents and the City of Lawrence would be eliminated without the property zoning required to redevelop this property."

Evaluation of these criteria includes weighing the benefits to the public versus the benefits of the owner of the subject property. Benefits are measured based on the anticipated impacts of the rezoning request on the public health, safety and welfare. The applicant’s comment above focuses on the rezoning request to the CS District rather than on the request to revise the conditions to permit the Bar use on this property.

If the rezoning to the CS District were denied, the property could only be used for uses permitted within the RM12D District which has proven to be viable at this location.

If the requested CS rezoning was approved but the request to remove the restriction on Bars without the 55% food sales was denied, the nature of the establishment would be a restaurant with an accessory bar. This may benefit the community by maintaining the quiet, residential nature of the surrounding area although there is no assurance that there will not be outdoor amplified music or late hours. As noted earlier; however, the levels of intensity typically associated with the outdoor seating area of a bar is typically greater than that of a restaurant.

If the rezoning to CS with revised restrictions of use to allow a Bar without the 55% food requirement was approved with operational standards included as a condition; 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 with addition of operational standards that limit the intensity and duration of the outdoor activity.

**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 approval of the rezoning request for the property to the CS District but provides the following options for the conditions to insure the use will not have a negative impact on nearby properties.

Options for the conditional zoning:

**Option 1:** Maintain the restricted uses established with Ordinance 8054:

The following uses are excluded from the zoning district:

- 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
- 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

**Option 2:** Revise the condition established with Ordinance 8054 to replace the restriction on Bars with operational standards to insure compatibility with the surrounding properties and maintain the character of the area:

The following uses are excluded from the zoning district:

- Bars [unless the following operational standards are met:]
  a. Restricted business hours. (Require that business hours end at midnight for example.)
  b. Restrict amplified music on the outdoor seating area past a certain time such as: 10 PM on weeknights, 11 PM on weekends.
  c. Limit the size of the outdoor seating area. (For example, set a maximum occupancy limit for the outdoor area.)
- 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
## USES PERMITTED IN THE CS DISTRICT (Restrictions for 8th & Penn noted in red)

<table>
<thead>
<tr>
<th>HOUSEHOLD LIVING</th>
<th>RETAIL SALES &amp; SERVICES</th>
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<tbody>
<tr>
<td>Multi-Dwelling Structure</td>
<td>Building Maintenance</td>
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<tr>
<td>Non-Ground Floor Dwelling</td>
<td>Business Equipment</td>
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<tr>
<td>Work/Live Unit</td>
<td>Business Support</td>
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<tr>
<th>GROUP LIVING</th>
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<tbody>
<tr>
<td>Group Living-General (requires a SUP)</td>
<td>Construction Sales and Service</td>
</tr>
<tr>
<td>Community Meal Program (SUP or Accessory)</td>
<td>Campground</td>
</tr>
<tr>
<td>Utilities Minor</td>
<td>Hotel, Motel, Extended Stay</td>
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<tr>
<td>Utilities Major (SUP)</td>
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<tr>
<th>COMMUNITY FACILITIES</th>
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<tr>
<td>Cemetery</td>
<td>Personal Convenience</td>
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<tr>
<td>College/University</td>
<td>Personal Improvement</td>
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<td>Day Care Center</td>
<td>Repair Service, Consumer</td>
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<td>Day Care Home, Type A and B</td>
<td>Retail Sales, General (<em>liquor store restricted,</em>)</td>
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<tr>
<td>Lodge, Fraternal &amp; Civic Assembly</td>
<td>Retail Establishment, Large (requires SUP)</td>
</tr>
<tr>
<td>Postal &amp; Parcel Service</td>
<td>Retail Establishment, Medium</td>
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<td>Public Safety (<em>ambulance service restricted</em>)</td>
<td>Retail Establishment, Specialty</td>
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<tr>
<th>SCHOOL</th>
<th>SEXUALLY ORIENTED BUSINESSES</th>
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<tr>
<td>Funeral and Interment</td>
<td>Sex Shop</td>
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<td>Temporary Shelter (SUP or Accessory)</td>
<td>Sexually Oriented Theater</td>
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<td>Social Service Agency</td>
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<td>Community Meal Program (SUP or Accessory)</td>
<td>Campground</td>
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<tr>
<td>Utilities Minor</td>
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<td>Health Care Office, Health Care Clinic</td>
<td>Fleet Storage</td>
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<td>Outpatient Care Facility</td>
<td>Gas and Fuel Sales <em>Restricted</em></td>
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<th>RECREATIONAL FACILITIES</th>
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<tr>
<td>Active Recreation</td>
<td>Heavy Equipment Repair <em>Restricted</em></td>
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<tr>
<td>Entertainment &amp; Spectator Sports</td>
<td>Inoperable Vehicle Storage</td>
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<tr>
<td>Participant Sports</td>
<td>Light Equipment Repair <em>Restricted</em></td>
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<td>Passive Recreation</td>
<td>Light Equipment Sales/Rentals</td>
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<td>Nature Preserve</td>
<td>RV and Boat Storage</td>
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<th>PRIVATE RECREATION</th>
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<tr>
<td>Kennel</td>
<td>Research Service</td>
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<tr>
<td>Livestock Sale (requires a SUP) <em>Restricted</em></td>
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<td>Sales &amp; Grooming (<em>Sales Restricted</em>)</td>
<td>Exterior (must be accessory)</td>
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<tr>
<td>Veterinary</td>
<td>Heavy (requires SUP)</td>
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<tr>
<th>EATING AND DRINKING ESTABLISHMENTS</th>
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<tr>
<td>Accessory Bar (must be accessory)</td>
<td>Mini-warehouse</td>
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<td>Bar or Lounge (55% food sales required)</td>
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<tr>
<td>Brewpub</td>
<td>Agricultural Sales</td>
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<td>Fast Order Food</td>
<td>Crop Agriculture</td>
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<td>Fast Order Food with Drive-in</td>
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<th>OFFICE</th>
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<tr>
<td>Nightclub</td>
<td>Amateur &amp; receive only antennas (accessory)</td>
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<tr>
<td>Private Dining Establishment</td>
<td>Communications Service Establishment</td>
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<tr>
<td>Quality Restaurant</td>
<td>Telecommunications antenna (accessory)</td>
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<tr>
<td>Administrative and Professional</td>
<td>Telecommunications tower (SUP)</td>
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<tr>
<td>Financial, Insurance &amp; Real Estate (<em>Short-term cash advance loans, Drive up ATM or window restricted.</em>)</td>
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<tr>
<th>OTHER</th>
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<td>Accessory and Commercial</td>
<td>Large Collection</td>
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<th>PARKING FACILITIES</th>
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<td>Large Collection</td>
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<td>Small Collection</td>
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RE-ZONING MAP

FOR
804-806 Pennsylvania Street

AREA TO BE RE-ZONED
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 8TH 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 9TH STREET TO 8TH 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 9TH STREET TO 8TH 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,

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 19th day of Dec, 2006.

APPROVED:
MIKE AMYX, Mayor

ATTEST:
Frank S. Reeb, City Clerk

APPROVED AS TO FORM AND LEGALITY:
Toni Ramire2 Wheeler Date
Interim Director of Legal Services

LEGAL DESCRIPTION VERIFIED:
David R. Guntert, Planner Date

12/26/06
Noxious uses at 8\textsuperscript{th} and Penn

\textbf{From}: Good, Janet  
\textbf{Sent}: Tuesday, October 03, 2006 2:29 PM  
\textbf{To}: 'Jim McClymont'  
\textbf{Subject}: RE: List of Noxious Uses

Jim,

The whole list is as follows:

bars (55\% income from food rule)
liquor store
Ambulance service
car or truck wash
auto mechanic
no drive ups or through ATM's ok if walkup
furriers
pawn shops
mobile home sales and service
golf driving range
pet store (pet supplies okay)
loan office(payday loans)
convenience store okay but no gas stations

I don't imagine that most of these are a concern, (East Lawrence furriers?) but the group went through the items on the C5 use list and came up with this.

Let me know if you have any questions or concerns.

Thanks,

Janet Good

ELNA
Z-13-00287: Rezone approximately .27 acre from RM12D-UC District to CS-UC District, located at 804 Pennsylvania St

Lawrence-Douglas County Planning Office
September 2013
September 4, 2013

Planning Department
Planning Commission
City Hall, 6 E. 6th Street
Lawrence, KS 66044

Re: Bistro at 8th & Pennsylvania

To whom it may concern:

The East Lawrence Neighborhood Association would like to register its official opinion regarding a bistro at 8th & Pennsylvania, proposed by Tony Krsnich.

Our neighborhood feels that the up-zoning from a residential zoning to a commercial zoning is appropriate only in that it maintain all of the limitations that exist already in the East Lawrence Industrial Historic District and Downtown Historic District. (CS-UC)

One of the most important of these zoning limitations concerns the level of alcohol sales for an establishment. The CS-UC zoning does allow for an “accessory bar” that would allow alcohol sales if a minimum food sales percentage of 55% is met. The neighborhood is in favor of this “accessory bar” usage, but only if the bistro follows that existing food sales guideline. ELNA voted unanimously 13-0 in favor of this “accessory bar” usage following the 55% food sales minimum.

As this bistro is within a residential neighborhood, and located directly below the windows of 24 apartments, higher alcohol sales levels would be inappropriate (such as exists in CS for a nightclub or lounge). The neighborhood also would like to request that the bistro close by midnight to not severely impact these residential neighbors. For instance Free State Brewery on Mass Street is successful and closes at midnight.

Another concern to the neighborhood association is that the developer has not met with the immediate surrounding residents (New Jersey street and in the Poehler building). These residents would be the most impacted by the bistro, regarding increased pedestrian & vehicular traffic, increased noise and the proposed alcohol sales. The Cider Gallery building has already raised concerns with residents of the Poehler building of these exact same issues, so we hope that these concerns are addressed before usage intensifies on that corner.

We have been pleased with the developer’s past efforts to follow the 8th & Penn Design guidelines and his past engagement with ELNA and the neighbors. However, we have not seen that with the bistro concept. We hope that in the future the developer will work with the neighborhood to find common ground.

Sincerely,

East Lawrence Neighborhood Association
PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
9/23/13

ITEM NO. 8A: IG TO RM32-PD; 1.3 ACRES; 900 DELAWARE ST (MKM)

Z-13-00286: Consider a request to rezone approximately 1.3 acres from IG (General Industrial) District to RM32-PD Overlay (Multi-Dwelling Residential with PD Overlay) District, located at 900 Delaware St. Submitted by Bartlett & West, Inc., for Provident Family, LP, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning request for approximately 1.3 acres from IG (General Industrial) District to RM32-PD (Multi-Dwelling Residential with Planned Development Overlay) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

APPLICANT’S REASON FOR REQUEST
“To allow the land use to conform to the proposed use of a multi-story residential structure in the 8th & Pennsylvania Neighborhood Redevelopment District general area.”

KEY POINTS
- The property is adjacent to the 8th and Pennsylvania Neighborhood Redevelopment Zone and is being developed in coordination with the 8th and Penn mixed use area. (Figure 1)

ATTACHMENTS
A: Proposed rezoning exhibit

ASSOCIATED CASES / OTHER ACTION REQUIRED
Associated Cases:
PDP-13-00299: Preliminary Development Plan for 9 Del Lofts, a 43 unit residential development, has been submitted for the property and is on the September Planning Commission’s agenda for consideration.

Figure 1. Location of subject property (outlined in blue) to the 8th & Penn Redevelopment Zone (highlighted in yellow).

Other Action Required:
- City Commission approval of rezoning request and adoption/publication of ordinance.
- City Commission approval of the Preliminary Development Plan.
- Submittal and administrative approval of a Final Development Plan.
- Submittal and administrative approval of a Final Plat.
- City Commission acceptance of dedications on the Final Plat.
- Application and release of building permit prior to development.
PUBLIC COMMENT

- No public comments were received prior to the printing of this report.

Project Summary

The request proposes to rezone approximately 1.3 acres, at 900 Delaware Street from the IG District to the RM32-PD District to accommodate a multi-dwelling residential development. The property is adjacent to the 8th and Penn Neighborhood Redevelopment Zone and the development is associated with the 8th and Penn Development. The PD Overlay is being requested to allow the design flexibility necessary to develop the property in a manner similar to that permitted with the 8th and Penn Neighborhood Redevelopment Zone Guidelines.

REVIEW & DECISION-MAKING CRITERIA

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant’s Response:

“The proposed facility and associated land use currently differs from what is noted in Horizon 2020 because that intent was focused toward industrial development in this location. This proposal fits appropriately within the suggested guidelines set for the current area uses as well as the adjacent 8th & Pennsylvania Neighborhood Redevelopment District by providing compatibility for the entire area.”

This request is governed by the general policies of Horizon 2020.

The Lawrence Future Land Use Map (Map 3-2) of Horizon 2020 designates the subject property for office/research, and industrial and warehouse uses. However, Chapter Six – Commercial Land Use provides the following recommendation for mixed use development (Page 6-6):

“The City of Lawrence includes areas where infill and new development opportunities exist that would appropriately be developed or redeveloped as 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.”

The proposed development is associated with the 8th and Penn Redevelopment Zone which is a mixed use district. East Lawrence as a whole consists of a mix of uses and this area contains residential, retail and industrial uses.

The Comprehensive Plan recommends that high-density residential development occur near high-intensity activity areas or near existing high density residential developments. (Page 5-5) The property is located near the Poehler Building which has 49 dwelling units on .67 acres, a density of 73 dwelling units an acre. The subject property is also located next to industrial uses which are considered high intensity activity uses.

Staff Finding – The proposed rezoning complies with the Comprehensive Plan’s locational recommendations for high-density residential development.
2. **ZONING AND USE OF NEARBY PROPERTY, INCLUDING ANY OVERLAY ZONING**

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

Surrounding Zoning and Land Use:
- To the north: IG-UC (General Industrial with Urban Conservation Overlay) District; Warehouse and Office uses.
- To the west: IG (General Industrial) District; auto-repair shop, Light Equipment Repair.
- To the south: IG (General Industrial) District; a publishing facility, General Industrial use.
- To the east: IG (General Industrial) District; Screen-printing and other industrial uses, General Industrial uses.

(Figure 2)

**Staff Finding** – The surrounding properties are all zoned IG. The property to the north is also within the Urban Conservation Overlay District and is part of the 8th and Penn Neighborhood Redevelopment District. The predominate uses on surrounding properties are General Industrial, Warehouse, and Light Equipment Repair.

3. **CHARACTER OF THE NEIGHBORHOOD**

Applicant’s Response:
“The existing neighbors surrounding this property are industrial tenants to the north, additional existing industrial tenants on the east, an existing parking lot associated with an industrial tenant to the south, and existing vacant ground to the west with other single-family residential homes further southwest.”
This is a predominately industrial area with residential uses in close proximity along Delaware Street to the south and to the north in the 8th and Penn development. The 8th and Penn mixed use development is located to the north and northwest of the subject property and contains a mix of industrial, retail, office, and residential uses. Hobbs Park, a City park with a baseball stadium, is located south of 10th Street on Delaware.

Staff Finding – The surrounding area contains industrial, residential, retail, office, and recreation uses and reflects the mixed use nature of East Lawrence.

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. As the Revitalization plan references the 1979 plan, it is still considered the land use plan for the area.

The East Lawrence Neighborhood plan contains the following residential goal: "To revitalize and conserve East Lawrence as a stable and safe residential neighborhood, providing housing for a variety of age groups and income levels.” (Page 2-2)

The future land use map in the plan designates this area for industrial uses and recommends low density residential for most of the neighborhood. The plan states that “The primary reason for this is because one of the major conclusions of this plan is that the present single family residences in East Lawrence are providing irreplaceable housing for low income families. The neighborhood residents that participated in the development of the plan believe that higher density designation would contribute to pressures for redevelopment, which would result in the displacement of existing residents.”

The property owner is working with Tenants to Homeowners to create affordable housing with this development. The basic theme of the residential recommendations is that the residential areas should not be designated for higher densities to insure that pressure for more intense residential development which would remove the existing single family homes from the residential stock be avoided. The current rezoning request is for undeveloped land that was zoned for industrial use. While not a low-density development, the rezoning will not result in the conversion of existing single family homes to multi-family dwellings.

Staff Finding – The rezoning request is in compliance with the residential recommendations of the plan in that it will not result in development pressures which would convert existing single family homes to multi-dwelling as it proposes the residential development of an undeveloped industrial property.

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

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

The existing lot contains approximately 1 acre which is inadequate area for many industrial uses.

Staff Finding – The size of the property limits its suitability for many of the uses permitted in the IG District.

6. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED
Applicant’s response:

"It is currently zoned IG as are/were many of the other zoning classifications in the general area. As a part of the overall plan associated with the 8th & Pennsylvania Neighborhood Development District just to the north in 2011, this property has remained vacant until the present time. Rezoning the property to RM32 with a PD Overlay fits well within the surrounding intent of the overall redevelopment area."

Staff Finding – Douglas County historical aerials show that the lot was undeveloped in 1976. It is unclear what development may have occurred prior to that time, but the property has been vacant as zoned since at least 1976.

EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES
Applicant’s response:

"As noted in the discussion about the Comprehensive Plan, the proposed use for a new multi-story residential apartment conforms appropriately with future land use goals laid out by the City of Lawrence since the redevelopment of this area has begun. We believe the approval of this rezoning request will in no way detrimentally affect nearby properties or their associated business operations, but add a renewed energy and vibrance to the entire community."

The rezoning would allow the property to be developed with multi-dwelling residences rather than industrial uses. As the surrounding properties are developed with industrial uses, it is not anticipated that the residential use will have any detrimental effect on them. Residences are located to the southwest along Delaware Street, south of the auto-repair shop. The multi-dwelling residence will not be located directly across the street from the residences, so the distance should mitigate any negative impact the height of the building would have on these properties.

One of the concerns noted in the 8th and Penn Neighborhood Redevelopment Guidelines was that a certain residential density was necessary for a mixed use center to be successful. “Successful mixed-use development can only thrive in areas that not only allow for the mixture of land uses, but also allow development of adequate density so that ‘critical mass’ may be achieved.” (Page 11) The addition of this residential development will help provide the necessary density to insure the success of the 8th and Penn mixed use area.

Staff Finding – The proposed rezoning should have no detrimental effect on nearby properties and should enhance the viability and success of the 8th and Penn mixed use area.
7. THE GAIN, IF ANY, TO THE PUBLIC HEALTH, SAFETY AND WELFARE DUE TO THE DENIAL OF THE APPLICATION, AS COMPARED TO THE HARSHNESS IMPOSED UPON THE LANDOWNER, IF ANY, AS A RESULT OF DENIAL OF THE APPLICATION

Applicant’s Response:

"This is a unique situation and opportunity for the applicant to ensure adequate zoning and proper use of the existing property while offering a potential living benefit for City of Lawrence citizens who use and visit various 8th & Pennsylvania Neighborhood District facilities. The individual hardship being imposed on the property owner with denial of this application would be that fulfillment of any rehabilitation use to maximize the potential of the property into a new asset for surrounding residents and the City of Lawrence would be eliminated without the property zoning required to redevelop this property."

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

If the rezoning to the RM32 District were denied, the property could only be used for uses permitted within the IG District. The small lot area, approximately 1 acre, limits the industrial uses which would be able to develop on this property. As the property has been vacant since 1976, it is likely that it would not develop with a new industrial use. It is possible the property would remain undeveloped. As no negative impacts have been identified with the proposed development, denial would not benefit the community as a whole.

As noted above, denial may result in the land remaining undeveloped, which would be the hardship to the owner of the subject property.

If the rezoning request were approved, a multi-dwelling structure could be developed on this lot which would add to the 'critical mass' for the 8th and Penn mixed use area without reducing the single-family residential stock of the East Lawrence Neighborhood.

**Staff Finding** – Denial of the rezoning request to the RM32 District would have no positive benefit to the community as the property would likely remain undeveloped. Approval of the RM32 District rezoning would allow additional residences in close proximity to the 8th and Penn mixed use area which would contribute to the success and viability of that development without reducing the single-family residential stock of the East Lawrence Neighborhood. The community and the property owner would benefit from the approval of the rezoning.

**PD OVERLAY**

This rezoning includes a request to rezone to the PD Overlay District. The PD Overlay District allows certain standards to be modified by the City Commission if found to be in the best interest of the community and provides greater design flexibility. With the PD Overlay, the character of the new development can be more similar to that of the 8th and Pennsylvania Neighborhood Redevelopment Zone. The property owner had considered amending the Zone to include this property so it would be subject to the same guidelines, but determined the PD overlay would achieve the same goal.
PROFESSIONAL STAFF RECOMMENDATION
This staff report reviews the proposed location for its compliance with the Comprehensive Plan, the Golden Factors, and compatibility with surrounding development. The rezoning request is compliant with recommendations in Horizon 2020 and the East Lawrence Area Plan. Staff recommends approval of the rezoning request for the property to the RM32 District with a PD overlay to allow a residential development which will be similar in design to the 8th and Penn Neighborhood Redevelopment Zone.
RE-ZONING MAP

FOR
9 DEL LOFTS

AREA TO BE RE-ZONED
Z-13-00286: Rezone approximately 1.3 acres from IG District to RM32-PD Overlay District, located at 900 Delaware St

PDP-13-00299: Preliminary Development Plan and associated modifications for 9 Del Lofts, a multi-dwelling residential development with 43 dwelling units located at 900 Delaware St

Lawrence-Douglas County Planning Office
September 2013
PC Staff Report – 9/23/13
PDP-13-00299

PLANNING COMMISSION REPORT
Regular Agenda - Public Hearing Item

PC Staff Report
9/23/13

ITEM NO. 8B:  PRELIMINARY DEVELOPMENT PLAN FOR 9 DEL LOFTS; 900 DELAWARE ST (MKM)

PDP-13-00299:  Consider a Preliminary Development Plan and associated modifications for 9 Del Lofts, a multi-dwelling residential development with 43 dwelling units, located at 900 Delaware St. Modification requests are related to the off-street parking requirements, and setback standards. Submitted by Bartlett & West Inc. for Provident Family, LP, property owner of record.

STAFF RECOMMENDATION ON MODIFICATION FROM OFF-STREET PARKING REQUIREMENT:  Planning Staff recommends approval of the requested modification to allow the provision of 60 parking spaces on the property rather than the 73 required by Code per Section 20-1107(i).

STAFF RECOMMENDATION ON MODIFICATION FROM SETBACK STANDARDS:  Planning Staff recommends approval of the requested modification to allow a 20 ft front yard setback, rather than the 25 ft required by Code per Section 20-1107(g).

STAFF RECOMMENDATION ON PRELIMINARY DEVELOPMENT PLAN:  Planning Staff recommends approval of the 9 Del Lofts Preliminary Development Plan based upon the findings of fact presented in the body of the staff report and subject to the following conditions:
1. Provision of a DSSA and a Drainage Study/Grading Plan per the approval of the City Utility Division and the City Stormwater Engineer, respectively.
2. City Utilities Division approval of the proposed sanitary sewer line.
3. Alternative Compliance Landscaping will be reviewed and determined with the Final Development Plan
4. Obtain and record an access easement to allow access from the north through property owned by Ninth and Delaware LC.
5. Provision of a revised Preliminary Development Plan with the following minor technical changes:
   a. Note the entity or party that will own and maintain the common open space.
   b. Delineate the common open space on the plan and note the percentage of the site which is included. Minimum of 20% of the site is required.
   c. Revise PDP Plan Note No. 14 to list the modification being requested from the required off-street parking and to refer to the change requested to the setback as a ‘modification’.
   d. Revision of water service items per the City Utilities Engineer’s approval.
   e. Addition of revisions per the Fire Code Official’s approval.
   f. Show the access easement on the land to the north and note the Book and Page Number on the plan.
Reason for Request: Preliminary development plan submitted for multi-dwelling residential development adjacent to 8th and Penn Neighborhood Redevelopment Zone.

KEY POINTS
- A modification is being requested from the City Commission as permitted in Section 20-701(f) from the off-street parking requirements in Section 20-902(a) to permit the installation of 60 parking spaces rather than the 72 spaces required by Code.
- A modification is being requested from the City Commission as permitted in Section 20-701(f) from the setback standards in Section 20-601(a) to allow the provision of 20 ft of front setback rather than the 25 ft required by Code.
- Per Section 20-701(f)(3) density calculations in the PD Overlay District are weighted based on the number of bedrooms proposed in a dwelling unit.
- The property is being developed in coordination with the 8th and Penn Development but is not within the 8th and Penn Urban Conservation Overlay District.
- A Preliminary Development Plan also serves as the preliminary plat.

FACTORS TO CONSIDER
- Conformance with the purpose of Planned Developments (Section 20-701, Development Code).
- Compliance with Development Code.
- Conformance with Horizon 2020.
- Conformance with Subdivision Regulations.

ASSOCIATED CASES/OTHER ACTION REQUIRED
Associated Cases
REZONING
- Z-13-00287: A rezoning request to the RM32-PD (Multi-Dwelling Residential with Planned Development Overlay) District has been submitted and is also being considered by the Planning Commission at their September meeting.

Other Action Required
- City Commission approval of Preliminary Development Plan and requested modifications.
- Submittal and administrative approval of Final Development Plan.
- Submittal and administrative approval of Final Plat.
- Recording of Final Development Plan with the Douglas County Register of Deeds.
- City Commission acceptance of dedications shown on the Final Plat.
- Recording of Final Plat with the Douglas County Register of Deeds. Public Improvement Plans submitted to City Public Works and Utilities Departments. The plans must be approved and the means of ensuring completion of public improvements accepted prior to recording the Final Plat.
- Recording of the Final Plat with the Douglas County Register of Deeds.
- Building permits must be obtained prior to construction of structures.

PUBLIC COMMENT
- No public comment was received prior to printing this staff report.
GENERAL INFORMATION
Current Zoning and Land Use: IG (General Industrial) District; undeveloped with access drive to property to the east.

Surrounding Zoning and Land Use:
To the west:
IG (General Industrial) District; Light Equipment Repair.

To the north:
IG (General Industrial) District; Warehouse and Office.

To the northwest:
CS-UC (Commercial Strip with Urban Conservation Overlay) District; Parking lot and undeveloped property included within the 8th and Penn District. (A site plan to increase the size of the parking lot has been submitted and is under review.)

To the east:
IG (General Industrial) District; General Industrial uses.

To the south:
IG (General Industrial) District; General Industrial uses. (Figure 1.)

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<th>Proposed</th>
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<td>Right-of-Way</td>
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<td>Net Area</td>
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<td>56,747 sq ft</td>
<td>34,938 sq ft (61.5% of site)</td>
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<td>Total Pervious Area (sq ft):</td>
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<td>21,809 sq ft (38.4% of site)</td>
<td>- 33,843 sq ft</td>
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SITE SUMMARY
Parking provided on site does not meet the parking requirements in Article 9. Per Section 1701(f) of the Development Code, the City Commission can grant a modification from the parking requirements for good cause shown. The applicant proposes to share parking with the 8th and Pennsylvania mixed use development which is being developed to the northwest. A site plan has been submitted for a parking lot at 716 E 9th Street, which is diagonal across the street from the subject property. 716 E 9th is owned and being developed by the contract purchaser of the subject property.

As the development will be associated with the 8th and Penn Redevelopment Zone, a comparison of the parking requirements from the Development Code for the base RM32 District and that required by the 8th and Penn Neighborhood Redevelopment Zone Guidelines is provided in the table below. As seen in the following table, the parking provided on-site is slightly less than that required with the 8th and Penn Design Guidelines; however, the Design Guidelines allow the use of on-street parking to meet the parking requirement. The modification request is to allow the 60 spaces being provided rather than the 72 that are

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<td>Multi-Dwelling Residential</td>
<td>1 vehicle space / bedroom + 1/10 units</td>
<td>67 bedrooms= 67 5 spaces 5 spaces = 72</td>
<td>60 spaces *</td>
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<td>ADA Accessible Spaces</td>
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<td>1 per every 4 vehicle spaces</td>
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</tbody>
</table>

* Parking provided on site does not meet the parking requirements in Article 9. Per Section 1701(f) of the Development Code, the City Commission can grant a modification from the parking requirements for good cause shown. The applicant proposes to share parking with the 8th and Pennsylvania mixed use development which is being developed to the northwest. A site plan has been submitted for a parking lot at 716 E 9th Street, which is diagonal across the street from the subject property. 716 E 9th is owned and being developed by the contract purchaser of the subject property.
required by Code. The development is intended to function as a portion of the 8th and Penn Neighborhood Redevelopment Area. The amount of off-street parking provided complies with that required for properties within the redevelopment area taking into account the availability of shared parking on the 8th and Penn properties and the on-street parking that is available in the area. Staff recommends approval of the requested modification from the parking requirement to allow this property being developed on the periphery of the 8th and Penn Redevelopment Zone to be developed with 60 on-site parking spaces based on the assumption that some shared parking will occur with the 8th and Penn area and that the development will also utilize nearby on-street parking. The requested modification is in keeping with the standards of the 8th and Penn Neighborhood Redevelopment Zone Design Guidelines.

<table>
<thead>
<tr>
<th>8th and Penn requirement</th>
<th>spaces required</th>
<th>Development Code requirement</th>
<th>spaces required</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 space per 1 bedroom or studio unit</td>
<td>23 one-bedroom: 23</td>
<td>1 space per bedroom PLUS one per 10 units for visitor parking</td>
<td>67 bedrooms: 67</td>
</tr>
<tr>
<td>2 spaces per 2 bedroom or greater</td>
<td>16 two-bedroom 4 three-bedroom 20 units: 40 spaces Total: 63 spaces</td>
<td>43 units: 5 visitor Total: 72 spaces</td>
<td></td>
</tr>
</tbody>
</table>

**STAFF ANALYSIS**

The property is adjacent to the 8th and Penn Neighborhood Redevelopment Zone and is being developed in coordination with the development in that zone. The applicant considered expanding the zone to include the subject property so that it could be developed under the 8th and Penn Neighborhood Redevelopment Zone Guidelines and be similar in design and configuration to the 8th and Penn development. Adding the property to the zone would require an amendment to the zone itself as well as to the design guidelines. Staff suggested the PD overlay which, with the design flexibility provided by the possible modifications, could result in a similar design to that achieved in the 8th and Penn Zone. The intent of the PD overlay is to create a residential development that is similar in design and function to the 8th and Penn Redevelopment Zone.

The development proposal is for a 43 unit multi-dwelling residential structure which will be located close to the Delaware Street right-of-way. (Figure 2) The applicant will be providing a revised elevation that will be included in the Planning Commission agenda packet for the Commission's information. The revised elevations were not received in time to be reviewed in this staff report.

**Figure 2.** Elevation of proposed development as seen from Delaware Street.
The 8th and Penn Design Guidelines allow 0 building setbacks. This development proposes a 20 ft front yard setback to bring the building as near the property line as possible while observing the sanitary sewer easement in this location. The modification requested will allow a 20 ft front setback rather than the 25 ft required by Code and will allow the building to be located as near the front property line as possible. This will result in a similar design to the 8th and Penn area. Staff recommends approval of the modification as the shape of the site poses space constraints and this design allows the building to front the street while maximizing the space available for parking and common open space.

One of the challenges with this site is the relocation of the sanitary sewer line to accommodate the development. The line is currently located diagonally through the property and is being relocated to follow the Delaware Street right-of-way. The City Utilities Division is working with the property owner on the relocation and their acceptance of the final location is a condition of approval of the plan.

The property takes access from a narrow strip land of to the north which is part of the lot platted as Lot 1, McDonald Beverage Addition. The existing right-of-way along the north side of the property is proposed to be vacated with the final plat. A shared access easement is necessary to allow the proposed access into this property from the north. The access easement should be recorded, if one hasn't been recorded to date, and shown on the plan with the Book and Page Number.

**Preliminary Plat Review**

The Preliminary Development Plan serves as the Preliminary Plat. As noted above, the right-of-way on the north side of the property which was previously dedicated for the extension of 9th Street is proposed to be vacated with the final plat. Access to the lots to the east is provided through an access easement on a platted lot. An access easement is also required for the access to the subject property from the lot to the north.

One lot with frontage on Delaware Street is being created with this plat. The lot complies with the dimensional requirements of the RM32 District.

A 15 ft utility easement for the sanitary sewer main is shown crossing the property in the southwest corner to connect with the off-site main and then follows the Delaware Street right-of-way to the north property line. A 10 ft easement for private utilities is located along the rear (east) property line. The final location of the sanitary sewer easement will be determined following the City Utilities Engineer’s approval of the relocation proposed for the sanitary sewer line.

As required in Section 20-809(f)(4)iv all telephone, cable, and electrical lines (except high voltage lines) are to be located underground. This is noted on Sheet 2 of the plan.

A 10 ft shared use path will be constructed with this development along Delaware Street. The shared access along the north property line will be improved with a 7” layer of asphalt. Delaware Street is classified as a Local Street in the Future Thoroughfares Map and has the required 60 ft of right-of-way.

A Downstream Sanitary Sewer Analysis is required with Preliminary Plats. The City Utility Engineer indicated that this analysis could be submitted later in the process but it must be submitted and approved prior to final approval of the Preliminary Plat and Preliminary
Development Plan. As conditioned, the proposed lot and the preliminary plat comply with the provisions of the Subdivision Regulations.

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

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

Recommendations for medium- and higher-density residential development from Chapter 5 of *Horizon 2020* are listed below. Staff discussion of the project’s compliance with the recommendation follows in *italics*.

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

  *The development was designed to be similar to the adjacent 8th and Penn Redevelopment Zone. The building type, screening and density being proposed are similar to that which is permitted in the 8th and Penn Redevelopment Zone. Additional open space is provided with this development as the Planned Development Overlay requires a certain amount of open space for the common use and enjoyment of the residents/landowners of the Planned Development. The proposed development is compatible with the nearby land uses.*

- “Provide pedestrian and/or bicycle paths to provide access to all parts of a neighborhood and beyond.” (Policy 2.2(b), page 5.25)

  *A 10 ft wide recreation path will be installed along Delaware Street adjacent to this property with this development.*

- “Site design should be oriented so that less compatible uses such as trash, loading and parking areas and located in the interior of the development and not adjacent or in close proximity to low-density residential neighborhoods.” (Policy 3.1(c)(1)(a), page 5-27)

  *As seen on the development plan, the building fronts the street and the parking area will be located to the east between the residential development and the industrial uses to the east.*

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

  *This is an infill development which is compatible with surrounding land uses. The building is taller than the surrounding industrial buildings but is not as tall as the Poehler building.*

**Staff Finding** — The proposed development complies with the land use goals and policies for medium- and higher-density residential development of the Comprehensive Plan.
2) Preliminary Development Plan’s consistency with the Planned Development Standards of Section 20-701 including the statement of purpose.

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

a) Ensure development that is consistent with the comprehensive plan.
   *As discussed previously, the development is consistent with the comprehensive plan.*

b) Ensure that development can be conveniently, efficiently and economically served by existing and planned utilities and services.
   *The developer is working with the City Utility Department to insure that the development can be efficiently served with City utilities. The City Utilities Engineer’s approval of the layout and design of the sanitary sewer line is necessary prior to final development plan approval.*

c) Allow design flexibility which results in greater public benefits than could be achieved using conventional zoning district regulations.
   *The design flexibility allows the property to develop in a similar fashion to the adjacent 8th and Penn Redevelopment Zone which results in a more compatible development. This allows the development of an unused industrial site in a manner that will enhance the 8th and Penn area.*

d) Preserve environmental and historic resources.
   *There are no known historical or environmental resources on this property. There are historic resources in the area with the East Lawrence Industrial District, listed on the National and State Register to the northwest.*

e) Promote attractive and functional residential, nonresidential, and mixed-use developments that are compatible with the character of the surrounding area.
   *The proposal is for an attractive residential development that will be compatible with the adjacent mixed-use development.*

The proposed development, as conditioned, meets the standards for a Planned Development in Section 20-701, with approval of the modifications being requested. The applicant is requesting that the City Commission approve the requested modifications to the setback standard to allow the residential structure to be constructed with a 20 ft front yard setback rather than the 25 ft setback required by Code and the development to provide 60 parking spaces on-site rather than the 72 required by Code to allow the property to develop in a similar fashion to that of the adjacent 8th and Penn Neighborhood Redevelopment Zone. The requested modifications should not negatively impact any nearby development or property owners.

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

<table>
<thead>
<tr>
<th>Density Calculations for a Planned Development</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of bedrooms</td>
</tr>
<tr>
<td>Studio or one-bedroom</td>
</tr>
<tr>
<td>Two-bedroom</td>
</tr>
<tr>
<td>Three-bedroom</td>
</tr>
<tr>
<td>Four-bedroom or more</td>
</tr>
<tr>
<td>Total units:</td>
</tr>
</tbody>
</table>
Density is calculated as the number of dwelling units per net acre of residential area. The site has 1.3 net acres, so the density achieved with this development is 18.5 dwelling units per acre (24/1.3). The density is compliant with the requirements of the RM32 District which allows up to 32 dwelling units per acre.

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. With the approval of the modification requested from the front yard setback, the dimensional standards of the RM32 District are met.

The landscaping requirements of Article 10 apply to this development.

<table>
<thead>
<tr>
<th>Landscaping</th>
<th>Requirement</th>
<th>Required</th>
<th>Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street Trees</td>
<td>1 per 40 ft of street frontage</td>
<td>254.88 ft of frontage=7 trees</td>
<td>7 trees</td>
</tr>
<tr>
<td>Interior Parking Lot Landscaping</td>
<td>40 sq ft for each parking space.</td>
<td>60 parking spaces * 40 = 2,400 sq ft</td>
<td>2,407 sq ft</td>
</tr>
<tr>
<td></td>
<td>1 tree and 3 shrubs per 10 parking spaces.</td>
<td>60/10=6; 6 trees and 18 shrubs</td>
<td>7 trees and 23 shrubs</td>
</tr>
<tr>
<td>Perimeter Parking Lot Landscaping</td>
<td>1 shade tree per 25 ft of parking lot frontage along r-o-w.</td>
<td>10 ft of perimeter parking lot frontage south of access on Delaware requires 1 tree</td>
<td>1 tree</td>
</tr>
<tr>
<td>Bufferyard Landscaping</td>
<td>Type 3 Bufferyard required on all sides per ratio listed in Section 1005(f)</td>
<td>North: 15’ wide: wall, fence or berm PLUS 5 trees and 17 shrubs</td>
<td>Alternative compliance has been requested from this requirement. See discussion below.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>West: 20’ wide: 11 trees and 77 shrubs</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>South: between 5’ and 30’ in width. Requirements would vary depending on width.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>East: 6.5’ wide: wall, fence or berm PLUS 14 trees and 50 shrubs</td>
<td></td>
</tr>
</tbody>
</table>

**Table 2. Landscaping Review**

The street tree and parking lot landscaping provided on the plan is compliant with the landscaping requirements in Article 10 of the Development Code. Alternative Compliance has been requested from the Bufferyard landscaping required along the perimeter of the site based on site constraints due to the small size and irregular shape of the lot and also on the amount of trees that are available off-site to the south. The justification for use of Alternative Compliance has been met and final details on the Alternative Landscape Plans will be worked out with the Final Development Plan.
**Staff Finding** – The proposed Preliminary Development Plan is consistent with the Statement of Purpose of Planned Development. The proposed Preliminary Development Plan, as conditioned, is consistent with the standards of Section 20-701 of the Development Code with the exception of the amount of parking provided and the required front setback, and the applicant has requested modifications for those standards from the City Commission. The applicant has requested Alternative Compliance from the Bufferyard Landscaping requirements and these will be considered administratively with the Final Development Plan as justification for the Alternative Compliance has been provided and accepted.

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

Section 20-701(j) notes that 20% of the site must be located within common open space. The plan does not note at this time the amount of area that is within the common open space. This should be noted on the plan to insure that the area requirement is met.

**Staff Finding** – The applicant provided a graphic which showed the proposed common open space with the area. (Figure 3) As shown in the graphic, the common open space makes up approximately 25% of the site. The plan must be revised to delineate the area which is to be considered ‘common open space’ and note the percentage of the site this is located within the common open space.

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

The applicant indicated that the property owner will own and maintain the common open space. The plan must be revised to include the note regarding the maintenance and conservation of the common open space.

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

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

The Development Code requires 50 sq. ft. of outdoor area that can be used for recreational purposes for each dwelling unit in a conventional RM32 District. The Code states that the required outdoor areas serves as an alternative to a large rear setback and is an important aspect in addressing the livability of a residential structure on a small lot. The development plan proposes 43 dwelling units. The Development Code would require 2,150 sq. ft., (43 x 50 sq. ft) of outdoor area. The Common Open Space will serve as the Outdoor Recreation area.
**Staff Finding** – The amount and function of the common open space is adequate based on the overall density and the actual density of the areas developed for residential uses. The dwelling types are apartment buildings. The amount of open space being provided exceeds that required by the Development Code to mitigate the denser development in the conventional RM12 District.

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

**Staff Finding** – The Preliminary Development Plan’s provisions for Fire/Medical access are being discussed with the Fire Code Officials and the plan will be revised to reflect any changes recommended. The Preliminary Development Plan has made adequate provisions for public services and provides adequate control over vehicular traffic with 2 access points into the site. The plan further the amenities of light and air, recreation and visual enjoyment through the provision of common open space, and open recreation space.

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

a) **Doubling or more the traffic generated by the neighborhood:**
Traffic in the neighborhood is generated by the surrounding industrial facilities, the 8th and Penn mixed use development, and the mix of residential, industrial, office, and retail uses in the neighborhood. Traffic is not expected to double with this development.

b) **Proposing housing types, building heights or building massings that are incompatible with the established neighborhood pattern; or**
The building type is a new housing type for the neighborhood and will be taller than the nearby industrial buildings but will be compatible with the adjacent 8th and Penn mixed use area. The proposed development will be compatible with the established neighborhood pattern.

c) **Increasing the residential density 34% or more above the density of adjacent residential properties.**
There are no adjacent residential properties. The residential properties in the area range from a density of 73 dwelling units per acre with the Poehler Building in the 8th and Penn area to 8 dwelling units an acre to the southwest in the area zoned RS5.

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

8) **Whether potential adverse impacts have been mitigated to the maximum practical extent.**
Potential adverse impacts with multi-dwelling apartments can occur with lighting that extends onto adjacent properties, or with balconies that overhang single-dwelling residences. A photometric plan will be required prior to approval of the Final Development Plan to insure there is no negative impact from the exterior lighting. The parking lot is located to the rear of the building so the parking lot lights should have no effect on the street or properties along the street frontage. Balconies are shown on the elevations that were provided, but in this case there are no adjacent single-dwelling residences or zoning districts.
**Staff Finding** – Possible adverse impacts of exterior lighting will be addressed with a photometric plan to insure there is no spillover light. No other possible adverse impacts have been identified.

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

**Staff Finding**- A phased development has not been proposed.

**Staff Review and Conclusion**
The proposed Preliminary Development Plan conforms to the land use recommendations for medium- to high-density residential development in the Comprehensive Plan. The Plan, with the requested modifications, complies with the requirements in the Development Code for the RM32 and the PD Overlay Districts. There are minor technical changes needed to the plan and these have been listed in the conditions of approval. There are other items which need to be resolved prior to final approval of the Preliminary Development Plan and these are also listed in the conditions of approval.
Density Calculations:

<table>
<thead>
<tr>
<th>Type of unit</th>
<th>Density factor</th>
<th>Units in Proposed development</th>
</tr>
</thead>
<tbody>
<tr>
<td>Studio or one-bedroom</td>
<td>.4</td>
<td>96 dwelling units</td>
</tr>
<tr>
<td>Two-bedroom</td>
<td>.6</td>
<td>144 dwelling units</td>
</tr>
<tr>
<td>Three-bedroom</td>
<td>.8</td>
<td>192 dwelling units</td>
</tr>
<tr>
<td>Four-bedroom or more</td>
<td>1</td>
<td>240 dwelling units</td>
</tr>
</tbody>
</table>

Total units: 24 dwelling units, calculated per Section 20-701(f)(3)(ii), on 1.3 net acres results in a density of 18.5 dwelling units per acre.
The adjacent site to the south are removed or damaged to the degree that the city required: Type 3 for 259.42 LF

APPRECIATION TO THE OWNER PRIOR TO EMPLOYING A GENERAL CONTRACTOR OR TURF CONTRACTOR SHALL BE THE OWNER AND THE CONTRACTOR.

- 27.5. CONTRACTOR SHALL MAINTAIN ALL PLANTED OR TURF AREAS THROUGHOUT THE WARRANTY PERIOD AND SHALL PERFORM OPERATIONS AS REQUIRED TO MEET FINISHED GRADES AND CREATE POSITIVE DRAINAGE AWAY FROM BUILDINGS. PRIOR TO SEEDING, MOISTEN PREPARED TOPSOIL IF GROUND IS DRY. AFTER ONE MONTH FOLLOWING SEEDING, APPLY FERTILIZER AT THE MANUFACTURER'S RECOMMENDED RATE FOR TOTAL NITROGEN, 10% AVAILABLE PHOSPHORIC ACID AND 5% SOLUBLE POTASH. DISCARD SUBSOIL REMOVED FROM PLANTING AREA EXCAVATION; EQUAL AT THE DIRECTION OF THE OWNER. ALL TURF AREAS SHALL CONSIST OF A MINIMUM 8" THICKNESS TOPSOIL FREE OF CLAY, DEBRIS, STICKS AND MIXED IN ACCORDANCE WITH MANUFACTURER'S INSTRUCTIONS. APPLY PRIOR TO APPLICATION OF MULCH.

- 27.6. CONTRACTOR SHALL BE RESPONSIBLE FOR CALCULATING THE AREAS AND QUANTITIES OF SEED NEEDED FOR OPTIMUM COVERAGE. CONTRACTOR SHALL VALIDATE LOCATION OF AND PROTECT ALL UTILITIES AND STRUCTURES. DAMAGE TO UTILITIES AND STRUCTURES SHALL BE THE RESPONSIBILITY OF THE GENERAL CONTRACTOR TO THE DETERMINATION OF THE DAMAGES.

- 27.7. CONTRACTOR SHALL UNDERSTAND THAT WATER AND POWER CONSUMES WILL BE SUPPLIED TO THE SITE THROUGHOUT THE CONSTRUCTION PROCESS.

- 27.8. CONTRACTOR SHALL UNDERSTAND THAT WATER AND POWER CONSUMES WILL BE SUPPLIED TO THE SITE THROUGHOUT THE CONSTRUCTION PROCESS.

- 27.9. CONTRACTOR SHALL UNDERSTAND THAT WATER AND POWER CONSUMES WILL BE SUPPLIED TO THE SITE THROUGHOUT THE CONSTRUCTION PROCESS.

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- 27.46. CONTRACTOR SHALL UNDERSTAND THAT WATER AND POWER CONSUMES WILL BE SUPPLIED TO THE SITE THROUGHOUT THE CONSTRUCTION PROCESS.

- 27.47. CONTRACTOR SHALL UNDERSTAND THAT WATER AND POWER CONSUMES WILL BE SUPPLIED TO THE SITE THROUGHOUT THE CONSTRUCTION PROCESS.

- 27.48. CONTRACTOR SHALL UNDERSTAND THAT WATER AND POWER CONSUMES WILL BE SUPPLIED TO THE SITE THROUGHOUT THE CONSTRUCTION PROCESS.
Enter from Delaware Street at Southwest corner of property

Enter from Access Drive at Northeast corner of property
Z-13-00286: Rezone approximately 1.3 acres from IG District to RM32-PD Overlay District, located at 900 Delaware St

PDP-13-00299: Preliminary Development Plan and associated modifications for 9 Del Lofts, a multi-dwelling residential development with 43 dwelling units located at 900 Delaware St

Lawrence-Douglas County Planning Office
September 2013
Bryan Culver, Chair
Lawrence-Douglas County Planning Commission
Lawrence City Hall
6 East 6th St.
Lawrence KS 66044

re: PDP-13-00299; Preliminary Development Plan, 9 Del Lofts

Mr. Culver & Commissioners:
The Bicycle and Alternative Transportation Committee of the Sustainability Action Network supports the inclusion of a 10-foot wide bicycle track in front of the 9 Del Lofts apartment building.

Sustainability Action has been advocating for bicycle transportation since we formed nearly six years ago. According to the U.S. Department of Energy, transportation accounts for 67% of U.S. petroleum consumption, and 60% of that is by light vehicles (GAO-07-283 Peak Oil Production, p. 10). Most travel takes place in private cars, and 79% of those trips are single occupant (USDOT National Household Travel Survey 2009). So our greatest potential for conserving energy and reducing CO2 emissions is by getting out of our cars, something drivers are reticent to do unless bicycle and pedestrian facilities are safe and convenient.

Currently, the Burroughs Creek Trail from 23rd St. north to 11th Street at Hobbs Park has great potential as a major bicycle commuter trunkline to downtown from the south east neighborhoods. But at present, there is no safe and convenient connection from the 11th Street terminus to downtown. One of the principal provisions of the Burroughs Creek Corridor Plan is that “the trail continue to the north to a desired trail head at Hobbs Park, and in the future allow the trail to continue farther to the north”. The intent of the Planning Committee was for the trail to connect with downtown and points beyond.

At this time there is an ideal opportunity for a public-private partnership to realize this long anticipated plan. As indicated in the 9 Del Lofts Development plan, developer, Tony Krsnich, is proposing to build a 10-foot wide bicycle track in front of his project at 900 Delaware St. He is having the Westar power lines buried along there to make room. Sustainability Action recommends approval of the Development Plan with the bicycle track included.

Sincerely,

Michael Almon