

# BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

**WEDNESDAY, APRIL 10, 2013**

4:00 p.m.

## **CONSENT AGENDA**

- (1) (a) Consider approval of Commission Orders;
- (b) Review and Consider Approval Community Corrections FY2014 Comprehensive Plan and FY2014 Budget (Deborah Ferguson);
- (c) Authorization to bid an overlay project on Route 1057 (N1000-K10), Route 458 (E1900 to E2200), Route 460 (E2000 to E2200), and E 900 Rd (Keith Browning);
- (d) Authorization to bid an overlay project on Route 1061, K-10 to N 1200 Rd (Keith Browning);
- (e) Authorization to renew a contract with Midwest Striping for 2013 Pavement Marking (Keith Browning);
- (f) Consideration of permanent easement for bridge No. 10.80N-24.00E (Johnson County Line)- (Michael Kelly);
- (g) Consider the Temporary Set-Aside Agreement and Cross Access Easement and Maintenance Agreement associated with Certificate of Survey, CSU-12-00271, for approximately 26 acres located in the NE quarter of Section 22, Township 13 South, Range 19 East. Submitted by Grob Engineering Services, LLC for Dwight and Kimberly Purvis, property owners of record-(Mary Miller);
- (h) Consider Comprehensive Plan Amendment, CPA-5-5-11, to Chapter 6 of Horizon 2020 to add policies for the Auto-Related Commercial Centers designation. Adopt on first reading, Joint City Ordinance No. 8841/County Resolution No., for Comprehensive Plan Amendment (CPA-5-5-11) to Chapter 6 of Horizon 2020 to add policies for the Auto-Related Commercial Centers designation- (Dan Warner);
- (i) Consider Comprehensive Plan Amendment, CPA-4-2-12, to Chapter 6 of Horizon 2020 to create CC600 District policies and to Chapter 14 Specific Plans, to revise the West of K-10 Plan and A Nodal Plan for the Intersection of West 6th Street & Kansas Highway 10 (K-10) designating the node of 6th Street and K-10 as a CC600. Adopt on first reading, Joint City Ordinance No. 8740/County Resolution No., for Comprehensive Plan Amendment (CPA-4-2-12) to Chapter 6 of Horizon 2020 to create CC600 District policies and to Chapter 14 Specific Plans, to revise the West of K-10 Plan and A Nodal Plan for the Intersection of West 6th Street & Kansas Highway 10 (K-10) designating the node of 6th Street and K-10 as a CC600. (PC Item 1; approved 6-2 on 2/27/13, CC 1<sup>st</sup> Reading 3/26/13 approved 5-0)-(Amy Miller); and
- (j) Consider Text Amendment, TA-13-00035, to Section 12-319-1 of the Zoning Regulations of the Unincorporated Territory of Douglas County to include Nanobrewery in the list of uses permitted with Conditional Uses and to establish any necessary standards for the use. *Initiated by Planning Commission on 1/30/13.* (PC Item 6; approved 8-0 on 3/25/13)- (Mary Miller)

## **REGULAR AGENDA**

- (2) Consider agreement with Penny's Aggregates, Inc. for cost reimbursement for pre-dredging study and report concerning proposed sand facility (Keith Browning)
- (3) Consider agreement with Conestoga-Rovers & Assocs., Inc. to provide pre-dredging study and report concerning proposed Penny's Sand facility (Keith Browning)
- (4) Consider waiving the formal bidding process and authorize staff to utilize the Houston-Galveston Council Agreement for purchase of three (3) ambulances from American Emergency Vehicles (AEV) for a purchase price of \$630,874.00. (Sarah Plinsky)
- (5) (a) Consider approval of Accounts Payable (if necessary)
- (b) Appointments
  - Lawrence Douglas County Metropolitan Planning Commission 05/13
  - Heritage Conservation Council 05/13
  - Property Crimes Compensation Board 04/13

- (c) Public Comment
- (d) Miscellaneous

(6) Adjourn

**THURSDAY, APRIL 11, 2013**

9:00 a.m. – Election Canvass (Two or more Commissioners will attend).

**WEDNESDAY, APRIL 17, 2013**

Proclamation for “National Telecommunicator's Week” (Scott Ruf)

6:35 p.m.

-Consideration of a Special Event Permit (SEP 2013-01) for a concert promoting RockRoad Pursuits, to be held on June 22, 2013 on the property known as 1849 E 800 Rd, Baldwin City, Ks (and the adjoining property to the south under the same ownership, which is on the north side of the watershed lake). The application has been submitted by Peyton Warwick for the property owner of record, V-Bar T Ranch, LLC.” (Linda Finger)

**WEDNESDAY, APRIL 24, 2013**

**WEDNESDAY, MAY 1, 2013**

**WEDNESDAY, MAY 8, 2013**

**WEDNESDAY, MAY 15, 2013**

**WEDNESDAY, MAY 22, 2013-Cancelled**

**WEDNESDAY, MAY 29, 2013**

***Note:** The Douglas County Commission meets regularly on Wednesdays at 4:00 P.M. for administrative items and 6:35 P.M. for public items at the Douglas County Courthouse. Specific regular meeting dates that are not listed above have not been cancelled unless specifically noted on this schedule.*

## AD - Crabtree, Robin

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**From:** CC - Jerome, Dee  
**Sent:** Thursday, April 04, 2013 12:09 PM  
**To:** AD - Crabtree, Robin  
**Subject:** FY 2014 Comprehensive Plan  
**Attachments:** FY 2014 Final CC Plan.doc; DG FY14 Budget Personnel Data Spreadsheet.xlsx; FY14 Funding Considerations Spreadsheet .xlsx; FY14 Comprehensive Plan Grant Application - Attachments.docx; ADBD MEMBERS CURRENT 2013.doc; Organization Chart FY 2014 COMP PLAN.doc

**Importance:** High

**TO:** Douglas County Commissioners  
**FROM:** Deborah L. Ferguson, Director  
**SUBJECT:** FY 2014 Comprehensive Plan/Budget  
**DATE:** April 4, 2013  
**RE:** Agenda Item April 10, 2013 Commission Meeting

Attached you will find the FY2014 Comprehensive Plan/Budget for your review. Signatory approval is required. A highlight of FY2014 is below:

- Community Corrections agencies are required to complete a *Current Allocation* budget, which is based on the agency's FY2013 grant award amount. The *Actual Operating Budget* is the funding necessary to implement the plan outlined in the program strategies and design for FY2014. The Actual Operations Budget is only used to fund services, programs, and personnel, etc. that require additional state funding beyond the agency's current allocation budget.
- Current Allocation Budget from FY13: **\$478,349.00**
- Actual Operations Budget for FY14: **\$647,619.20**
- As you are aware, most of the agency's budget is salaries/benefits with limited funding for non-personnel essentials. Should our agency be awarded \$478,349.00 we will be forced to cut the surveillance program, ISO I position, and reduce an ISO I position to part-time. This will not only jeopardize our agency but most importantly public safety will be at risk.
- KDOC requires agencies to maintain a supervision success rate of at least 75% or improve a lower rate by at least 3% from the previous year (per K.S.A. 75-52,112). It should be important to point out that during FY12 our agency's success rate was **72.8%**. As of March 31, 2013, our agency success rate has increased to **76%**. Maintaining current staff will be very important in order to sustain and improve upon the agency's success rate.
- The mentoring program has been approved by the Court. Applications have been accepted and four interviews completed as of April 1, 2013. This process will continue.
- Our agency is continuing to work toward implementing the cognitive skills classes.

- Our agency would like to hire a part-time Resource Officer that would assist with the mentoring program/cognitive skills classes. This was added into the *Actual Operations Budget*.
- Our agency continues to see a rise in presumptive prison cases.
- Our agency's prominent areas of risk and need for moderate/high-risk offenders are the following domains of the LSIR Assessment: Attitudes/Orientation (59%), Education/Employment (45%), and Companions (45%). **Our agency was able to decrease offender scores in the Leisure/Recreation Domain, which was an area of struggle for offenders in the last several years.**

## **PART ONE: NARRATIVE**

### **ABSTRACT**

Douglas County Community Corrections is committed to enhancing public safety through Organizational Development, Evidence Based Practices and Collaboration. In addition, our agency provides intensive supervision, incorporating community resources and evidence-based practices that will enhance public safety and reduce offender recidivism. With the increase in our agency's high risk offender population, staff has been utilizing evidence-based practices to ensure lower revocation rates and higher successful terminations. As of March 31<sup>st</sup> 2013, our agency has increased our success rate from 72.8% in FY 2012 to a current percentage of 76.2%. Our current success rate has been affected by many different variables during this past year, but the strongest impacts have come from improved staff morale, offender case plan accountability and a stronger collaboration with our community providers.

Community providers have played a viable role in the current success of offenders in our program. The collaboration we have has improved and allowed for great feedback sessions between our agency and other agencies involved with offenders. Our Intensive Supervision Officers (ISOs) have the ability to meet with many different types of community providers throughout offender supervision. Examples of community providers include, but are not limited to, the Workforce Center, Volunteer Centers for Community Service, Bert Nash Mental Health Center, DCCCA, Professional Treatment Services, Cottonwood, Salvation Army, Lawrence Housing Authority, SRS, etc.

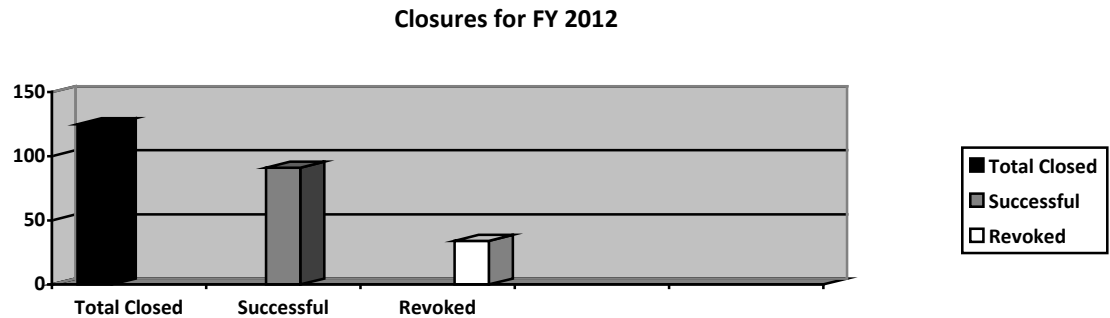
In FY 2014, it is our agency's goal to address the following needs to help make our agency more successful. It is our hope to further implement the mentoring program so that we are able to assist offenders that have no community support; revitalize a cognitive skills program within this agency so we can address offenders thinking; and, identify stronger goals in offender case plans to help hold offenders more accountable. It will be important for our agency to continue to monitor the number of offender referrals received, especially the high risk offenders. This will allow our agency to make adjustments to caseloads when necessary to ensure offenders are receiving proper interventions and treatment dosages. Continued emphasis on staff training will be integral. Lastly, throughout the fiscal year, our agency will monitor KDOC reports and data to guarantee we are meeting at least our goal of a 75% success rate for offenders leaving the program.

A continued significant change that has impacted our agency negatively is a steady rise in offender referrals, presumptive prison cases and high risk offenders. Our agency will continue to provide high-risk offenders with three to nine months of intensive risk reduction services that occupy 40-70% of their free time. In addition, our agency will continue to target appropriate treatment interventions and programs to match the offenders individualized needs, taking into account dosage and responsivity. Our agency will continue to provide those offenders doing well a chance to receive gift cards, bus passes, groceries, etc. through our incentives program.

Our agency has a quality assurance piece that allows supervisors to not only review documentation and observe ISO/offender contact but provide written/verbal feedback. This will ensure ISOs are utilizing evidenced-based practices throughout their supervision of offenders.

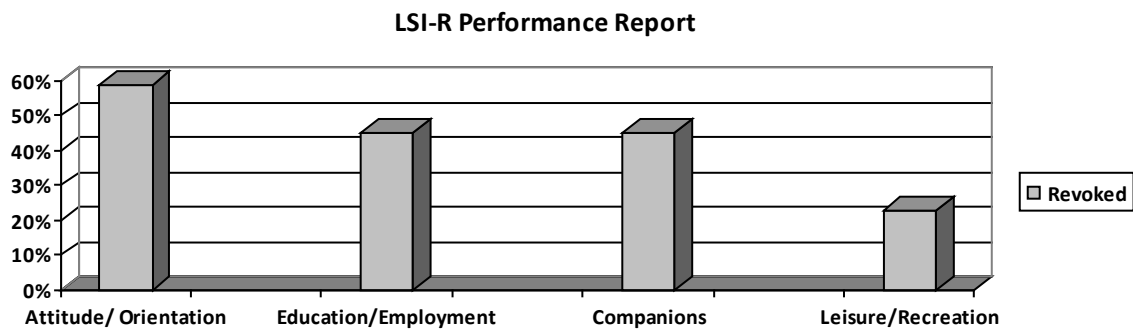
## STATEMENT OF THE PROBLEMS

According to FY 2012 data obtained from the KDOC FY2012 Statistical Summary, our agency had a total of 125 offender closures with 91 (72.8%) being successful and 34 (27.2%) revoked.



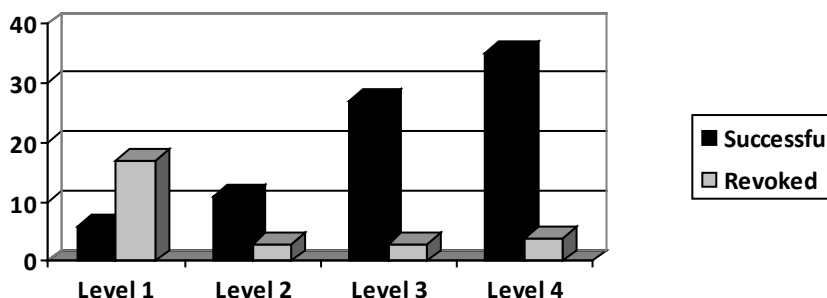
In describing the prominent common areas of risk and need, our agency reviewed the LSIR Performance Report from the KDOC database, July 1<sup>st</sup>, 2011 to June 30<sup>th</sup>, 2012. Our agency found that for those offenders revoked the top domains identified as high risk were attitudes/orientation (59%), education/ employment (45%), and companions (45%).

During the review of the data shown below, it was determined that the attitudes/ orientation domain was found to be higher in offenders who were revoked for a condition violation or new felony/ misdemeanor charge. In addition the education/employment domain and companion domain were consistent in scores for high risk. We were surprised that leisure/recreation domain was considerably lower than anticipated. This is a common area that our offender population has struggled with the last several years.



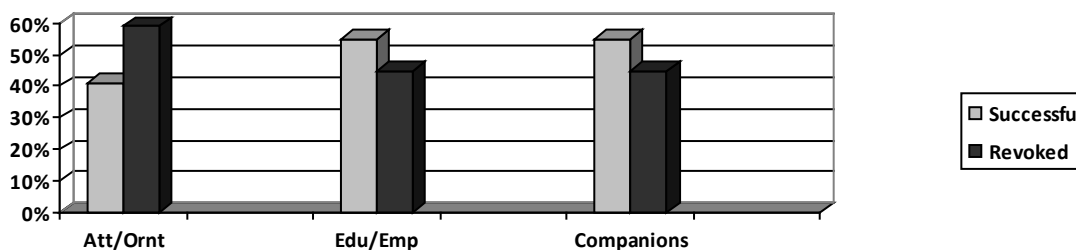
According to the FY 2012 Statistical Summary (Termination Reason by Supervision Level), moderate to high risk offenders were revoked more than the low risk offenders. The total number of offenders that had a LSI-R Assessment completed during FY 2012 was 105. The data below shows that offenders who were discharged from probation on level I supervision; 6 were successful and 17 were revoked. For offenders on level II supervision; 11 were successful and 3 were revoked. For offenders on level III supervision; 27 were successful and 2 revoked. Finally, for those offenders on level IV supervision; 35 were successful and 4 were revoked. It will be important for ISOs to identify stronger goals for offenders on level I supervision to help address this higher revocation rate.

### Termination Reason by Supervision Level



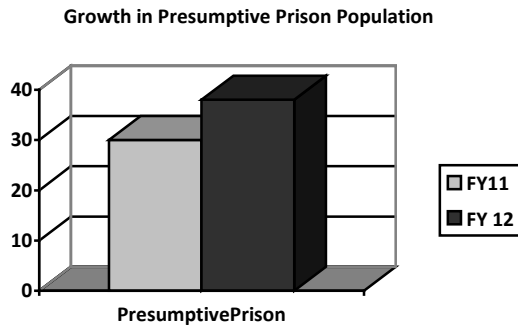
The chart below shows differences between the successful probation population and the population of offenders revoked for each domain our agency has identified as a common area of risk and need. This chart also shows that offenders in our program continue to be high risk in these domains whether successful or revoked. It will be important for our ISOs to address these domains in all offenders case plans while they are on probation.

### High-risk Score of Closed Offenders



Although our agency's success rate has increased as of March 31<sup>st</sup> 2013, there were several challenges that our agency faced during FY 2012 that continued into FY 2013. These challenges included the high number of referral/assignments to our program, internal services not completely implemented as scheduled (i.e. the mentoring program and cognitive skills classes) and the lack of strong case plan goals that targeted the high risk domains.

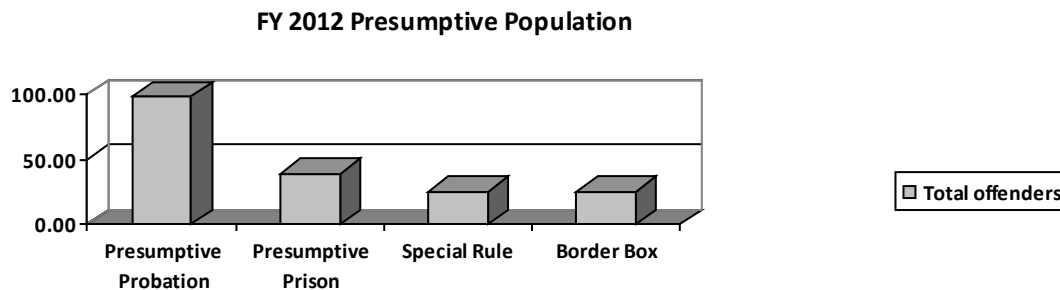
Another problem for our agency is that we continue to see a rise in the presumptive prison cases. For FY 2011 we had approximately 30 offenders referred to our agency that were presumptive prison. For FY2012, we had a total of 38 offenders that were presumptive prison. This was an increase from FY 2011 presumptive prison referrals. Therefore, ISOs are not only supervising offenders that are in our target population but also offenders that may not be appropriate or amenable to probation. Many of these offenders are high-risk, requiring more time and supervision. This contributes to a rise in caseloads and limited staff to supervise more offenders.



We continue to be creative in developing a program with components that will incorporate risk reduction strategies. In addition, the use of internal programs is imperative for the success of the offenders.

Not having fully implemented programs has contributed to the lower success rate of offenders in our agency. According to evidenced based practices the need for cognitive skills and a mentoring program play a significant role in the success of an offender learning pro-social skills in order to be successful and lead a conventional lifestyle. With this said, all three domains (attitudes/orientation, education/employment, companions) that our agency has addressed as moderate/high risk will be positively affected with our new programs being implemented.

Offenders may be unsuccessful in our program for reasons other than presumptive prison. As you will see in the chart below, our agency is also receiving special rule and border box cases that would normally be sentenced to prison as well.



The population that our agency will target for risk reduction is moderate to high risk offenders that score higher in the following domains: attitudes/orientation, education/employment and companions. Again, the offender population that our agency continues to target for risk reduction are offenders who score moderate to high risk on the LSI-R Assessment and offenders who score high or medium high on the Static 99 (sex offenders). Once all components of our program are in place our agency will be able to analyze our overall program, determine what is working and what is not, and make any adjustments necessary.

Due to a new countywide radio system upgrade, Douglas County Emergency Management notified our agency that we would need to replace our current radios to ensure that we are part of the new communication system. We have four radios, two car units and two portable units, needing to be replaced. The anticipated cost to our agency

is approximately \$5300.00. Due to the safety of our staff, we believe this is an essential investment for our agency. This will ensure that when staff is transporting offenders or completing field visits, they will have a reliable and secure communication device.

### **INTEGRATED MODEL**

Our approach to supporting the offender population will continue to be evidenced based. We pay strict attention to the external research and carefully introduce programs and interventions that support the best research. It is our belief that continuing with this practice, gleaned from external research, we can significantly improve the efficacy of any program we have, if implemented with appropriate fidelity.

Based on evidence, it is clear that focusing on organizational development, collaboration and evidence-based principles will help our work with offenders achieve successful and lasting change. Our agency incorporates the Integrated Model in all aspects of our program. Our program components incorporate evidence-based practices based on the eight principles of the Integrated Model. Our agency also uses assessment, interventions, and monitoring/measurement not only for offenders and ISOs but the agency as a whole. We monitor our daily practices and initiate change to improve success. In addition, we continuously collaborate with outside agencies/providers to build upon offender success.

### **ORGANIZATIONAL DEVELOPMENT**

Our agency, as a whole, continues to work to improve our overall performance and individual development. A SWAT Analysis was completed within our agency and reviewed with staff. This analysis was considered throughout the writing of this comprehensive plan and creating our outcomes and strategies. We have recognized that in order for change to occur within our agency, a process needs to be in place that includes strategic planning, organizational design, leadership development, coaching, diversity and a balanced relationship between employees. With this in mind, it is our agency's mission to ensure community safety and agency success through more effective efforts in Organizational Development, Evidence Based Practices and Collaboration. Our overall goals continue to be enhancing public safety, reducing offender recidivism and increasing successful terminations of offenders through effective case management services; along with encouraging offender accountability through the cost-effective use of community based supervision and agency interventions. Changing the way our agency does business has not been an easy task and is a work in progress. Although offender populations are increasing and budgets are tight, our agency still realizes the importance of recognizing the need to rely on less expensive and more effective methods of supervising offenders. We have strived to change our way of thinking and it has required energetic leadership with a willingness to place equal focus on evidence-based principles in service delivery, Organizational Development and Collaboration. Each component is essential for the success of our agency.

Organizational Development is required to successfully move from traditional supervision to evidence based practice. The key to success for our agency continues to be the staff that embodies our agency. It is important for staff to feel included in this process and embrace new ideas, for success to occur. The agency must be capable of delivering all of its services in the most effective and efficient way.

ISOs realize that knowledge, skills, and attitudes play an important role in offender supervision. In addition, our agency implemented an incentive/reward program and a

bicycle program. Both of these programs are evidence-based. ISOs continue to learn and utilize skills learned in EBP throughout supervision of offenders. Our agency has also implemented quality assurance that incorporates monitoring staff and offender programming to identify if adjustments need to be made, including providing necessary feedback. Our agency will continue to acquire data through KDOC reports and our internal database to measure performance of staff and the offender population. Our agency will continue to seek ways to enhance evidence-based practices and incorporate what is learned in our daily supervision of offenders.

The mentoring program has been identified as a need for our agency and has recently been approved by the Court for implementation. Now that this program has been approved, it is our goal to have it fully implemented during FY 2014. Once the program is fully implemented, we believe this will help close the gap we identified through our Needs Statement. In order to sustain this program and make it successful, our agency created a policy and procedure, a mentoring training manual and identified the mentor targeted population. Our agency has met with community members in our county and introduced this program as an opportunity to gain volunteers who would want to be mentors. Our agency has specifically met with Kansas University, Baker University, Washburn University, and United Way of Douglas County. Brochures and flyers have been distributed throughout the community explaining the application process and applications have recently been received. Our goal is to continue to meet with community members, gain and train volunteers, and identify offenders who will be suitable for this mentorship in the community. With this program being implemented, it is our organizational plan to address and improve domains such as attitudes/orientation, education/employment, companions, drug/alcohol, mental health and leisure/recreation.

We have also identified that revitalizing the cognitive skills program is a need for our agency and therefore our goal is to close this gap during FY 2014. A focus of our agency has been to gain buy-in from staff on the implementation of a cognitive skills program. A reason for this lack of buy-in is staff believes that offenders are receiving cognitive teachings while participating in treatment programs and believe it will not be beneficial to have offenders attend another class. To help close this gap, our agency will continue to encourage staff to work with offenders on cognitive skills (learned in treatment) during office visits. Our organization will continue our meetings with Cognitive Skills Specialist from KDOC to try and identify ways to implement a program in Douglas County. At this time we have a referral process completed and half the ISOs are trained to facilitate Thinking for a Change. Our office will continue to train staff in Thinking for a Change and will collaborate with other agencies interested in this program as well, which include, but may not be limited to the Lawrence Parole Office and the Douglas County Reentry program. It's our intent to obtain a part-time Resource Officer to assist with fulfilling both the mentoring and cognitive skills program needs.

Our ISOs, the CSW Coordinator, and surveillance officers, continue to gain knowledge and skills by attending trainings in evidence based practices. Information is shared with the Court, our Advisory Board and County Commissioners. In addition, as we work with outside providers and make collateral contacts, our vision and mission is shared. Sometimes the vision is shared indirectly with individuals that are involved in the offender's supervision.

## **COLLABORATION**

Our agency has a great opportunity to work with other agencies, within our community, who believe in the same efforts needed for community safety as we do. We have shared goals that allow for positive interaction, great leadership and shared resources. Douglas County Community Corrections partners with the Advisory Board, County Commission, the Douglas County Sheriff's Office, District Court, District Attorney's Office, Lawrence Housing Authority, DCCCA, Bert Nash Mental Health Center, and Heartland Works, Inc. (Workforce Center) in order to plan, implement, evaluate, and sustain a local risk reduction initiative.

It is important to note that, although the partners listed above are the main stakeholders, other partners may be added at a later date to assist Community Corrections in helping offenders become successful and productive citizens in the community. These partners may include but are not limited to the following:

- First Step at Lakeview- An alcohol/drug treatment facility for females that offers inpatient and reintegration services;
- Heartland Clinical Consultants- A facility that not only offers outpatient alcohol/drug treatment but other services such as a Theft Offender Treatment program, domestic batterer's intervention groups, family/individual therapy, mental health assessments and other services;
- Salvation Army-Case managers within the facility offer assistance to aide the offender in re-integrating back into the community; and,
- Other partners may include- Independence Inc., Vocational Rehab, Catholic Community Services, Cottonwood, and SRS.

With the newly implemented mentor program, our agency will be adding new organizations from our community and surrounding communities to our list of collaborators as well. This includes:

- United Way of Douglas County
- Baker University
- Kansas University
- Washburn University (Topeka, KS)

While our agency believes we are collaborating well with community agencies, we have identified gaps that we would like to improve in FY 2014. Those gaps include a better communication process with our District Attorney's office and a better communication process with one of our county treatment providers, DCCCA. ISOs have an opportunity to communicate with the District Attorney's office prior to sentencing and revocation hearings, but there have been occasions where a decision has been made without consulting the ISO, such as in revocation hearings and plea agreements for those offenders currently on probation. This has been acknowledged by the District Attorney's office on several occasions. We have a good relationship with the District Attorney's office and staff is appreciative of any opportunity to provide recommendations. Our goal for improving communication with the District Attorney's office will be to collaborate more often prior to sentencing of offenders who are on probation violation status.

Although there have been some communication gaps between our agency and DCCCA, the Director communicates with the Director at DCCCA and DCCCA has facilitated

luncheon meetings with our agency to discuss positives/negatives. Our goal will be to continue this collaboration and to build on the new communication process.

## **EVIDENCE-BASED PRINCIPLES**

Listed below are the eight evidence-based principles for effective interventions. These principles will explain how our agency is currently applying the principle and any gaps between current practice and the full implementation of the principle.

**A) Assessing actuarial risk/need:** Assessing offenders in a reliable and valid manner is a prerequisite. Offender assessments are most reliable and valid when staff is formally trained to administer tools. Our agency's ISOs are formally trained and certified to administer the LSI-R on all assigned offenders to Community Corrections. The LSI-R is the required assessment tool that assesses dynamic and static criminogenic risks and needs of offenders. ISOs are also provided with the LSI-R scoring guide for review and reference throughout the LSI-R development process. Two ISOs have also been certified to administer the Static 99 for all sex offenders assigned to our program.

Upon sentencing, the supervising officer completes an intake and orientation process with the offender within 10 working days, per policy/procedures and KDOC standards. The intake process includes the LSI-R interview with the offender and entering the LSI-R information into TOADS so that a supervision score is generated (as this is not an available pre-sentence option except for the SB-123 offender population). According to KDOC standards, the LSI-R is required within 45 days post-sentencing. The KDOC standards regulate the supervision of offenders including office and field contacts; residence, employment and intervention verifications; regular Case Plan reviews; and monitoring of conditions of probation. Officers complete an LSI-R reassessment, for level I, II, & III offenders within six (6) months after the initial LSI-R and every twelve (12) months thereafter. For offenders on level IV supervision, a LSI-R reassessment is not necessary unless there are dramatic negative behavior changes in the probationers or new information is obtained that would change the offender's supervision level. A LSI-R reassessment may occur at any supervision level upon dramatic behavior change either negatively or positively. Our agency wants to ensure we are supervising all offenders at the appropriate supervision level to ensure he/she is provided the best services possible.

The supervision level is based on both the results of the LSI-R post-sentence (except for SB-123 offenders) and the court's order. For example: The LSI-R may not show a high or very high risk or need in the area of substance abuse; however, if the offense is substance abuse-related, some sort of verification that treatment has been completed is usually required by the court. Outside of a court order and throughout supervision, the LSI-R helps identify risks and needs that may need intervention throughout supervision.

In regard to the LSI-R, our agency recently added a quality assurance (QA) piece to supervisory audits. ISO files are randomly reviewed upon completion of the offender's intake/orientation period and throughout the offender's supervision period. Although it is a complete audit, the main focus of the QA is to ensure appropriate scoring of the LSI-R based on the notes that are provided. If notes are vague, it is noted as a deficient area in the audit. In regard to this principle we will not be addressing any gaps. Our agency believes that proper use of the LSI-R has assisted ISOs with identifying risk and needs that are addressed in the development of a case plan. Our current practice allows ISOs and offenders to discuss the areas of high risk to help the offender see how he/she may be

successful through the implementation of specific services while on community corrections.

**B) Enhancing intrinsic motivation:** For lasting change to occur, a level of intrinsic motivation is desirable. Research strongly suggests that motivational interviewing techniques rather than persuasive tactics effectively enhance motivation for initiating and maintaining behavior changes. Staff is held accountable for using motivational interviewing techniques in their daily interaction with offenders. All ISOs, including the CSWC, have completed ACMS refresher training, and has been trained in the EPICS training as required by KDOC. Staff understands the importance of using these motivational techniques in their day-to-day interactions with offenders. It is important for staff to understand how to find each offender's motivation for change. Our agency completes this task utilizing motivational interviewing. In using motivational interviewing, offenders have an opportunity to see where they may change their behavior rather than telling them where change should occur.

The training ISOs receive is also looked at as an opportunity to provide a form of intrinsic motivation to offenders. When ISOs use motivational interviewing in communicating with offenders, our agency has seen offenders take a more impactful and positive role in their supervision. Offenders tend to be more motivated if they are making more decisions that are responsible for their lifestyle change. For example, an offender was disappointed that he would not be able to finish college due to extensive court costs he owed and was discouraged. The ISO used intrinsic motivation by getting the offender to share his concerns about the extensive court costs he owed and was able to have costs waived by the Court as long as he finished school and earned his degree prior to being released from probation. The offender was motivated and encouraged to obtain his degree prior to being released from probation and obtained professional employment in his field of study following his graduation. In regard to this principle we will not be addressing any gaps. To ensure staff is providing the best opportunity for change, the Director and/or ISO II currently observe ISOs and client interaction intermittently, and provide written feedback. In addition, some office visits are recorded.

**C) Targeting Interventions:** Our agency initiates the identification of interventions as we complete the LSI-R interview. The standard conditions of probation, along with the special conditions, are reviewed with the offender to include recommended interventions derived from the LSI-R. Officers work with offenders to target the medium and high-risk areas shown on the LSI-R assessment. The resources that are provided to address the areas of need are prioritized so that the focus would be on the services most needed and provides the best opportunity for success. Should other interventions be necessary, they are targeted throughout the offender's supervision period and when the LSI-R reassessment is completed.

**Risk & Need Principles:** Successfully addressing this offender population requires smaller caseloads, the application of well-developed Case Plans, and placement of offenders into sufficiently intense cognitive-behavioral interventions that target their specific criminogenic needs. Offenders have a variety of needs, some of which are directly linked to criminal behavior, which could pose a risk to the community. These needs are dynamic risk factors that, when addressed, affect the offender's risk from recidivism. We affect these risk factors through a Case Plan based on the criminogenic needs identified through the initial LSI-R assessment and subsequent reassessments as

behavior changes. Those offenders, who score as higher risk through the LSI-R, or having higher needs, are required to make additional contacts with their supervising officer than those at lower risk based on required minimum contact standards, which are set forth by KDOC. Those with higher risk and/or need scores often have more interventions, required by the court and/or as directed by their supervising officer, to utilize. These interventions/services are prioritized to focus on the greatest criminogenic need of the offender. While services are prioritized it is also important that we continue to address negative behavior through our sanctioned grid to help promote positive behavior change and discourage negative behavior.

**Responsivity Principle:** This requires that we consider individual characteristics when matching offenders to services. The principle of responsivity also requires that offenders be provided with treatment that is proven effective with the offender population. As previously mentioned, our agency has two caseloads per ISO. Upon review of a referral from District Court or Court Services via the Community Corrections Director or designee, depending on the offender information that is received, the offender is assigned to an ISO. When meeting with the offender, ISOs consider individual characteristics so they can begin to match offenders with the proper services needed. When ISOs meet with the offender, it is their goal to engage offenders and motivate them to want to address their identified areas of risk as well. ISOs will help offenders identify their needs, which are specific to them and will also help them identify the proper community providers to allow a higher chance at being successful. Research has shown us that a person's culture, gender, learning style, motivation to change and other factors play a key role in influencing an offender's responsiveness to certain types of treatment. This information, along with our positive relationship with a number of treatment providers in our community, allows us to help the offender get the treatment they need.

**Dosage:** During the initial 3-9 months of supervision, 40-70% of an offender's free time should be clearly occupied with delineated routine and appropriate services. The dosage of services is determined almost entirely on the level of the offender's LSI-R score. The dosage of reporting, residential, employment and intervention verifications doesn't deviate much unless driven by scheduled or unscheduled LSI-R reassessments based on changes in the offender's behavior. Offenders who show a higher risk to the community receive a higher dose of services and commonly require more strategic, extensive and extended services unless public safety becomes an issue. The Court and/or the ISO may impose interventions to assist the offender in structuring time, including supervision through our internal surveillance program to curtail and monitor evening and weekend activities for a specified period as determined by the ISO. It is our goal not to set the offender up for failure by adding too much to their schedule at any given time. Therefore, prioritizing is an important component in the area of dosage.

**Treatment Principle:** Cognitive-behavioral based types of treatment are applied as an integral part of our supervision process. Taking a pro-active and strategic approach to supervision and Case Planning is important to the supervision process. Delivering targeted and timely treatment interventions will provide the greatest long-term benefit to the community, the victim and the offender. We do understand treatment is an integral part of the offender's Case Plan and work hard to match their need with the appropriate treatment to meet that need based on what is outlined through the LSI-R and as court-ordered.

We believe that a gap regarding the Treatment Principle exists. Although ISOs routinely focus on cognitive skills throughout their daily supervision of offenders, our agency continues to struggle with offering cognitive-behavioral classes. Buy-in has become a problem since many treatment providers use cognitive-behavioral techniques and therefore, we do not have many offender referrals. Our goal is to implement a full cognitive skills program as another means to help offender success. As stated previously, to help close this gap, our agency will continue to encourage staff to work with offenders on cognitive skills (learned in treatment) during office visits. Our organization will continue our meetings with Cognitive Skills Specialist from KDOC to try and identify ways to implement a program in Douglas County. At this time we have a referral process completed and half the ISOs are trained to facilitate Thinking for a Change. Our office will continue to train staff in Thinking for a Change and will collaborate with other agencies interested in this program as well, which include, but may not be limited to the Lawrence Parole Office and the Douglas County Reentry program. It is our intent to have officers work with offenders to identify ways interventions can be addressed through the case plan as well. Offenders will be able to see a pattern of success as they go through their supervision process.

**D) Skill Training With Directed Practice:** Our agency believes it is important to provide staff with the proper cognitive training so that they are able to emphasize these cognitive-behavioral strategies to offenders. To successfully deliver this treatment, staff must understand antisocial thinking, social learning, and appropriate communication techniques. According to EBP, agencies should prioritize, plan and budget to implement programs that have been proven to reduce recidivism. Lastly, most ISOs communicate with providers to ensure that what is being administered in-group, and/or individual treatment, is consistent with what cognitive skills are being emphasized during offender supervision.

As well as making sure our staff are fully trained and able to provide the most effective communication strategies, it is just as important to provide offenders on community corrections probation with specific training so that they may be successful as well. Our office currently works with offenders throughout their supervision on goals they believe can help them be successful while on probation and beyond. Officers continue to practice new skills with offenders as they go through probation. If an offender is in search of a job, they will work with their officer on how to properly apply for a job opening, discuss the proper attire to wear to a job interview and practice answering interview questions that may come up during a job interview. Officers also try to work with offenders on skills they may have learned in drug treatment, mental health treatment and/or employment classes. Regarding this principle we will not be addressing any gaps.

**E) Increasing Positive Reinforcement:** According to EBP, applying a higher ratio of positive reinforcement to negative reinforcement's may result in better-achieved sustained behavioral change. Our agency has put in place an incentives program for offenders whose behavior warrants positive feedback. Officers may submit an incentive request to the Director or ISO II and receive a gift card from a local merchant. Officers also have the ability to give the offender a signed certificate acknowledging their positive behavior change. Currently ISOs provide positive reinforcement through verbal rewards. If an offender is on surveillance and/or curfew, offenders may be rewarded for positive behavior by being successfully discharged from the surveillance program and/or having the curfew removed. Offenders also have an opportunity to be reclassified to a lower

level of supervision based on either a scheduled or an unscheduled LSI-R reassessment, meeting KDOC criteria. This practice is more of a positive reinforcement than a reward/incentive. ISOs have the option to reward an offender a bike as well, through the new bike program. This is a reward through the incentives program and was established in FY2013, with the collaboration of Lansing Correctional Facility. Offenders also have the possibility of an early discharge if they are in compliance throughout their probation period. Our agency recognizes that not all offenders will respond to the increase of positive reinforcement. Therefore, it is important that clear rules be consistent and swiftly enforced, with appropriate and graduated consequences. In general, offenders will continue to comply with the most rewards and least punishments. There are currently no gaps we will be addressing for this principle.

**F) Engaging Ongoing Support in the Natural Communities:** Current practice is limited in encouraging and engaging ongoing support in natural communities to selected populations. Officers in this agency continue to be active in recruiting family members, spouses and others in the offender's immediate environment to positively reinforce new behaviors. Substance abusers are guided to positive associations and support groups such as AA and NA. Peer associations and familial contacts are reviewed throughout offender supervision and may be targeted towards higher risk offenders.

This principle has been identified as a gap for our agency. Our agency believes there are more opportunities to engage offenders in their natural communities and plan to address this through the mentoring program and through engaging pro-social support that currently exists in the offenders life. As stated previously, once the mentoring program is fully implemented, we believe this will help close the gap. In order to sustain this program and make it successful, we created a policy and procedure, a mentoring training manual and identified the mentor targeted population. Our agency has met with community members in our county and introduced this program as an opportunity to gain volunteers interested in becoming mentors. Our agency has specifically met with Kansas University, Baker University, Washburn University, and United Way of Douglas County. Brochures and flyers have been distributed throughout the community explaining the application process and applications have recently been received. Our goal is to continue to meet with community members, gain and train volunteers and identify offenders who will be suitable for this mentorship in the community. With this program being implemented, it is our organizational plan to address and improve domains such as attitudes/orientation, education/employment, companions, drug/alcohol, mental health and leisure/recreation. As an agency we will also work with each offender individually to identify positive role models already in their lives and encourage each offender to include those people in the process of building their case plan. Our goal is to ensure accountability to the goals the offender wants to achieve while on community supervision.

**G) Measuring relevant processes/practices:** Our agency measures offender success throughout the supervision process. This includes discussions with the offenders and any treatment providers involved. Should there be any positive/negative cognitive-behavioral changes with the offender, ISOs are able to capture this change quickly and provide feedback along with corrective action as needed. ISOs also provide written documentation to the offender within their Case Plan to show when and where change is occurring. In addition, offender success is individualized and measured differently. Roadblocks for offenders during supervision do not necessarily mean failure. Currently,

supervisors utilize offender, officer and agency TOADS reports to collect data regarding offender assessment and case management. We also collect data through LSI-R assessments, caseload reports, alpha rosters, employment reports, Full Court reports, intervention reports, ADT (admit, discharge, transfer) reports, court case sentencing reports, and average daily population reports. Supervisors measure staff performance through random file audits and review of TOADS reports along with annual performance evaluations. In addition, our agency has added an observation QA piece to our program that allows supervisors to observe ISO and client interaction and provide written feedback. Feedback is provided to staff in six month progress reports and yearly evaluations.

There is limited, informal recidivism information that comes forth on a case-by-case basis. Usually, this information may be found by receiving notice that offenders on supervision are arrested and/or convicted of new offenses or of offenders that have completed probation either successfully or unsuccessfully but re-offend later and are re-assigned to the program. Typically, ISOs receive this information by collateral contacts or by way of Law Enforcement Bulletins.

In regards to this principle we will not be addressing any gaps at this time, but will address ways to continue being at or above a 75% successful rate for offenders in our program.

**H) Providing measurement feedback:** Providing feedback to offenders regarding their progress builds accountability and is associated with enhanced motivation for change, lower treatment and improved outcomes. In order to enforce accountability and maintain integrity to the agency's mission, supervisors monitor ISO/offender interaction to ensure staff keeps focused on the ultimate goal of reducing recidivism through the use of evidenced based principles.

Weekly ISO meetings are held to provide staff an opportunity to review with other co-workers their offender's progress. Case Plans are reviewed with the offender throughout their supervision period to address any needs and accomplishments. Change is also monitored through LSI-R re-assessments.

Offender-based data is reviewed and evaluated annually through staff performance evaluations that include whether or not departmental and KDOC standards are being met. Random file audits are also completed. The Comprehensive Plan also will address outcomes and is forwarded to the Advisory Board, County Commissioners, the Chief Judge, and the Court Administrator for review. The Quarterly Reports also provide outcomes as to how our program is proceeding and is provided to the Advisory Board Sub-committee.

Our agency randomly provides offenders that are being successfully discharged from our program an opportunity to provide agency feedback regarding our program. We can measure progress internally and through data but it helps to receive feedback from the offenders we supervise. In regards to this principle we will not be addressing any gaps at this time.

## **MANAGEMENT AND ORGANIZATIONAL CAPABILITIES**

All staff will be responsible for developing and implementing the overall plan of the agency. All staff is responsible for helping to reduce revocations and increase successful terminations. Staff will be committed to enhancing public safety by helping offenders be successful while on probation and preparing them to live law-abiding and productive lives upon successful discharge.

Currently, the Director and ISO II are responsible for overall supervision/auditing, to include running quarterly TOADS reports to make sure the agency is meeting the 75% successful rate. Both are also responsible for overseeing and evaluating the overall program and provide information to the Chief Administrative Judge, Court Administrator, Advisory Board, and County Commissioners regarding how well the program is doing and request any feedback. All ISOs, CSW Coordinator, and surveillance officers will be responsible for completing all risk reduction training to include refresher trainings. Our agency has six ISOs who have been trained to facilitate the cognitive skills training. The Director, ISO II and Administrative Secretary II are responsible for maintaining the mentoring program with assistance from the Douglas County District Court Administrator. National Toxicology Lab will continue to test all urinalysis and provide written test results to include some confirmations. Alcohol Monitoring Systems is our contact for our SCRAM program.

The Advisory Board ensures that the overall goals and objectives of the program are effectively administered. The Advisory Board is provided with written information (i.e. comprehensive plan/budget, quarterly reports, and policy/procedures) regarding our agency prior to our quarterly meetings, providing them ample time to review and note any concerns that will be addressed during our quarterly meetings. In addition, data provided by KDOC is also provided for review. Along with this, the Board reviews the development and implementation of current and new programs; makes any recommended changes (amendments) to the annual comprehensive plan before approving it to be submitted to the Board of County Commission; and, evaluates action plans, goals and objectives for Community Corrections services. This includes but is not limited to Adult Supervision, Community Service Work Program, and the Anger Control Program. Our agency could not proceed without the help of the Advisory Board making sure that the program we have in place is acceptable through regular feedback and suggestions.

The Advisory Board will continue to approve and oversee our whole program including our Risk Reduction Initiative. The Advisory Board's sub-committee will conduct the quarterly reviews of the planning, implementation and outcomes of the initiative, providing feedback and direction.

The Douglas County Commission provides general oversight for Douglas County Community Corrections by approving all required plans and budgets of the agency. During previous budget shortfalls, especially when it affects personnel, the County Commission has been helpful in helping our program maintain staff. Without the County's assistance, our agency would be faced with layoffs, overworked staff, and an increase in our revocation rate, resulting in a decrease in successful terminations. In addition, public safety would be jeopardized.

The Douglas County Commission will approve our Risk Reduction Initiative and will, in general, oversee all our programs, approving all planning and budgeting items.

### **Monitoring and Evaluation**

Monitoring and evaluation are important for program development. Measurement and progress toward organizational goals provides our agency with guidance and feedback to aid in success of offender supervision. A healthy program forms the foundation for an effective change process and ensures the success of our agency. In addition, reviewing our agency gaps and strategies helps with removal of barriers that may contribute to an unsuccessful program, therefore careful monitoring and adjustments of the programs we have in place is very important.

The Douglas County Community Corrections Advisory Board Monitoring Sub-Committee will be responsible for conducting the reviews. The four member committee consists of well qualified members of the Advisory Board. In addition, the committee can enlist a University of Kansas faculty member or other outside experts to help with these reviews. Outcomes of the reviews will be documented through quarterly meeting minutes and provided to the members of the Advisory Board, including sub-committee members, along with the designated stakeholders.

Once the data is collected, organized systematically, and evaluated it will be used to help our agency determine where weaknesses lie in specific parts of the program. The data can be analyzed further to suggest ways to modify the program to enhance overall performance. The data will also be used to confirm that each component of the program is meeting the agency's expectations. If a component of the program is not effective in advancing the overall goal of the initiative it can be replaced with something else that could be more effective in contributing to the overall success of the initiative.

The economy continues to be a concern and although expenses to run a quality program continue to increase, many agencies have received budget cuts. Should there be additional grant funding available (i.e. unexpended funds, etc.), our agency will apply for those grants. As mentioned throughout this Grant Application, our plan is to help keep our community safe, and help offenders from spending any amount of time behind prison walls. We believe that with the right people in place and the correct use of resources our agency will help at least 75% of offenders referred to our agency become law abiding citizens. Should our agency be granted additional funding our plan will be to purchase additional bus passes, incentives/rewards, and possibly hire an additional ISO to help reduce high-risk caseloads.

Although several gaps were mentioned in the Integrated Model, for FY 2014 our agency will be addressing the following gaps to achieve agency success/outcomes:

**Outcome to help close the gaps identified in Organizational development and Engaging Ongoing Support in the Natural Communities:** Fully implement a mentoring program to help with offender pro-social orientations during FY 2014. In addition to helping close this gap, below are strategies to help our agency achieve at least a 75% success rate.

**Strategies to achieve success for Outcome/Gap:**

- o By July 1<sup>st</sup> 2013, finalize meetings with community collaborators and introduce the mentoring program mission and goals;
- o By July 1<sup>st</sup> 2013, review and finalize the developed Mentoring Screening Process;
- o By July 1<sup>st</sup> 2013, identify volunteer population;
- o By July 1<sup>st</sup> 2013, review and finalize a created training curriculum for mentors that addresses the following, but not limited to: conduct of mentors; prohibited behavior; acceptable activities; required activities; and offender incentives;
- o By July 31<sup>st</sup> 2013, review and finalize a Mentor Selection (interviews) and Assignment Procedure;
- o By July 31<sup>st</sup> 2013, develop a offender selection/assignment procedure ; and,
- o By August 1<sup>st</sup> 2013, create an exit interview procedure for both mentors and offenders to help improve program measures.

**Evaluation/Data Component for Outcome/Gap:**

- o Identify an Evaluation/Data Component by December 1<sup>st</sup> 2013;
- o Update the internal data spread sheet that will track successful/unsuccessful terminations from the mentoring program; and,
- o Obtain data from LSIR Performance Report to review domain scores to see if scores are decreasing in the areas of Leisure/Recreation, Education/Employment, Companions, Family/Marital, and Attitudes/Orientations.

**Outcome to help close the gaps identified in Organizational development and Targeting Interventions:** Revitalize the cognitive skills program to assist with offender thinking patterns utilizing the Thinking for a Change curriculum during FY 2014. In addition to helping close this gap, below are strategies to help our agency achieve at least a 75% success rate.

**Strategies to achieve success for Outcome/Gap:**

- o By July 31<sup>st</sup> 2013, collaborate with Lawrence, Kansas State Parole Office regarding establishing a partnership to assist both CC/Parole offenders;
- o By July 31<sup>st</sup> 2013, Collaborate with Douglas County Re-entry regarding establishing a partnership to assist both CC/re-entry offenders;
- o By July 31<sup>st</sup> 2013, explain the referral procedure to ISOs; and,
- o By September 30<sup>th</sup> 2013, meet with KDOC staff regarding possible collaborations with other providers that utilize the Thinking for a Change curriculum in Northeast Kansas.

**Evaluation/Data Component for Outcome/Gap:**

- o Review of the internal referral log once a month for placement of potential participants in the program;
- o Updating the data spreadsheet that will track successful/unsuccessful terminations from the cognitive skills program following each session to obtain data on successful/unsuccessful terminations; and,

- o Obtain data from LSIR Performance Report to review if domain scores are decreasing in the areas of Leisure/Recreation, Education/Employment, Companions, Family/Marital and Attitudes/Orientations.

**Outcome to help close the gaps identified in Organizational development, Targeting Interventions and Engaging Ongoing Support in the Natural Communities:** To enhance our internal programs by adding a part-time Resource Officer position that will coordinate the mentoring program and facilitate the cognitive skills classes along with other offender opportunities that exist within the agency during FY 2014. In addition to helping close this gap, below are strategies to help our agency achieve at least a 75% success rate.

**Strategies to achieve success for Outcome/Gap:**

- o By July 31<sup>st</sup> 2013, complete a position description;
- o By July 31<sup>st</sup> 2013, complete an interview questionnaire;
- o By August 1<sup>st</sup> 2013, complete position announcement and posting;
- o By September 1<sup>st</sup> 2013, schedule and complete interviews;
- o By September 15<sup>th</sup> 2013, select applicant;
- o By October 1<sup>st</sup> 2013, begin training applicant to consist of , but not limited to:
  - Human Resources and Personnel Duties
  - Office Duties
  - Client Duties
  - Court Duties
  - Public Relations
  - Caseload/client duties: offenders that have been assigned to the mentoring/cognitive skills programs.

**Evaluation/Data Component for Outcome/Gap:**

- o Bi-annually progress reports and yearly evaluations will be completed providing structural feedback to address staff and program improvements;
- o This position will be trained to run LSIR reports to review the change in domains that will be addressed through our agency's community programs; and,
- o This position will be responsible for providing any other data requested by the supervisors, KDOC, Advisory Board, Court, and/or KDOC.

**Outcome to help close the gaps identified in Collaboration:** Improve collaboration with specific partners during FY 2014. In addition to helping close this gap, below are strategies to help our agency achieve at least a 75% success rate.

**Strategies to achieve success for Outcome/Gap:**

- o Enhance communication with the District Attorney's Office during FY 2014; and,
- o Enhance communication with DCCCA during FY 2014.

**Evaluation/Data Component for Outcome/Gap:**

- o Obtain feedback from ISOs and the District Attorney's office to ensure positive communication between the agencies; and,

- o Maintain regular contact with DCCCA staff, including the Director, to ensure positive communication continues.

**Outcome to help better our agency's Measures and Relevant Processes/Practices:**

Achieve and maintain a supervision success rate of at least 75% or improving such rate by at least 3% each year, by June 30<sup>th</sup>, 2014.

**Strategies to achieve success for Outcome/Gap:**

- o Per policy and procedure, all ISOs are required to obtain supervisory approval for any recommended revocations; and,
- o Per policy and procedure, all referrals to community corrections will be monitored by the Director to ensure proper placement in community corrections.

**Evaluation/Data Component for Outcome/Gap:**

- o Complete quarterly reports by obtaining data from the KDOC database in reviewing the Court Case Sentencing Information report; and,
- o Review successful terminations/revocation percentages with staff at the minimum quarterly.

**Outcome to help close the gap identified in Targeting Interventions:** Successfully address targeted interventions identified in a case plan with more cognitive behavioral types of treatment during the supervision process for FY 2014.

**Strategies to achieve success for Outcome/Gap:**

- o Engage and utilize positive associations in offender case plans, during office contacts and through community resources during FY 2014. (Note: our agency believes this will be addressed through the strategies we have developed for the mentoring program and the cognitive skills program).
- o By August 1<sup>st</sup> 2013, KDOC will provide effective Case Plan refresher training;
- o ISOs will work with offenders regularly to identify positive associations throughout supervision; and,
- o ISOs will refer offenders to the mentor program if no positive associations exist in the offender's natural community.

**Evaluation/Data Component for Outcome/Gap:**

- o Supervisors will select random Case Plans for review on a monthly basis and provide feedback;
- o Supervisors will randomly monitor interaction between the ISO/offender via recorded office visits once per month; and,
- o Supervisors will provide written/verbal feedback to ISOs.





## FUNDING CONSIDERATIONS

|  | <u>FY2012<br/>Budget</u> | <u>FY2012<br/>Expended</u> | <u>FY2012<br/>Difference</u> | <u>FY2014<br/>Current Allocation</u> | <u>Comments/Explanation of Changes</u> |
|--|--------------------------|----------------------------|------------------------------|--------------------------------------|----------------------------------------|
|--|--------------------------|----------------------------|------------------------------|--------------------------------------|----------------------------------------|

### G. Travel Costs

#### INSTRUCTIONS

#### AGENCY

|                     |        |        |         |        |  |
|---------------------|--------|--------|---------|--------|--|
| Vehicle Maintenance | -      | 50.00  | (50.00) |        |  |
| Fuels               | -      | -      | -       |        |  |
| Meals               |        | -      | -       | -      |  |
| Perdiem             | 500.00 | 82.63  | 417.37  | 500.00 |  |
| Total               | 500.00 | 132.63 | 367.37  | 500.00 |  |

Depending on County budget, we anticipate paying vehicle fuel/maintance in FY2013 - \$3000 (see narrative)

Depending on County budget, we anticipate paying vehicle fuel/maintance in FY2013 - \$1000 (see narrative)

#### RESIDENTIAL

|                     |   |   |   |   |  |
|---------------------|---|---|---|---|--|
| Vehicle Maintenance | - | - | - | - |  |
| Fuels               | - | - | - | - |  |
| Meals               | - | - | - | - |  |
| XXXXX               | - | - | - | - |  |
| Total               | - | - | - | - |  |

#### Total Miles Driven

#### AGENCY

|                              |        |
|------------------------------|--------|
| Total Miles Driven in FY2012 | 14,305 |
|------------------------------|--------|

#### RESIDENTIAL

|                              |   |
|------------------------------|---|
| Total Miles Driven in FY2012 | - |
|------------------------------|---|

|                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                            |                                                                                                                                             |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Agency Identification ( Main Office)</b>                                                                                                                                                                                                                                                                                                                   |                                                                                                                                            |                                                                                                                                             |
| Name: Douglas County Community Corrections<br>Address: 111 E. 11 <sup>th</sup> , Unit #3      City: Lawrence      Zip Code: 66044<br>Telephone: (785) 832-5220      Fax: (785) 330-2800      E-Mail: dferguson@douglas-county.com<br>Host County:                                                                                                             |                                                                                                                                            |                                                                                                                                             |
| <b>Agency Director</b>                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                            |                                                                                                                                             |
| Name: Deborah L. Ferguson<br><br>Address<br>(If Different From Agency)                                                                                                                                                                                                                                                                                        | Title: Director                                                                                                                            | Telephone: (785) 832-5342      Ext.:<br><br>Cell Phone: (785) 840-7408<br><br>E-Mail: dferguson@douglas-county.com                          |
| <b>Satellite Offices (Please Attach Additional Sheets As Necessary To List All Offices)</b>                                                                                                                                                                                                                                                                   |                                                                                                                                            |                                                                                                                                             |
| <b>S-1</b><br><br><input type="checkbox"/> Residential <input type="checkbox"/> AISP<br><br>Address:<br><br>Phone:<br>Fax:<br>No. Of Staff:                                                                                                                                                                                                                   | <b>S-2</b><br><br><input type="checkbox"/> Residential <input type="checkbox"/> AISP<br><br>Address:<br><br>Phone:<br>Fax:<br>No. Of Staff | <b>S-3</b><br><br><input type="checkbox"/> Residential <input type="checkbox"/> AISP<br><br>Address:<br><br>Phone:<br>Fax:<br>No. Of Staff: |
| Grant Period: July 1, 2013 Through June 30, 2014                                                                                                                                                                                                                                                                                                              |                                                                                                                                            |                                                                                                                                             |
| <b>Projected Funding From Other Sources (all including county funds).</b><br><br>Source: _____ Amount: \$ _____<br>Source: _____ Amount: \$ _____<br>Source: _____ Amount: \$ _____<br>Source: _____ Amount: \$ _____<br>Source: _____ Amount: \$ _____<br>Source: _____ Amount: \$ _____<br>Source: _____ Amount: \$ _____<br>Source: _____ Amount: \$ _____ |                                                                                                                                            |                                                                                                                                             |

### Current and New Resources

| Services                                 | Enter 'yes',<br>'no' or 'more<br>needed' if<br>Currently<br>Available | Enter<br>'yes', 'no' or<br>'more needed'<br>if New In<br>FY2014 | Comments                                                                                                                                                    |
|------------------------------------------|-----------------------------------------------------------------------|-----------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Agency Supervision Fee                   |                                                                       |                                                                 |                                                                                                                                                             |
| Child Care Assistance                    | No                                                                    |                                                                 |                                                                                                                                                             |
| Clothing (work related or other)         | No                                                                    |                                                                 |                                                                                                                                                             |
| Cognitive Behavioral Interventions       | More Needed                                                           |                                                                 | Although cognitive interventions are not available in house, offenders are receiving cognitive skills lessons, through drug treatment and reentry services. |
| Community Service Work                   | Yes                                                                   |                                                                 |                                                                                                                                                             |
| Courtesy Transfer Fee                    |                                                                       |                                                                 |                                                                                                                                                             |
| DNA Cost                                 | Yes                                                                   |                                                                 | \$20 per offender submission                                                                                                                                |
| Drug Confirmation Tests                  | Yes                                                                   |                                                                 | \$35 per positive drug charged to offender                                                                                                                  |
| Drug Screens                             | Yes                                                                   |                                                                 | \$20 per positive screen charged to offender                                                                                                                |
| Educational Services                     | No                                                                    |                                                                 |                                                                                                                                                             |
| Electronic Monitoring                    | No                                                                    |                                                                 |                                                                                                                                                             |
| Employment Services                      | Yes                                                                   |                                                                 | Current collaboration with the Workforce Center allows for offenders to be referred to monthly employment classes and receive help on resume writing.       |
| Food                                     | Yes                                                                   |                                                                 | Offenders who are in need will be provided food through our Food for Service program.                                                                       |
| Housing Assistance                       | No                                                                    |                                                                 |                                                                                                                                                             |
| Medication                               | No                                                                    |                                                                 |                                                                                                                                                             |
| Mental Health Counseling                 | No                                                                    |                                                                 |                                                                                                                                                             |
| Mental Health Evaluations                | No                                                                    |                                                                 |                                                                                                                                                             |
| Mentoring                                | Yes                                                                   |                                                                 | Approved by Administrative Judge and Court Administrator and will begin the 4th Qtr FY13.                                                                   |
| Sex Offender Evaluations                 | No                                                                    |                                                                 |                                                                                                                                                             |
| Sex Offender Treatment                   | No                                                                    |                                                                 |                                                                                                                                                             |
| Substance Abuse Counseling               | No                                                                    |                                                                 |                                                                                                                                                             |
| Substance Abuse Evaluations              | No                                                                    |                                                                 |                                                                                                                                                             |
| Transportation Assistance                | More Needed                                                           |                                                                 | Purchased 100 bus passes during FY13 and request additional funding for FY14                                                                                |
| Utilities (heat, electric, phone, water) | NA                                                                    |                                                                 | Our agency does not pay rent/utilities.                                                                                                                     |
| OTHER :                                  |                                                                       |                                                                 |                                                                                                                                                             |
| Offender Appointment Calendars           | More Needed                                                           |                                                                 | Have not been able to purchase since 12/12/11 where we paid \$209.09 for 150 for Calendar Year 2012.                                                        |
| SCRAMx (alcohol                          | Yes                                                                   |                                                                 | \$5.30 per day (EMD and alcohol monitoring)                                                                                                                 |

|                                 |     |  |                                                                                                                          |
|---------------------------------|-----|--|--------------------------------------------------------------------------------------------------------------------------|
| monitoring/EMD)                 |     |  | \$6.30 per day wireless                                                                                                  |
| Anger Management                | Yes |  |                                                                                                                          |
| Alco-Sensor Breath Test         | Yes |  | \$4.55 per test tube                                                                                                     |
| Agency U-Rock Incentive Program | Yes |  | Staff are recognized for achievements outside of regular job duties to help sustain positive moral and offender success. |

Attachment E

## Collaborative Partnerships

| <b>Agency Partnerships</b>                        | <b>Gap:<br/>YES</b> | <b>Gap:<br/>NO</b> | <b>Comment</b>                                                                                                                                                                                                                                                                                                                                                       |
|---------------------------------------------------|---------------------|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Advisory Board                                    |                     | No                 | We have an open line of communication with this partner and meet quarterly.                                                                                                                                                                                                                                                                                          |
| County Commission                                 |                     | No                 | We have an open line of communication with the County Commission and County Administrator and they have been involved with our budget/reports.                                                                                                                                                                                                                       |
| Douglas County Sheriff's Office                   |                     | No                 | We have an open line of communication with the DG Co Sheriff's and meet with the re-entry case managers twice a month.                                                                                                                                                                                                                                               |
| Douglas County District Court                     |                     | No                 | We have an open line of communication with Douglas County District Court. The Judges are open to receiving emails, phone calls, and/or meetings when the need arises. In addition, should they have questions they will consult with the appropriate ISO. The Court Administrator is also active with CC. District Court manager's meetings take place once a month. |
| District Attorney's Office                        | Yes                 |                    | We would like to work toward bridging the communication gap when it comes to the offenders we supervise.                                                                                                                                                                                                                                                             |
| Lawrence Douglas County Housing Authority (LDCHA) |                     | No                 | We have established a working relationship with the LDCHA. In addition, the administrator is our current chairman of our Advisory Board.                                                                                                                                                                                                                             |
| DCCCA                                             | Yes                 |                    | There have been some communication gaps between the two agencies.                                                                                                                                                                                                                                                                                                    |
| Bert Nash Mental Health Center                    |                     | No                 | We closely work with Bert Nash and the case manager's along with those that work at the Douglas County Jail. One of the administrator's at Bert Nash is a member of our Advisory Board.                                                                                                                                                                              |
| Lawrence Workforce Center/Heartland Works         |                     | No                 | The ISO II routinely works with the Lawrence Workforce Center/Heartland Works in assisting ISOs with employment possibilities for the offenders. In addition, staff has toured the Lawrence Workforce Center and communication is open.                                                                                                                              |

## 2014 Community Corrections Comprehensive Plan Packet Signatory Approval Forms

**Agency Name:** Douglas County Community Corrections**Agency Director:** Deborah L. Ferguson**Grant Period:** July 1, 2013-June 30, 2014

My signature certifies that I did assist in the development, completion and review of the agency's Comprehensive Plan, attached hereto. I further certify that:

- The plan complies with the written directions sent to me by the Kansas Department of Corrections.
- The plan complies with applicable Kansas Statutes (KSA), and Kansas Administrative Regulations (KAR).
- The agency is willing to actively plan for implementing the consistent set of statewide policies to help guide the supervision and revocation process of probationers on Community Corrections Supervision.
- The agency will provide complete and accurate data to the Kansas Department of Corrections regarding agency operations and outcomes.

\_\_\_\_\_  
Director\_\_\_\_\_  
Date

.....

My signature certifies that the Community Corrections Advisory/Governing Board actively participated in the development of the attached Comprehensive Plan. The board reviewed the plan for accuracy, compliance with written instructions from the Kansas Department of Corrections, applicable Kansas Statutes (KSA), and Kansas Administrative Regulations (KAR).

\_\_\_\_\_  
Advisory/Governing Board Chairperson : Milton Scott\_\_\_\_\_  
Date

Address: 1600 Haskell Avenue, Lawrence, Kansas 66044

Phone: (785) 842-8110      Fax: (785) 842-9596      E-Mail: mscott@ldcha.org

.....

My signature certifies that the Board of County Commissioners has reviewed and approved the attached Comprehensive Plan for submission to the Kansas Department of Corrections.

\_\_\_\_\_  
Mike Gaughan - Board Of County Commissioners Chairperson (Douglas)\_\_\_\_\_  
Date

Address: 1100 Massachusetts Street, Lawrence, Kansas 66044

Phone: (785) 832-5268      Fax:

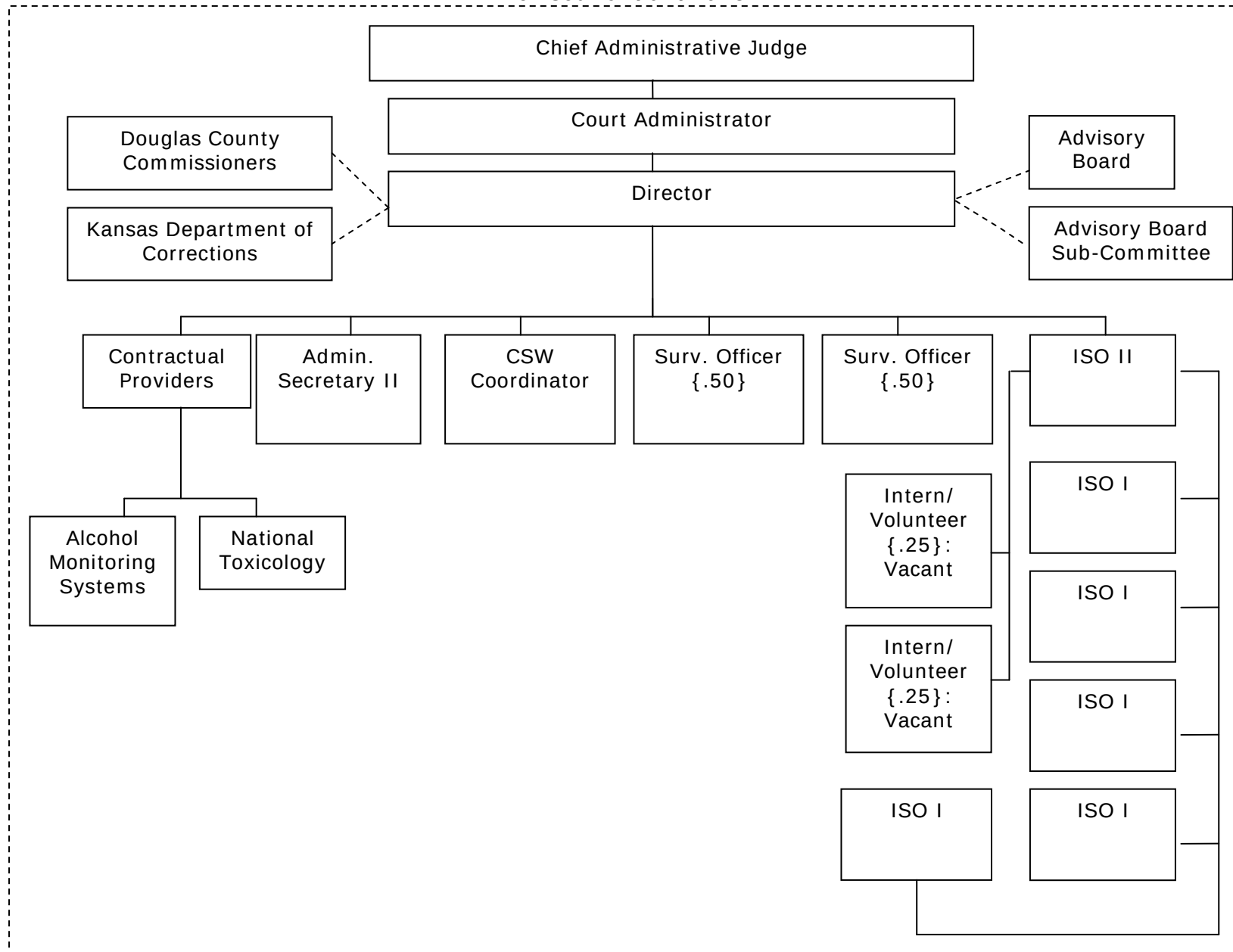
E-Mail: mgaughan@douglas-county.com

**ADVISORY BOARD MEMBERSHIP FOR CY2013**

Instructions: Please provide all of the requested information for each advisory board member who will serve during the grant year. KSA75-5297 and 75-7044 governs the membership, qualifications, appointment, alternative membership, and appointment provisions for cooperating counties for advisory boards. Use an asterisk to identify the advisory board chairperson. In the Race column, please use a term which best describes the member's race (e.g., American Indian or Alaskan Native, Asian or Pacific Islander, Black, Hispanic, White)

| APPOINTED BY                                                                                                                                    | REPRESENTING & TERM YEAR                     | NAME & IDENTIFICATION                                                             | PHONE                                                                                                                                                                           | GENDER | RACE | RECENT APPT. DATE | APPT. EXP. DATE |
|-------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|-----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|------|-------------------|-----------------|
| County Sheriff                                                                                                                                  | Law Enforcement<br>KSA 75-7044.              | Ken McGovern or Designee                                                          | 785<br>832-5210                                                                                                                                                                 | Male   | W    | Feb 2013          | Feb 2014        |
| Chief of Police                                                                                                                                 | Law Enforcement<br>KSA 75-7044               | Tarik Khatib<br>4820 Bob Billings Pkw<br>Lawrence 66049                           | 785<br>830-7400                                                                                                                                                                 | Male   | W    | Jan 2013          | Jan 2014        |
| District Attorney                                                                                                                               | Prosecution<br>KSA 75-7044                   | Charles Branson<br>111 East 11<br>Lawrence 66044                                  | 785<br>841-0211                                                                                                                                                                 | Male   | W    | Jan 2013          | Jan 2014        |
| Chief Judge                                                                                                                                     | Judiciary<br>KSA 75-7044                     | Peggy Kittel<br>111 East 11<br>Lawrence 66044                                     | 785<br>832-5272                                                                                                                                                                 | Female | W    | August 2012       | August 2014     |
| Chief Judge                                                                                                                                     | Judiciary<br>KSA 75-7044                     | Kelly Shoemake<br>111 East 11<br>Lawrence 66044                                   | 785<br>832-5218                                                                                                                                                                 | Female | W    | Jan 2012          | Jan 2014        |
| County Commission                                                                                                                               | General: Education<br>Term: 1<br>KSA 75-7044 | Willie Amison<br>549 Arrowhead Dr.<br>Lawrence 66049                              | Hm:<br>785<br>841-0733                                                                                                                                                          | Male   | B    | Oct 2012          | Oct 2014        |
| County Commission                                                                                                                               | General<br>Term: 1                           | Vanessa Sanburn<br>765 Ash Street<br>Lawrence 66044                               | 785<br>856-1233                                                                                                                                                                 | Female | W    | Jan 2012          | Jan 2014        |
| County Commission                                                                                                                               | Mental Health<br>KSA 75-7044.                | David Johnson<br>200 Maine Suite A<br>Lawrence 66044                              | 785<br>843-9192                                                                                                                                                                 | Male   | W    | May 2010          | May 2014        |
| County Commission                                                                                                                               | Social Services<br>Term: 1                   | Christie Stegall<br>1005 College Blvd<br>Lawrence 66044                           | 785<br>312-4967                                                                                                                                                                 | Female | W    | Aug 2012          | Aug 2014        |
| City Commission                                                                                                                                 | General<br>Final                             | Robert D. Suderman<br>614 W 27 Terr<br>Lawrence 66046                             | 785<br>766-4569                                                                                                                                                                 | Male   | W    | May 2011          | May 2013        |
| City Commission                                                                                                                                 | General<br>Final                             | Milton Scott, Chair<br>Lawrence Housing Aut<br>1600 Haskell Ave<br>Lawrence 66044 | 785<br>842-8110                                                                                                                                                                 | Male   | B    | May 2012          | May 2014        |
| City Commission                                                                                                                                 | General<br>Final                             | Verdell Taylor<br>3105 W 26 <sup>th</sup> Street<br>Lawrence 66047                | 785<br>843-2429<br>865-2589                                                                                                                                                     | Male   | B    | May 2012          | May 2014        |
| Member At Large                                                                                                                                 | The Shelter, Inc.                            | Judy Culley<br>P O Box 647<br>Lawrence 66044                                      | 785<br>843-2085                                                                                                                                                                 |        |      |                   |                 |
| County Commission: Mike Gaughan, Chair<br>Nancy Thellman<br>Jim Flory<br>City Commission: Robert Schumm, Mayor                                  |                                              |                                                                                   | Director, Community Corrections: Deborah Ferguson<br>Director, Youth Services: Pam Weigand<br>Board Chair: Milt Scott<br>Board Secretary: Dee Jerome<br>Telephone: 785/832-5220 |        |      |                   |                 |
| DCCC Outcomes Subcommittee:<br>Robert Suderman, Milton Scott<br>Deborah Ferguson, Shannon Murphy<br><br>Kelly Martinez, KDOC Program Consultant |                                              |                                                                                   | ADBD Quarterly Meeting Schedule:<br><br>January 8, 2013<br>Time: 4:00 PM April 9, 2013<br>111 E 11 <sup>th</sup> -Basement Unit 3 July 9, 2013<br>October 8, 2013               |        |      |                   |                 |
| 1/2013                                                                                                                                          |                                              |                                                                                   |                                                                                                                                                                                 |        |      |                   |                 |

**Douglas County Community Corrections**  
**Revised: 04/01/2013**





## DOUGLAS COUNTY PUBLIC WORKS

1242 Massachusetts Street  
Lawrence, KS 66044-3350  
(785) 832-5293 Fax (785) 841-0943  
dgcpubw@douglas-county.com  
www.douglas-county.com

**Keith A. Browning, P.E.**  
Director of Public Works/County Engineer

### MEMORANDUM

To : Board of County Commissioners

From : Terese Gorman, P.E., Engineering Division Manager *TAG*

Date : April 4, 2013

Re : Project No. 2013-6, Pavement rehabilitation  
Route 1057, K-10 to Route 458 (3.5 Miles)  
Route 458, Route 1057 to Route 1061 (3 Miles)  
Route 460, E 2000 Road to Route 1061 (2 Miles)  
E 900 Road, N 1390 to N 1460 (0.7 Miles)  
Add-Alternate for overlay of Route 458, E 2300 Road to E 2400 Road  
Authorization to solicit bids.

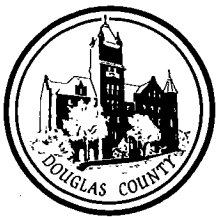
In December 2010, we presented a pavement management plan to the BOCC that included an overlay on Route 1057 from Route 460 to N 1275 Road (5.75 Miles) scheduled for 2012. However in 2012, Route 1057 from K-10 to Route 458 was part of the detour for the Wakarusa River bridge replacement project. Therefore, we were only able to overlay Route 1057 from Route 460 to Route 458 last year.

In 2013, we propose to finish rehabilitating Route 1057 from Route 458 to K-10 Highway. Included in this project is Route 458 from Route 1057 to Route 1061, Route 460 from E 2200 Road to Route 1061, and E 900 Road from N 1390 to N 1460. In addition, we wish to include an add-alternate contract item for overlaying a one mile section of Route 458 from E 2300 to E 2400 Road. Including this one mile section as an add-alternate contract item would allow us to take advantage of favorable bids, or decline the add-alternate bid if the bid price is over our budgeted funds.

We currently estimate the base bid cost for this overlay project to be approximately \$1,610,000. The estimated add-alternate bid cost for work on Route 458 is approximately \$164,000. Funds are available in Road & Bridge Fund 201 in the Overlay line item (\$1,120,000) and the Chip Seal line item (\$40,000). Funds are also available from the CIP's Annual Contract Pavement Maintenance Projects in the amount of \$500,000.

While the overlay work will occur in late summer, we feel soliciting bids earlier in the year may result in lower bids. We plan to open bids in late April. Following the bid opening, a recommended construction contract will be presented to the BOCC for approval.

Action Required: Authorize the Public Works Director to solicit bids for Project No. 2013-6, pavement rehabilitation project on Route 1057, Route 458, Route 460 and E 900 Roads, with an add-alternate contract item for pavement rehabilitation work on Route 458 from E 2300 to E 2400 Road.



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**Keith A. Browning, P.E.**  
Director of Public Works/County Engineer

### MEMORANDUM

To : Board of County Commissioners

From : Terese Gorman, P.E., Engineering Division Manager *TAG*

Date : April 4, 2013

Re : Project No. 2012-9, Pavement Rehabilitation  
Route 1061 (Church Street in Eudora), K-10 to N 1200 Road  
Authorization to solicit bids

The City of Eudora was recently reclassified from a 3<sup>rd</sup> class city to a 2<sup>nd</sup> class city. We have discussed with the City of Eudora their assuming maintenance of portions Route 442 (10<sup>th</sup> Street) and Route 1061 (Church Street and Main Street) within the city limits.

Route 1061 (Main Street) north of 10<sup>th</sup> Street through downtown Eudora was resurfaced a few years ago as part of Eudora's downtown beautification project. Route 1061 (Church Street) between 10<sup>th</sup> Street and K-10 was also resurfaced a few years ago. Both of those portions of Route 1061 will not need further work before turning over to Eudora.

Route 1061 (Church Street) from K-10 south one mile to N 1200 Road has significant surface deformations and cracking, and needs to be milled, patched and overlaid prior to the City of Eudora assuming maintenance. You will recall Route 1061 south of K-10 was part of the detour for the Route 1057 bridge replacement project over the Wakarusa River in 2012, which prevented us from completing this overlay last summer.

The CIP includes \$275,000 for milling, patching and asphalt overlay on Route 1061 (Church Street) from K-10 to N1200 Road and is scheduled for this year. This department has prepared construction plans. It is estimated this project to cost \$250,000.

We plan to open bids in late April. Construction is planned for late May or early June. Following the bid opening, a recommended construction contract will be presented to the BOCC for approval.

Action Required: Approval to solicit bids for Project No. 2012-9, pavement rehabilitation on Route 1061 from K-10 to N 1200 Road.

## **MEMORANDUM**

To : Board of County Commissioners

From : Keith A. Browning, P.E., Director of Public Works/County Engineer

Date : March 25, 2013

Re : Consent Agenda authorization to renew pavement markings contract

This department contracts for supplying materials and painting pavement markings on county routes. Pavement markings typically need repainting annually. The BOCC executed a contract in 2012 for pavement marking services, and the contract is renewable for an additional four years (through 2016). Douglas County determines whether to renew the contract following the contractor's submittal of prices each year.

Our current contract is with Midwest Striping, Inc. from Grand Island, Nebraska. We have been extremely pleased with the quality of work and the responsiveness and cooperation from this contractor. This contractor provides excellent service at a reasonable cost.

Midwest Striping has submitted their prices for 2013 (see attached). The material cost for paint did not increase this year. The application cost increased \$0.25 per gallon due to new spray equipment and higher fuel prices. The unit costs for painted symbols have not increased since 2007. The attached spreadsheet shows 2013 quantities and bid prices versus 2012 quantities and prices. You will note the quantity of yellow paint has decreased from 2012 to 2013. This is due to placing patterned cold-plastic tape on several overlay projects last year. This will decrease the paint costs for multiple years.

The total bid amount for 2013 pavement marking is \$148,623.15. Road & Bridge Fund 201 has \$155,742 allocated for this work.

I am also requesting authorization to approve change orders up to 5% of contract cost. The paint application rate will vary depending on pavement surface type and condition. Typically, our final costs are very close to the bid amount.

Action Required: Consent Agenda authorization for the Public Works Director to renew the contract with Midwest Striping, Inc. for 2013 pavement markings in the amount of \$148,623.15, and authorization for the Public Works Director to approve change orders totaling up to 5% over the contract amount.

**PROJECT NO. 2013-7**  
**RENEWAL BID # 12-F-0012**  
**DOUGLAS COUNTY, KANSAS**  
**TYPE OF WORK: TRAFFIC MARKING**  
**ITEM: REVISED UNIT PRICES FOR 2013 MAINTENANCE SEASON**  
**DATE : JANUARY 4, 2013**

| ITEM NO. | ITEM DESCRIPTION                                             | UNIT | APPROX. QUANTITY | 2013 UNIT PRICE | 2013 AMOUNT |
|----------|--------------------------------------------------------------|------|------------------|-----------------|-------------|
| 1        | Application of Painting Materials (4") (White/Yellow)        | Gal. | 9,305            | 4.75            | 44198.75    |
| 2        | Material Cost (Paint) (Yellow)                               | Gal. | 3,460            | 11.11           | 38440.60    |
| 3        | Material Cost (Paint) (White)                                | Gal. | 5,845            | 11.11           | 64937.95    |
| 4        | Pavement Marking (Paint) (White) (18")                       | L.F. | 308              | .15             | 46.20       |
| 5        | Pavement Marking (Paint) (White) (24")                       | L.F. | 195              | .20             | 39.00       |
| 6        | Pavement Marking (Paint) (Yellow) (18")                      | L.F. | 561              | .15             | 84.15       |
| 7        | 4" Dashed Lines                                              | L.F. | 265              | .10             | 26.50       |
| 8        | Pavement Marking Symbol (White) (Paint) (Turn Arrow, Lt-Rt.) | Ea.  | 40               | 10.00           | 400.00      |
| 9        | Pavement Marking Symbol (White) (Paint) (Combination Arrow)  | Ea.  | 3                | 10.00           | 30.00       |
| 10       | Pavement Marking Symbol (Paint) (White) ("ONLY")             | Ea.  | 1                | 15.00           | 15.00       |
| 11       | Pavement Marking Symbol (Paint) (White) (RR Xing. Symbol)    | Ea.  | 9                | 45.00           | 405.00      |

NOTE: Bidder shall extend all items and total bid

GRAND TOTAL 148,623.15

CONTRACTOR: Curt Clowen

DATE: 3-14-13

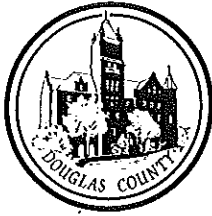
PROJECT NO. 2013-7  
RENEWAL BID # 12-F-0012  
DOUGLAS COUNTY, KANSAS  
TYPE OF WORK: TRAFFIC MARKING  
ITEM: REVISED UNIT PRICES FOR 2013 MAINTENANCE SEASON  
DATE : JANUARY 4, 2013

| ITEM NO.                                          | ITEM DESCRIPTION                                             | UNIT | APPROX. QUANTITY | 2013 UNIT PRICE | 2013 AMOUNT | 2012 Quantity | 2012 Unit Price | 2012 AMOUNT  |
|---------------------------------------------------|--------------------------------------------------------------|------|------------------|-----------------|-------------|---------------|-----------------|--------------|
| 1                                                 | Application of Painting Materials (4") (White/Yellow)        | Gal. | 9,305            | \$4.75          | \$44,198.75 | 9,435         | \$4.50          | \$42,457.50  |
| 2                                                 | Material Cost (Paint) (Yellow)                               | Gal. | 3,460            | \$11.11         | \$38,440.60 | 3,510         | \$11.11         | \$38,996.10  |
| 3                                                 | Material Cost (Paint) (White)                                | Gal. | 5,845            | \$11.11         | \$64,937.95 | 5,925         | \$11.11         | \$65,826.75  |
| 4                                                 | Pavement Marking (Paint) (White) (18")                       | L.F. | 308              | \$0.15          | \$46.20     | 308           | \$0.15          | \$46.20      |
| 5                                                 | Pavement Marking (Paint) (White) (24")                       | L.F. | 195              | \$0.20          | \$39.00     | 195           | \$0.20          | \$39.00      |
| 6                                                 | Pavement Marking (Paint) (Yellow) (18")                      | L.F. | 561              | \$0.15          | \$84.15     | 561           | \$0.15          | \$84.15      |
| 7                                                 | 4" Dashed Lines                                              | L.F. | 265              | \$0.10          | \$26.50     | 265           | \$0.10          | \$26.50      |
| 8                                                 | Pavement Marking Symbol (White) (Paint) (Turn Arrow, Lt-Rt.) | Ea.  | 40               | \$10.00         | \$400.00    | 40            | \$10.00         | \$400.00     |
| 9                                                 | Pavement Marking Symbol (White) (Paint) (Combination Arrow)  | Ea.  | 3                | \$10.00         | \$30.00     | 3             | \$10.00         | \$30.00      |
| 10                                                | Pavement Marking Symbol (Paint) (White) ("ONLY")             | Ea.  | 1                | \$15.00         | \$15.00     | 1             | \$15.00         | \$15.00      |
| 11                                                | Pavement Marking Symbol (Paint) (White) (RR Xing. Symbol)    | Ea.  | 9                | \$45.00         | \$405.00    | 9             | \$45.00         | \$405.00     |
| NOTE: Bidder shall extend all items and total bid |                                                              |      |                  |                 | GRAND TOTAL | \$148,623.15  |                 | \$148,326.20 |

Original Engineer Estimate (2012): \$160,483.95

CONTRACTOR: \_\_\_\_\_

DATE: 3/14/2013



## DOUGLAS COUNTY PUBLIC WORKS

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**Keith A. Browning, P.E.**  
Director of Public Works/County Engineer

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### MEMORANDUM

TO : Board of County Commissioners

FROM : Keith A. Browning, P.E., Director of Public Works  
Michael D. Kelly, P.S., County Surveyor

DATE : April 4, 2013

RE : Consent agenda; Bridge No. 10.80N – 24.00E; Acquisition of Easement;

A project has been designed to replace a drainage structure located on the Douglas/Johnson County line approximately 3 miles southeast of Eudora.

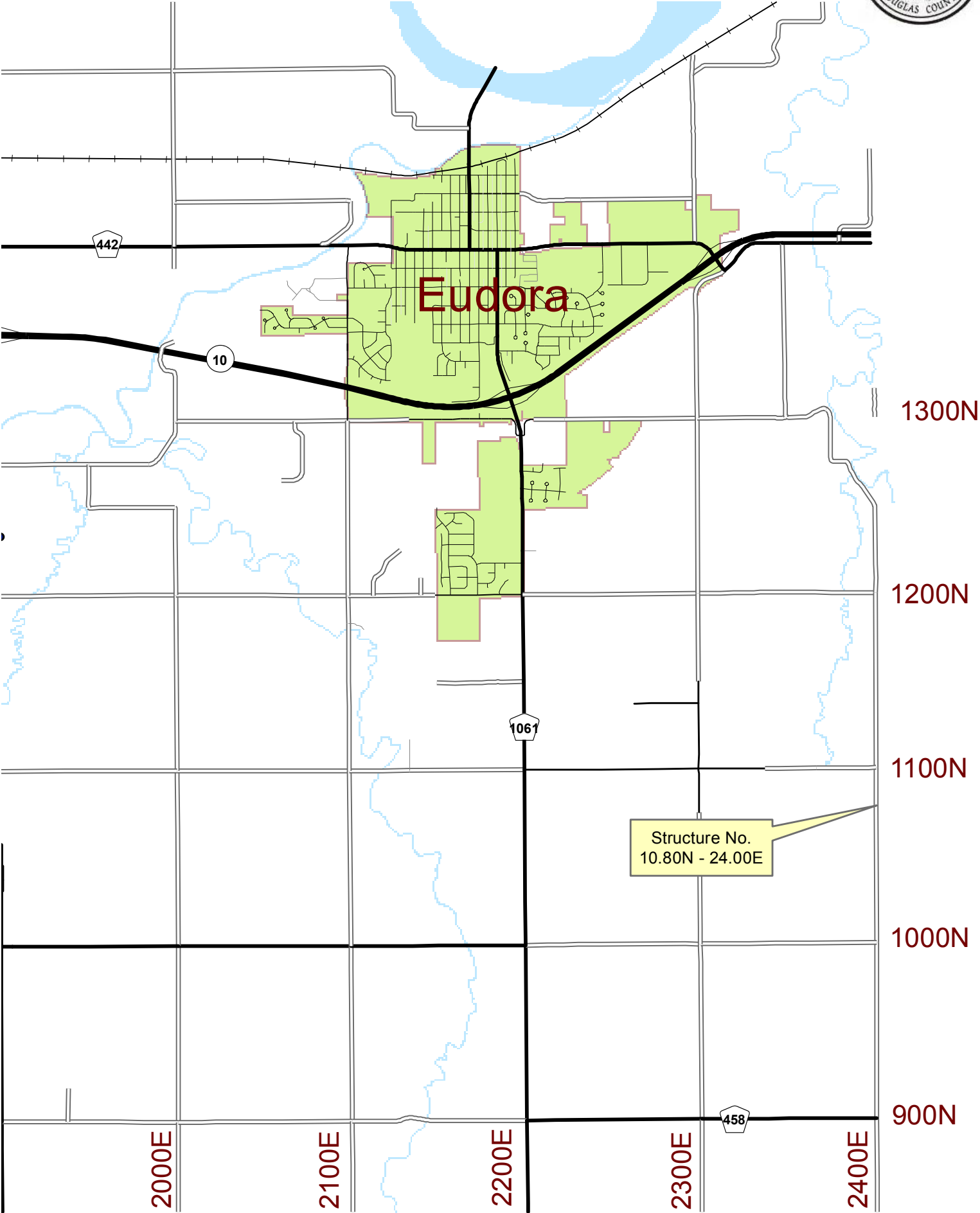
Plans have been developed by Johnson County staff and negotiations for permanent easement have been completed on the both sides of the project. Construction of this project is to be accomplished by Johnson County personnel.

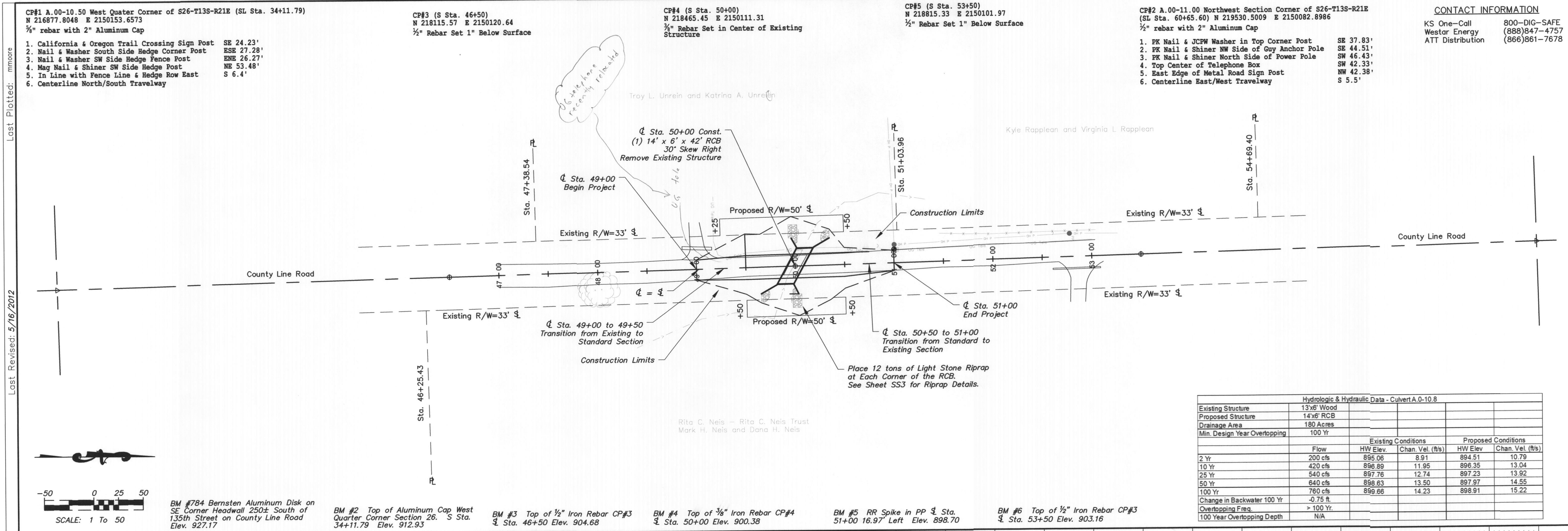
To ensure the proper completion of a necessary construction project approval is recommended for the attached CONTRACT FOR HIGHWAY PURPOSES.

**ACTION REQUIRED:** Consent agenda approval to authorize the Chairman of the Board to affix his signature to the CONTRACT FOR HIGHWAY PURPOSES for Bridge No. 10.80N – 24.00E.

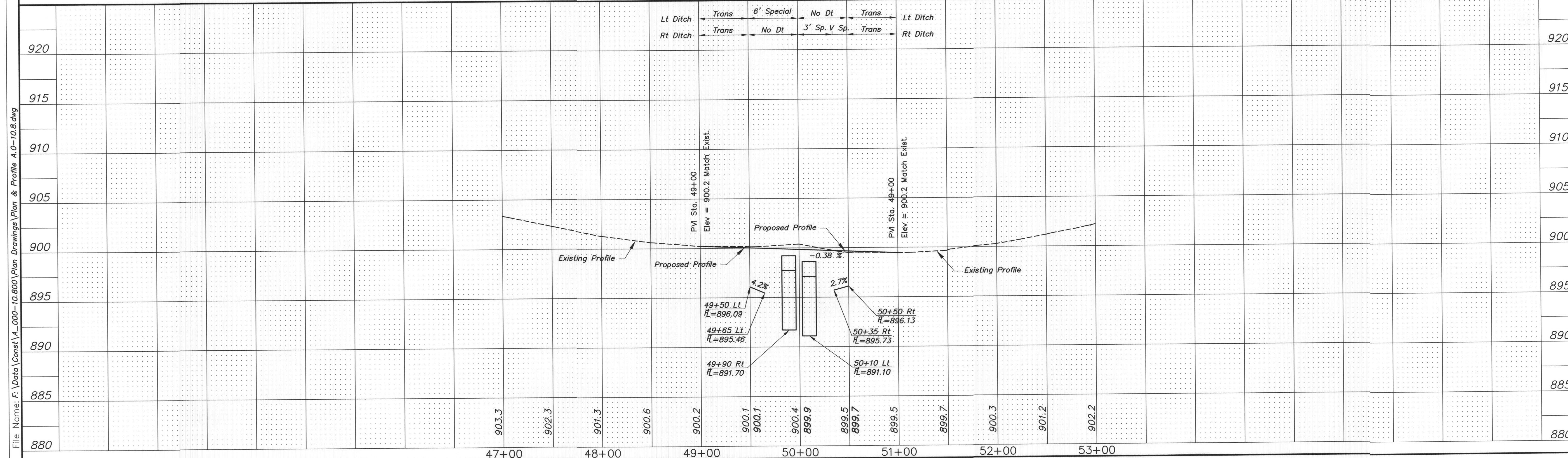
# Structure No. 10.80N - 24.00E

## General Location Map





| Hydrologic & Hydraulic Data - Culvert A.0-10.8 |            |                     |                   |                     |                   |
|------------------------------------------------|------------|---------------------|-------------------|---------------------|-------------------|
| Existing Structure                             | 13x6' Wood |                     |                   |                     |                   |
| Proposed Structure                             | 14x6' RCB  |                     |                   |                     |                   |
| Drainage Area                                  | 180 Acres  |                     |                   |                     |                   |
| Min. Design Year Overtopping                   | 100 Yr     |                     |                   |                     |                   |
|                                                | Flow       | Existing Conditions |                   | Proposed Conditions |                   |
|                                                |            | HW Elev.            | Chan. Vel. (ft/s) | HW Elev.            | Chan. Vel. (ft/s) |
| 2 Yr                                           | 200 cfs    | 895.06              | 8.91              | 894.51              | 10.79             |
| 10 Yr                                          | 420 cfs    | 896.89              | 11.95             | 896.35              | 13.04             |
| 25 Yr                                          | 540 cfs    | 897.76              | 12.74             | 897.23              | 13.92             |
| 50 Yr                                          | 640 cfs    | 898.63              | 13.50             | 897.97              | 14.55             |
| 100 Yr                                         | 760 cfs    | 899.66              | 14.23             | 898.91              | 15.22             |
| Change in Backwater 100 Yr                     | -0.75 ft   |                     |                   |                     |                   |
| Overtopping Freq.                              | > 100 Yr.  |                     |                   |                     |                   |
| 100 Year Overtopping Depth                     | N/A        |                     |                   |                     |                   |



File Name: F:\Data\Const\A.000-10.800\Plan Drawings\Plan & Profile A.0-10.8.dwg

Last Plotted: mmddyy

Last Revised: 5/16/2012

# Memorandum

## City of Lawrence

### Planning & Development Services

**TO:** Board of County Commissioners

**FROM:** Mary Miller, Planner

**CC:** Craig Weinaug, County Administrator

**Date:** For April 10, 2013 meeting

**RE:** Signatures on agreements required with Cluster Development Certificate of Survey

**ATTACHMENTS:**

- A: Certificate of Survey and Build Out Plan
- B: Temporary Set-aside Agreement
- C: Cross-access Easement and Maintenance Agreement

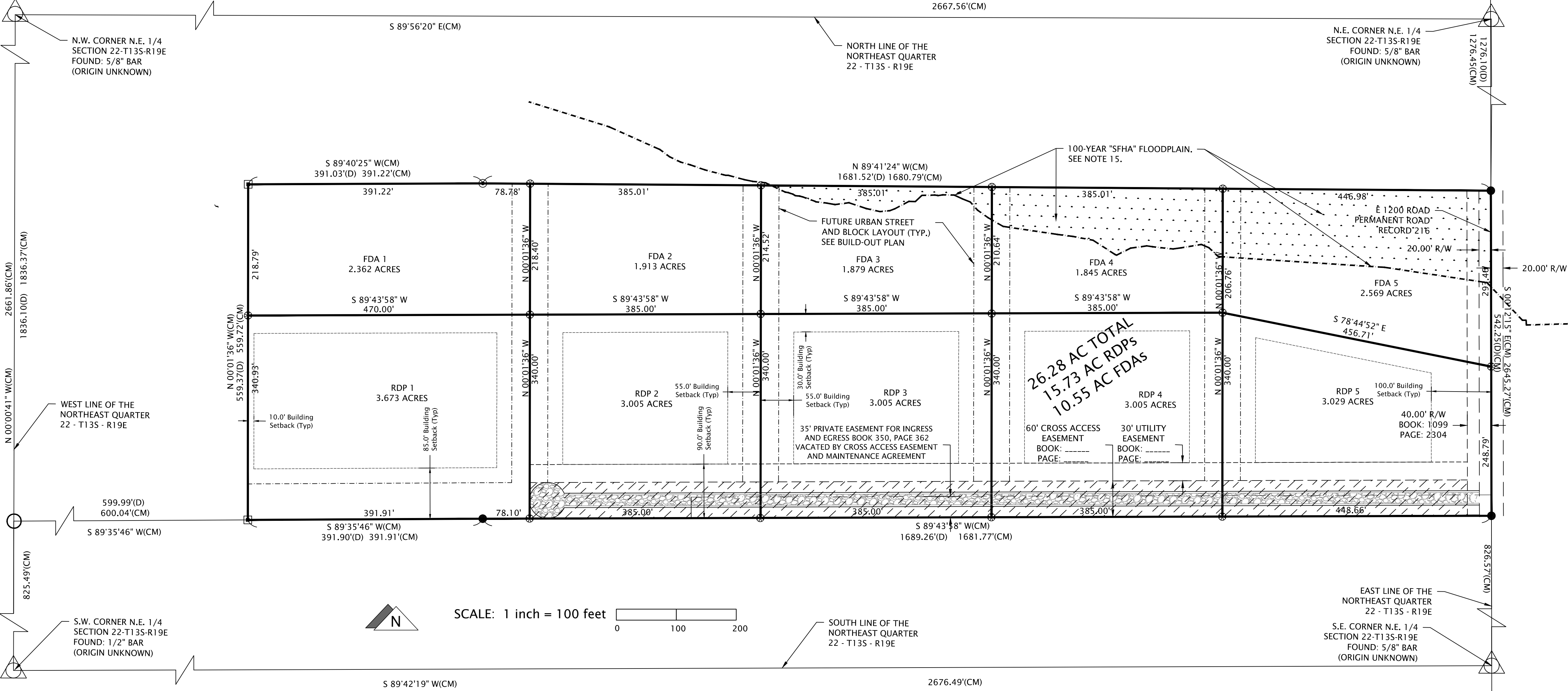
A Certificate of Survey has been submitted for property at 1167 E 1200 Road. As this property is located within an Urban Growth Area the land must be divided as a Cluster Development. Per Section 11-104(c) of the *Subdivision Regulations for Lawrence and the Unincorporated Areas of Douglas County, KS* Cluster Developments require the execution of several agreements. Two of these agreements, the Temporary Set-aside Agreement and the Cross-access Easement and Maintenance Agreement, require the signature of the Board of County Commissioners.

The Temporary Set-aside Agreement is required when environmentally sensitive lands noted in Section 11-110(k) are present on the property. This agreement identifies the lands to be protected and outlines the protection measures as well as the permitted uses. The Cross-access Easement and Maintenance Agreement dedicates an easement for the construction of the shared use drive for the clustered Residential Development Parcels and outlines the construction and maintenance responsibilities for this shared drive.

These agreements are attached with this memo for the Commission's approval. The Certificate of Survey is attached for context; however, it is reviewed administratively. No action on the Certificate of Survey is necessary.

**REQUESTED ACTION:**

Approval of the Temporary Set-aside Agreement and the Cross-access Easement and Maintenance Agreement for the Cluster Development Certificate of Survey for property at 1167 E 1200 Road [ CSU-12-00271]. If approved, executed agreements will be provided to the Commission at a later date for signatures.



OWNER

Be it known to all men that I (we), the undersigned owner(s) of the described tract of land, have had cause for the same to be surveyed and a Certificate of Survey prepared, and have caused the same to be subdivided into subparcels. All easements shown on this Certificate of Survey and not heretofore dedicated are hereby so dedicated by separate instrument.

Dwight C. Purvis  
1167 E 1200 Road  
Lawrence, KS 66046

Kimberly S. Purvis  
1167 E 1200 Road  
Lawrence, KS 66046

ACKNOWLEDGEMENT

State of Kansas  
County of Douglas

Be it remembered that on this \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, a notary public, in and for said county and state, came Dwight C. and Kimberly S. Purvis, who 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

ENDORSEMENTS

Approved as a Certificate of Survey under the Subdivision Regulations of the City of Lawrence & the Unincorporated Area of Douglas County.

Reviewed in compliance with K.S.A. 58-2005.

Planning Director Date Michael D. Kelly, P.L.S. #869  
Douglas County Surveyor

FILING RECORD

State of Kansas  
County of Douglas

This is to certify that this instrument was filed for record in the office of the Douglas County Register of Deeds on this \_\_\_\_\_ day of \_\_\_\_\_, 2013, and is duly recorded at \_\_\_\_\_ AM/PM, in book \_\_\_\_\_ page \_\_\_\_\_.

Register of Deeds  
Kay Pesnell

LEGEND

- SECTION CORNER
- FOUND 1/2" REBAR W/CAP "PLS610"
- FOUND 1/2" REBAR ORIGIN UNKNOWN
- FOUND 5/8" REBAR ORIGIN UNKNOWN
- CALCULATED POSITION
- 1/2" X 24" REBAR W/CAP "APS 1391" (SET)
- FDA FUTURE DEVELOPMENT AREA
- RDP RESIDENTIAL DEVELOPMENT PARCEL
- (CM) CALCULATED FROM MEASUREMENTS
- (D) DEEDED
- ACCESS EASEMENT
- TEMPORARY SET ASIDE AREA

SURVEYOR'S CERTIFICATION

I hereby certify that the surveyed area shown hereon is the true and accurate result of a field survey performed under my direct supervision in the month of September, 2012 and that the survey is a closed traverse. Final parcels were pinned in April, 2013. This survey complies with the Kansas Minimum Standards for Boundary Surveys.

Steven D. Williams, P.L.S. #1391  
P.O. Box 4444  
Lawrence, KS 66046  
(785)832-2121

ENGINEER'S CERTIFICATION

I hereby certify that the information and area map shown hereon are true and accurate to the best of my knowledge. Certificate of Survey prepared April, 2013.

John Dean Grob  
Professional Engineer #12769  
Grob Engineering Services  
3210 Mesa Way, Suite A  
Lawrence, KS 66044  
(785)856-1900

GENERAL NOTES

- Plat of Survey information provided by All Points Surveying, August, 2012 and recorded at the Douglas County Register of Deeds, Book 1090, Page 3674.
- Basis for bearings for this Certificate of Survey is the East line of the Northeast Quarter of Section 22, Township 13 South, Range 19 East (S 00' 12' 15" Assumed).
- Current Zoning: County - A (Agricultural)
- Project Vertical Benchmark: Douglas County Public Works Charn ID #DG19 NAVD 88 Elevation = 1100.27 ft.
- Typical Soil Types: Mc - Martin Silty Clay Loam, Oe - Oskla Silty Clay Loam, Wh - Wabash Silty clay, and Vc - Vinland Complex.
- This Certificate of Survey was not prepared for the purpose of the platting of land. No further divisions of the parcels created by this survey shall occur until the property is subdivided in accordance with all applicable Subdivision Regulations of Douglas County or the city into which it is annexed.
- This property division was designed in accordance with Section 20-804 of the Subdivision Regulations (Cluster Developments in the Urban Growth Areas) for Lawrence and the Unincorporated Areas of Douglas County, Kansas.
- The Cross-Access Easement shall become public right-of-way when property is annexed into the City of Lawrence. A Cross-Access Easement and Maintenance Agreement has been filed by separate instrument with the Douglas County Register of Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_.
- A Utility Easement has been filed by separate instrument with the Douglas County Register of Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_.
- Sewage disposal will be provided by means of individual septic systems installed on each Residential Development Parcel. The septic systems will be abandoned upon annexation into the City of Lawrence, and concurrent connection to the City's sanitary sewer system.
- Property boundaries for Residential Development Parcels shall be pinned prior to recording the Certificate of Survey.
- All access shall be via the Cross-Access Easement. No RDP or FDA shall have direct access to E 1200 Road.
- A Grant of Permanent Easement for Road Right-of-Way has been filed with the Douglas County Register of Deeds, Book 1099, Page 2304.
- A letter has been provided from Douglas County Rural Water District #5 stating that water meters are immediately available for this Clustered Development. The Residential Development Parcels shall not be eligible for building permits until the Rural Water District issues a water meter and documentation that a water meter has been purchased by the owner is presented to the Lawrence-Douglas County Health Department and the Douglas County Zoning Office. Issuance of water meters by the Rural Water District will be contingent upon the developer bearing the cost of installation of a water main to service RDP 2, RDP 3, RDP 4, and RDP 5.
- A portion of this property is located within a designated Floodplain per FEMA Map # 20045C0166D Effective Date: August 5, 2010. Floodway Fringe is designated as an environmentally sensitive land per Section 20-810(k). A Temporary Set Aside Agreement has been executed and recorded with the Register of Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_.
- Restrictive Covenants are recorded at the Douglas County Register of Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_.
- RDPs created by this Certificate of Survey shall not be eligible for a building permit until an on-site sewage management system is approved by the Director of the Lawrence/Douglas County Health Department. A preliminary site evaluation for each septic system is required prior to a building permit being issued. The septic permit must be approved and purchased prior to the issuance of a building permit. On-site sewage management systems shall be constructed in accordance with 'Standards on Individual On-Site Sewage Management Systems for the Unincorporated Territory of Douglas County, Kansas' County Sanitation Code, Resolution 97-48, as amended.
- A Right-of-Way Easement not to exceed 20 feet in width is held by Rural Water District #5, Douglas County and recorded at the Douglas County Register of Deeds Book 305, Page 254 and Book 305, Page 256, with said easement being 10 feet either side of a pipeline constructed for the transmission of water. The exact location of existing water line(s) is not known and thus easement is not shown on this document.

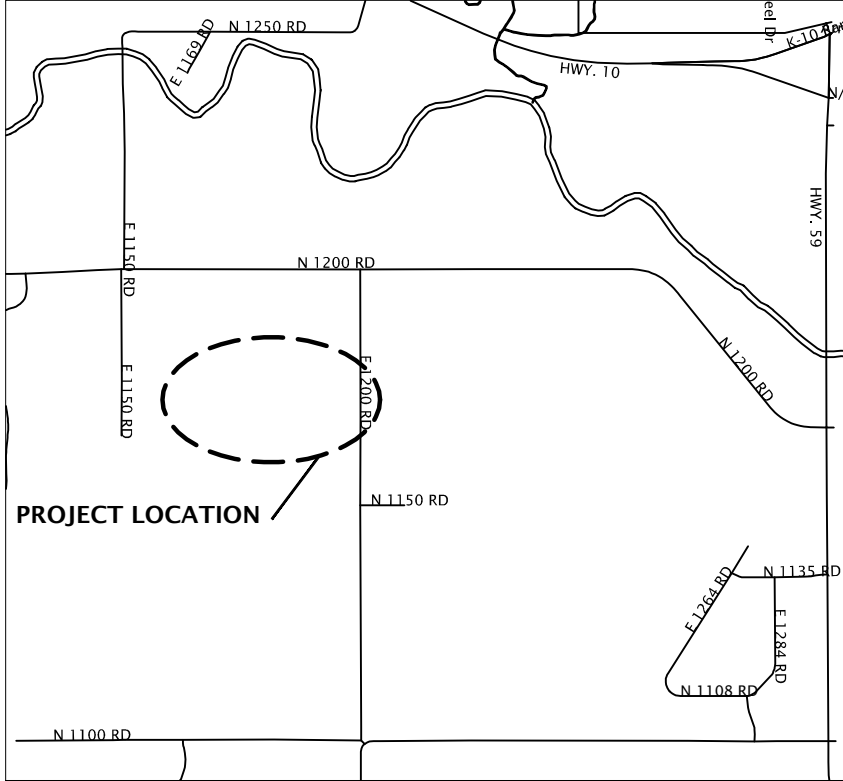
SITE SUMMARY

|                                                     |             |
|-----------------------------------------------------|-------------|
| Total Site Acreage                                  | 26.29 Acres |
| Existing Permanent Right-of-Way Easement            | 0.25 Acres  |
| Proposed Additional Permanent Right-of-Way Easement | 15.72 Acres |
| Immediate Development Area                          | 15.72 Acres |
| Residential Development Parcels                     | 10.57 Acres |
| Future Development Areas                            |             |

BUILD-OUT PLAN

- A Build Out Plan was developed for this Certificate of Survey to illustrate future subdivision of the Immediate and Future Development Areas. The Build-Out Plan is on file at the Lawrence-Douglas County Metropolitan Planning Office.
- The Build Out Plan was developed to illustrate future probabilistic subdivision of the Immediate and Future Development Areas. The Build-Out Plan proposed future blocks consistent with the Comprehensive Land Use Plan and the Subdivision Design Standards for the City of Lawrence. The Build Out Plan allows for future easements for utilities and storm drainage for the purpose of extending public utilities for future subdivision after annexation.
- Building envelopes are designed to prescribe proper siting of residences so that these residences within the Residential Development Parcel in the Immediate Development Phase will not conflict with logical future development of the area. Building envelopes are based on conformance to present Douglas County setback requirements and future City of Lawrence setback requirements for Residential District Zoning.

LOCATION MAP



LEGAL DESCRIPTION - ORIGINAL TRACT

A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 13 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, KANSAS, NOW DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF SAID QUARTER SECTION, SAID POINT BEING 1276.45 FEET SOUTH OF THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE NORTH 89°41'24" WEST, 1680.79 FEET; THENCE SOUTH 89°40'25" WEST, 391.22 FEET; THENCE SOUTH 00°01'36" EAST, 359.72 FEET; THENCE NORTH 89°35'46" EAST, 391.91 FEET; THENCE NORTH 89°43'58" EAST, 1681.77 FEET TO A POINT ON THE EAST LINE OF SAID QUARTER SECTION; THENCE NORTH 00°12'15" WEST ALONG SAID EAST LINE, 542.25 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 26.29 ACRES, MORE OR LESS, SUBJECT TO EASEMENTS, RESTRICTIONS AND ROAD RIGHTS-OF-WAY OF RECORD ALL IN DOUGLAS COUNTY, KANSAS.

LEGAL DESCRIPTION - CROSS ACCESS EASMENT

A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 13 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, KANSAS BEING 60.00 FEET IN WIDTH, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EAST LINE OF SAID QUARTER SECTION, SAID POINT BEING 1818.70 FEET SOUTH OF THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE SOUTH 89°43'58" WEST, 40.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°12'15" WEST, 60.00 FEET; THENCE SOUTH 89°43'58" WEST, 1563.49 FEET; THENCE SOUTH 00°01'36" EAST, 60.00 FEET; THENCE NORTH 89°43'58" WEST, 1563.67 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 2.15 ACRES, MORE OR LESS ALL IN DOUGLAS COUNTY, KANSAS AND IS SUBJECT TO ANY RESTRICTIONS OF RECORD.

LEGAL DESCRIPTION - RDP 1

A TRACT OF LAND SITUATED IN THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 13 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN NOW DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EAST LINE OF SAID QUARTER SECTION, SAID POINT BEING 1818.70 FEET SOUTH OF THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE SOUTH 89°43'58" WEST, 1603.67 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°01'36" WEST, 340.00 FEET; THENCE SOUTH 89°43'58" WEST, 470.00 FEET; THENCE SOUTH 00°01'36" EAST, 340.93 FEET; THENCE NORTH 89°35'46" EAST, 391.91 FEET; THENCE NORTH 89°43'58" EAST, 78.10 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 3.673 ACRES, MORE OR LESS ALL IN DOUGLAS COUNTY, KANSAS AND IS SUBJECT TO ANY RESTRICTIONS OF RECORD.

LEGAL DESCRIPTION - RDP 2

A TRACT OF LAND SITUATED IN THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 13 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN NOW DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EAST LINE OF SAID QUARTER SECTION, SAID POINT BEING 1818.70 FEET SOUTH OF THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE SOUTH 89°43'58" WEST, 1218.66 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°01'36" WEST, 340.00 FEET; THENCE NORTH 89°35'46" WEST, 385.00 FEET; THENCE SOUTH 00°01'36" EAST, 340.00 FEET; THENCE NORTH 89°43'58" EAST, 385.00 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 3.005 ACRES, MORE OR LESS ALL IN DOUGLAS COUNTY, KANSAS AND IS SUBJECT TO ANY EASEMENTS AND RESTRICTIONS OF RECORD.

LEGAL DESCRIPTION - RDP 3

A TRACT OF LAND SITUATED IN THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 13 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN NOW DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EAST LINE OF SAID QUARTER SECTION, SAID POINT BEING 1818.70 FEET SOUTH OF THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE SOUTH 89°43'58" WEST, 833.66 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°01'36" WEST, 340.00 FEET; THENCE SOUTH 89°43'58" WEST, 385.00 FEET; THENCE SOUTH 00°01'36" EAST, 340.00 FEET; THENCE NORTH 89°43'58" EAST, 385.00 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 3.005 ACRES, MORE OR LESS ALL IN DOUGLAS COUNTY, KANSAS AND IS SUBJECT TO ANY EASEMENTS AND RESTRICTIONS OF RECORD.

LEGAL DESCRIPTION - RDP 4

A TRACT OF LAND SITUATED IN THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 13 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN NOW DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EAST LINE OF SAID QUARTER SECTION, SAID POINT BEING 1818.70 FEET SOUTH OF THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE SOUTH 89°43'58" WEST, 448.66 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°01'36" WEST, 340.00 FEET; THENCE SOUTH 89°43'58" WEST, 385.00 FEET; THENCE SOUTH 00°01'36" EAST, 340.00 FEET; THENCE NORTH 89°43'58" EAST, 385.00 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 3.029 ACRES, MORE OR LESS ALL IN DOUGLAS COUNTY, KANSAS AND IS SUBJECT TO ANY EASEMENTS AND RESTRICTIONS OF RECORD.

LEGAL DESCRIPTION - RDP 5

A TRACT OF LAND SITUATED IN THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 13 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN NOW DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF SAID QUARTER SECTION, SAID POINT BEING 1818.70 FEET SOUTH OF THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE SOUTH 89°43'58" WEST, 448.66 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°01'36" WEST, 340.00 FEET; THENCE SOUTH 89°43'58" WEST, 385.00 FEET; THENCE SOUTH 00°01'36" EAST, 340.00 FEET; THENCE NORTH 89°43'58" EAST, 385.00 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 3.029 ACRES, MORE OR LESS ALL IN DOUGLAS COUNTY, KANSAS AND IS SUBJECT TO ANY EASEMENTS, RESTRICTIONS AND ROAD RIGHTS-OF-WAY OF RECORD.

LEGAL DESCRIPTION - FDA 1

A TRACT OF LAND SITUATED IN THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 13 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN NOW DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EAST LINE OF SAID QUARTER SECTION, SAID POINT BEING 1276.45 FEET SOUTH OF THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE NORTH 89°41'24" WEST, 385.01 FEET; THENCE SOUTH 00°01'36" WEST, 78.78 FEET; THENCE SOUTH 89°40'25" WEST, 391.22 FEET; THENCE SOUTH 00°01'36" EAST, 218.79 FEET; THENCE NORTH 89°43'58" EAST, 470.00 FEET; THENCE NORTH 00°01'36" WEST, 218.40 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 2.362 ACRES, MORE OR LESS, SUBJECT TO EASEMENTS AND RESTRICTIONS ALL IN DOUGLAS COUNTY, KANSAS.

LEGAL DESCRIPTION - FDA 2

A TRACT OF LAND SITUATED IN THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 13 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN NOW DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EAST LINE OF SAID QUARTER SECTION, SAID POINT BEING 1276.45 FEET SOUTH OF THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE NORTH 89°41'24" WEST, 1217.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°41'24" WEST, 385.01 FEET; THENCE SOUTH 00°01'36" EAST, 218.40 FEET; THENCE NORTH 89°43'58" EAST, 385.00 FEET; THENCE NORTH 00°01'36" WEST, 214.52 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 1.913 ACRES, MORE OR LESS, SUBJECT TO EASEMENTS AND RESTRICTIONS ALL IN DOUGLAS COUNTY, KANSAS.

LEGAL DESCRIPTION - FDA 3

A TRACT OF LAND SITUATED IN THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 13 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN NOW DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EAST LINE OF SAID QUARTER SECTION, SAID POINT BEING 1276.45 FEET SOUTH OF THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE NORTH 89°41'24" WEST, 831.99 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°41'24" WEST, 385.01 FEET; THENCE SOUTH 00°01'36" EAST, 214.52 FEET; THENCE NORTH 89°43'58" EAST, 385.00 FEET; THENCE NORTH 00°01'36" WEST, 210.64 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 1.879 ACRES, MORE OR LESS, SUBJECT TO EASEMENTS AND RESTRICTIONS ALL IN DOUGLAS COUNTY, KANSAS.

LEGAL DESCRIPTION - FDA 4

A TRACT OF LAND SITUATED IN THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 13 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN NOW DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EAST LINE OF SAID QUARTER SECTION, SAID POINT BEING 1276.45 FEET SOUTH OF THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE NORTH 89°41'24" WEST, 446.98 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°41'24" WEST, 385.01 FEET; THENCE SOUTH 00°01'36" EAST, 210.64 FEET; THENCE NORTH 89°43'58" EAST, 385.00 FEET; THENCE NORTH 00°01'36" WEST, 206.76 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 2.569 ACRES, MORE OR LESS, SUBJECT TO EASEMENTS AND RESTRICTIONS ALL IN DOUGLAS COUNTY, KANSAS.

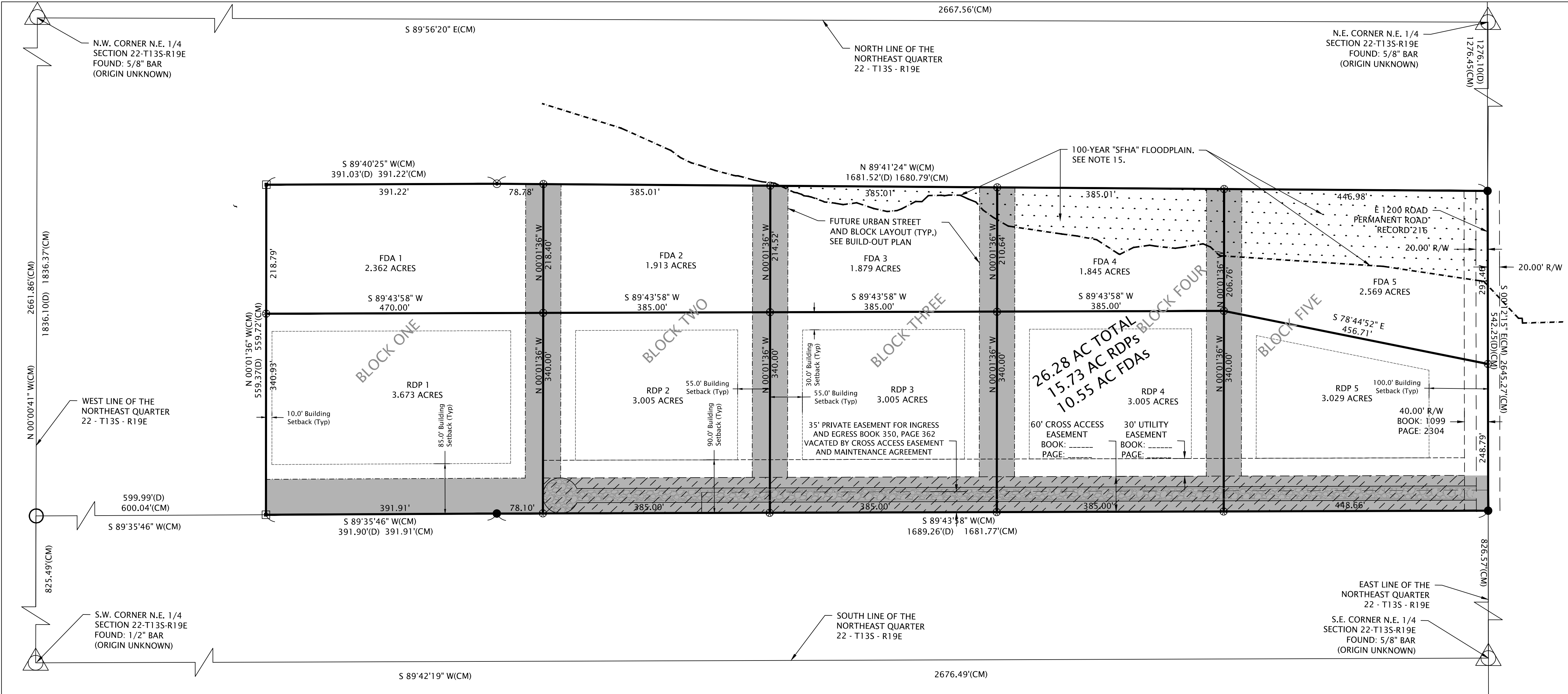
LEGAL DESCRIPTION - FDA 5

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Certificate of Survey for

An unplatted tract of land in the NE¼ of Section 22, Township 13 South, Range 19 East, of the Sixth Principal Meridian in Douglas County, Kansas



**LEGAL DESCRIPTION - ORIGINAL TRACT**  
A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 13 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, KANSAS, NOW DESCRIBED AS FOLLOWS:

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**GENERAL NOTES**

- Plat of Survey information provided by All Points Surveying, August, 2012 and recorded at the Douglas County Register of Deeds, Book 1090, Page 3674.
- Basis for bearings for this Certificate of Survey is the East line of the Northeast Quarter of Section 22, Township 13 South, Range 19 East (S 00° 12'15"E Assumed).
- Current Zoning: County - A (Agricultural)
- Project Vertical Benchmark: Douglas County Public Works Charn ID #DG19 NAVD 88 Elevation = 1100.27 ft.
- Typical Soil Types: Mc - Martin Silty Clay Loam, Oe - Oska Silty Clay Loam, Wh - Wabash Silty clay, and Vc - Vinland Complex.
- This Certificate of Survey was not prepared for the purpose of the platting of land. No further divisions of the parcels created by this survey shall occur until the property is subdivided in accordance with all applicable Subdivision Regulations of Douglas County or the city into which it is annexed.
- This property division was designed in accordance with Section 20-804 of the Subdivision Regulations (Cluster Developments in the Urban Growth Areas) for Lawrence and the Unincorporated Areas of Douglas County, Kansas.
- The Cross-Access Easement shall become public right-of-way when property is annexed into the City of Lawrence. A Cross-Access Easement and Maintenance Agreement has been filed by separate instrument with the Douglas County Register of Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_.
- A Utility Easement has been filed by separate instrument with the Douglas County Register of Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_.
- Sewage disposal will be provided by means of individual septic systems installed on each Residential Development Parcel. The septic systems will be abandoned upon annexation into the City of Lawrence, and concurrent connection to the City's sanitary sewer system.
- Property boundaries for Residential Development Parcels shall be pinned prior to recording the Certificate of Survey.
- All access shall be via the Cross-Access Easement. No RDP or FDA shall have direct access to E 1200 Road.
- A Grant of Permanent Easement for Road Right-of-Way has been filed with the Douglas County Register of Deeds, Book 1099, Page 2304.
- A letter has been provided from Douglas County Rural Water District #5 stating that water meters are immediately available for this Clustered Development. The Residential Development Parcels shall not be eligible for building permits until the Rural Water District issues a water meter and documentation that a water meter has been purchased by the owner is presented to the Lawrence-Douglas County Health Department and the Douglas County Zoning Office. Issuance of water meters by the Rural Water District will be contingent upon the developer bearing the cost of installation of a water main to service RDP 2, RDP 3, RDP 4, and RDP 5.
- A portion of this property is located within a designated floodplain per FEMA Map # 20045C0166D Effective Date: August 5, 2010. Floodway Fringe is designated as an environmentally sensitive land per Section 20-810(k). A Temporary Set Aside Agreement has been executed and recorded with the Register of Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_.
- Restrictive Covenants are recorded at the Douglas County Register of Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_.
- RDPs created by this Certificate of Survey shall not be eligible for a building permit until an on-site sewage management system is approved by the Director of the Lawrence/Douglas County Health Department. A preliminary site evaluation for each septic system is required prior to a building permit being issued. The septic permit must be approved and purchased prior to the issuance of a building permit. On-site sewage management systems shall be constructed in accordance with "Standards on Individual On-Site Sewage Management Systems for the Unincorporated Territory of Douglas County, Kansas' County Sanitation Code, Resolution 97-48, as amended.
- A Right-of-Way Easement not to exceed 20 feet in width is held by Rural Water District #5, Douglas County and recorded at the Douglas County Register of Deeds Book 305, Page 254 and Book 305, Page 256, with said easement being 10 feet either side of a pipeline constructed for the transmission of water. The exact location of existing water line(s) is not known and thus easement is not shown on this document.

**LEGEND**

- SECTION CORNER
- FOUND 1/2" REBAR W/CAP "PLS610"
- FOUND 1/2" REBAR ORIGIN UNKNOWN
- FOUND 5/8" REBAR ORIGIN UNKNOWN
- CALCULATED POSITION
- 1/2" X 24" REBAR W/CAP "APS 1391" (SET)
- FDA FUTURE DEVELOPMENT AREA
- RDP RESIDENTIAL DEVELOPMENT PARCEL
- (CM) CALCULATED FROM MEASUREMENTS
- (D) DEEDED
- ACCESS EASEMENT
- TEMPORARY SET ASIDE AREA
- FUTURE RIGHT-OF-WAY

**SITE SUMMARY**

|                                                     |             |
|-----------------------------------------------------|-------------|
| Total Site Acreage                                  | 26.29 Acres |
| Existing Permanent Right-of-Way Easement            | 0.25 Acres  |
| Proposed Additional Permanent Right-of-Way Easement | 0.25 Acres  |
| Immediate Development Area                          | 15.72 Acres |
| Residential Development Parcels                     | 15.72 Acres |
| Future Development Areas                            | 10.57 Acres |

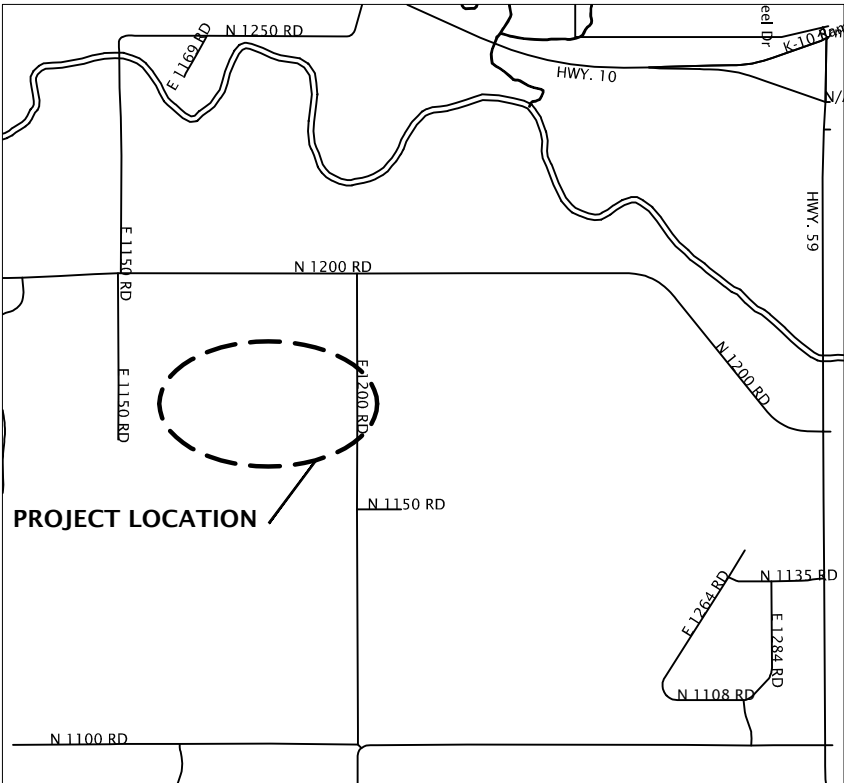
SCALE: 1 inch = 100 feet

**ENGINEER'S CERTIFICATION**

I hereby certify that the information and area map shown hereon are true and accurate to the best of my knowledge. Buildout Plan prepared March, 2013.

John Dean Grob  
Professional Engineer #12769  
Grob Engineering Services  
3210 Mesa Way, Suite A  
Lawrence, KS 66044  
(785)856-1900

**LOCATION MAP**



**Build Out Plan for**

An unplatted tract of land in the NE 1/4 of  
Section 22, Township 13 South, Range 19  
East, of the Sixth Principal Meridian  
in Douglas County, Kansas

## **TEMPORARY SET ASIDE AGREEMENT**

THIS TEMPORARY SET ASIDE AGREEMENT (This "**Agreement**") is entered into and effective this \_\_\_\_ day of \_\_\_\_\_, 2013, by Dwight C. and Kimberly S. Purvis, (the "Property Owner(s)"), having an address of 1167 E. 1200 Road Lawrence, Kansas 66046 in favor of the City of Lawrence (the "City"), having an address at 6 E 6<sup>th</sup> Street, Lawrence, Kansas 66044 and Douglas County, Kansas (the "County"), having an address at 1100 Massachusetts, Lawrence, Kansas 66044 (The City and the County are referred to individually as a "Beneficiary" and collectively as the "Beneficiaries").

### **RECITALS**

WHEREAS, Owner is the record owner of certain real property located in Douglas County, Kansas (the "**Property**"), legally described in **Exhibit A** attached to and, by reference, made a part hereof;

WHEREAS, a portion of the Property, as shown in the map or schematic attached hereto as **Exhibit B** and, by reference, made a part hereof (the "**Protected Property**"), possesses natural resources and environmentally sensitive areas, as identified in Section 20-810(k) of the Subdivision Regulations for Lawrence and the Unincorporated Areas of Douglas County, Kansas, such as Regulatory Floodway; Regulatory Floodway Fringe; Jurisdictional Wetlands; Stream Corridors; Stands of Mature Trees; and Archaeological or Historic Sites listed on local, state, or federal registers.

WHEREAS, the Property has been subdivided through the (Cluster) Certificate of Survey process and the Protected Property has been designated on the Certificate of Survey as protected through this Agreement as required in Section 20-804(c)(3)(i);

WHEREAS, the specific natural resources, geographical or historical characteristics, and/or environmentally sensitive areas present are documented in an inventory of relevant features of the Protected Property worthy of protection, and are attached hereto as Exhibit C (collectively the "Conservation Values");

WHEREAS, it is desired that the Conservation Values of the Protected Property be preserved and maintained by permitting only uses of the Protected Property that do not significantly impair or interfere with the Conservation Values.

## **AGREEMENT**

Pursuant to Section 20-804(c)(3) of the **Subdivision Regulations for Lawrence and the Unincorporated Areas of Douglas County** Owner and Beneficiary hereby enter into this Agreement to protect and preserve the Conservation Values of the Protected Property as follows:

### **1. PURPOSE**

The purpose of this Agreement is to protect and preserve the Conservation Values of the Protected Property, while allowing Owner to use the Protected Property. This Agreement will impose certain use restrictions upon the Protected Property following the Effective Date of this Agreement, until the expiration or sooner termination of this Agreement. The use restrictions set forth in this Agreement shall be and are hereby limited solely to the Protected Property, and nothing herein shall affect the Owner's use of the remaining portion of the Property.

The Owner agrees that the nature and condition of the Protected Property on the date of execution of this Agreement is accurately documented in the Exhibits attached, which shall be maintained for the life of this Agreement.

### **2. OWNER'S RESERVED/PERMITTED RIGHTS**

Owner reserves exclusively to Owner, and to Owner's successors and assigns, all rights, title and interests accruing from ownership of the Protected Property, including the right to engage in or permit others to engage in, uses of the Protected Property that are consistent with the purpose of this Agreement. Without limiting the generality of the foregoing, and by way of example and not limitation, the following rights are hereby expressly reserved by Owner following the Effective Date of this Agreement (provided such rights are exercised in compliance with all applicable governmental regulations):

**2.01. Conveyance.** Owner may deed, transfer, dedicate, sell give, mortgage, pledge, lease or otherwise convey rights in the Protected Property, provided that any such conveyance shall be subject to the terms and provisions of this Agreement.

**2.02. Educational Use.** Owner may, in Owner's sole and absolute discretion and without obligation, make the Protected Property accessible to the public to enjoy the Conservation Values of the Protected Property.

**2.03. Continued Agricultural Use.** If one of the Conservation Values for the Protected Property is continued agricultural use, then Property Owner may continue to farm the Protected Property and raise livestock upon the Protected Property in accordance with those Conservation Values, and such agricultural use shall not be construed to be a commercial activity that's prohibited by this Agreement.

**2.04. Timber.** Cutting of trees and woody shrubs may be accomplished to maintain the character of the Protected Property, to maintain fences, and to prevent invasion of woody plants on the native vegetation; as long as the same does not adversely affect the Conservation Values of the Protected Property. Trees cut for authorized

purposes may be utilized for personal use as firewood and shall not be sold commercially.

**2.05. Recreational Uses.** Property Owner, and its licensees and invitees, may make normal and customary non-commercial recreational uses of the Protected Property, such as horse riding, hiking, hunting and fishing, as long as the same does not adversely affect the Conservation Values of the Protected Property.

**2.06. Fences.** Property Owner may construct, repair, replace, maintain, improve or remove any additional fencing as the Property Owner deems necessary to secure the Protected Property, as long as done in compliance with Kansas fence laws.

**2.07. Vehicles.** Motorized vehicles may be operated on the Protected Property to transport educational groups with special needs, to maintain fences, to remove trees and shrubs (if such removal is permitted by this Agreement), and to perform controlled burns (if such controlled burns are permitted by this Agreement and applicable law), all to maintain the character of the Protected Property. Use of permitted vehicles shall, however, be in a manner that will minimize impact on native vegetation and generally be confined to limited trails.

**3. RIGHTS OF PROPERTY OWNER.** To accomplish the purpose of this Agreement, the Property Owner conveys to the Beneficiaries, in accordance with the procedures set forth in Section 5, the right to take actions to prevent any activity on or use of the Protected Property that is inconsistent with the purpose of this Agreement and to require the restoration of such areas or features of the Protected Property that may be damaged by any inconsistent activity or use.

**4. PROHIBITED USES.** Any activity on or use of the Protected Property inconsistent with the purpose of this Agreement and preservation of the Conservation Values of the Protected Property is prohibited. Without limiting the generality of the foregoing, the following activities and uses are prohibited:

**4.01. Structures.** There shall be no New Structure (defined hereafter) constructed on the Protected Property. The term "New Structure" includes, but is not limited to, a house, mobile or manufactured home, garage, barn, church, or other building, recreational courts or playing fields, landing strip, swimming pool, asphalt, concrete or asphalt pavement, billboard or other sign, antenna, storage tank, utility system, wind turbine, tower, any other temporary or permanent improvement of a similar nature or with similar characteristics. This prohibition shall not extend to the construction, repair, renovation, maintenance, or restoration of existing structures on the Protected Property which contributes to any Conservation Values.

**4.02. Minerals and Gas Development.** There shall be no exploration for, development of, or extraction of minerals, gas or hydrocarbons on surface of the Protected Property.

**4.03. Soil and Water and Watersheds.** Any use or activity that may cause significant soil degradation or erosion or significant depletion or pollution of any surface or subsurface waters is prohibited. There shall be no damming, impoundment, or channelization of the streams, watercourses, or watersheds on the Protected Property, except pursuant to the rights of a watershed district under K.S.A. 24-1201 *at seq.*, as amended.

**4.04. Topography; Exposed Rock.** There shall be no removal of topsoil, sod, sand, gravel, rock, or other materials, or any change in the topography of the Protected Property in any manner. Exposed rock and rock outcrops provide habitat for a diverse array of animals and contribute to the biological diversity of both flora and fauna and shall not be removed or disturbed.

**4.05. Dumping.** There shall be no dumping of trash, construction materials, or hazardous or toxic substances on the Protected Property.

**4.06. Commercial Activities.** Commercial activities other than those expressly provided for in this Agreement shall not be permitted on the Protected Property, either by Property Owner or Property Owner's licensees, invitees, or tenants.

## **5. BENEFICIARY'S REMEDIES.**

**5.01 Notice of Violation; Corrective Action.** If the Beneficiary having regulatory authority over this Agreement (see Section 14) determines that a violation of the terms of this Agreement has occurred or is threatened, such Beneficiary shall give written notice to Property Owner of this violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Protected Property resulting from any use or activity inconsistent with the purpose of this Agreement, to restore the portion of the Protected Property so injured to its prior condition in accordance with a plan approved by such Beneficiary.

**5.02 Injunctive Relief.** If Property Owner fails to cure the violation within 30 days after receipt of notice thereof from the Beneficiary having regulatory authority over this Agreement, or under circumstances where the violation cannot reasonably be cured within a 30 day period, fails to begin curing such violation within the 30 day period, or fails to continue diligently to cure such violation until finally cured, the Beneficiary having regulatory authority over this Agreement may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Agreement, to enjoin the violation, by temporary, preliminary and/or permanent injunction (*ex parte* as necessary), and to require the restoration of the Protected Property to the condition that existed at the time of this Agreement.

Notwithstanding the 30 day notice required above, if the Beneficiary having regulatory authority, at its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Protected Property, such Beneficiary may pursue its remedies under this Agreement, including but not limited to seeking temporary, preliminary and/or permanent injunction (*ex parte* as necessary) injunctive relief, without prior notice to Property Owner. The remedies described in this Section shall be in addition to all remedies now or hereafter existing at law or in equity.

**5.03 Waivers.** No delay or omission by a Beneficiary in the exercise of any right or remedy upon any breach by Owner shall impair such right or remedy or be construed as a waiver. Owner hereby waives any defense of laches, estoppels, or prescription.

**5.04 Cost of Enforcement** All reasonable costs incurred by the Beneficiary having regulatory authority over this Agreement in enforcing the terms of this Agreement against Property Owner including, without limitation, costs and expenses of litigation, including expert witness fees and reasonable attorneys' fees and any costs of restoration of the Protected Property necessitated by Property Owner's violation of the terms of this Agreement, shall be borne by Property Owner; provided, however, that if Property Owner ultimately prevails in a judicial enforcement action, each party shall bear its own costs.

**6. ACCESS.** No license, easement, or other right of physical access by the general public to any portion of the Property or the Protected Property is conveyed by this Agreement.

**7. COSTS, LIABILITIES, AND CONTROL.**

**7.01. Costs, Legal Requirements, and Liabilities.** Owner retains all responsibilities and shall bear all costs and liabilities of any kind related to Ownership, operation, upkeep, and maintenance of the Protected Property.

**7.02. Control.** Nothing in this Agreement shall be construed as creating any right of ability in Beneficiary to exercise physical or managerial control over the day-to-day operations of the Protected Property, or any of Owner's activities on the Protected Property, or otherwise to become an operator with respect to the Protected Property within the meaning of any applicable environmental law.

**8. AMENDMENT.** If circumstances arise under which an amendment to or modification of this Agreement is advisable or necessary, Owner and Beneficiary are free to jointly amend this Agreement, but any such amendment must be in writing and signed by both parties. Any such amendment shall be recorded in the Office of the Register of Deeds of Douglas County, Kansas.

**9. NOTICES.** Any notice, demand, request, consent, approval, or communication that any party desires or is required to give to any other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows:

To Owner: Dwight C. and Kimberly S. Purvis  
1167 E. 1200 Road  
Lawrence, Kansas 66046

To Beneficiary: Douglas County, Kansas  
Attn: County Administrator  
1100 Massachusetts St.  
Lawrence, KS 66044

City of Lawrence  
Attn: City Manager  
6 East 6<sup>th</sup> Street; PO Box 708  
Lawrence, KS 66044

or to such other address as any party from time to time shall designate by written notice to the other.

**10. RECORDATION.** Planning Staff, at Owner's expense, shall record this instrument in timely fashion in the Office of the Douglas County, Kansas Register of Deeds.

**11. COVENANT RUNNING WITH THE LAND.** Subject to termination nor expiration of this Agreement according to its terms, the covenants, terms, conditions, and restrictions of this Agreement shall constitute a covenant and equitable servitude running with the land and be binding upon Owner and Owner's personal representatives, heirs, successors and assigns, and inure to the benefit of Beneficiary and their respective successors and assigns. The terms "Owner" and "Beneficiary", wherever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named Owner and his personal representatives, heirs, successors, and assigns, and the above-named Beneficiary and its successors and assigns. A party's rights, obligations, and liabilities under this Agreement terminate upon transfer of the party's interest in this Agreement or Protected Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

## **12. GENERAL PROVISIONS.**

**12.01 Controlling Law.** The interpretation and performance of this Agreement shall be governed by the laws of the State of Kansas.

**12.02 Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to this Agreement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Agreement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Section 8 of this Agreement.

- 13. TERMINATION.** If the Beneficiaries' Subdivision Regulations are amended in the future such that this Agreement would not have been necessary to approve a Certificate of Survey division (as defined in the Subdivision Regulations) involving the Protected Property had the application for approval been made after the effective date of the amendment, any party may terminate this Agreement upon written notice to the others. In the event of a termination of this Agreement, the parties agree to sign an instrument identifying the termination and record it with the Office of the Douglas County, Kansas Register of Deeds.
- 14. REGULATORY AUTHORITY.** The County shall have regulatory authority over this Agreement until such time that the Protected Property is annexed into the jurisdictional boundaries of the City of Lawrence, Kansas and the City shall have regulatory authority thereafter until this Agreement expires.
- 15. EXPIRATION OF AGREEMENT.** This Agreement shall expire on the date that is 2 years after the date that the Protected Property is annexed into the jurisdictional boundaries of any municipal city unless further action is taken by either the City or property owner to secure its continuance.

**IN WITNESS WHEREOF,** Owner and Beneficiary have executed this Agreement as of the day and year first above written.

**Owner(s):**

Dwight C. and Kimberly S. Purvis,  
Husband and Wife

By: \_\_\_\_\_  
Dwight C. Purvis

By: \_\_\_\_\_  
Kimberly S. Purvis

**Beneficiary:**

Douglas County, Kansas

City of Lawrence, Kansas

By: \_\_\_\_\_  
Mike Gaughan  
Title: Chair of Board of County Commissioners

By: \_\_\_\_\_  
David L Corliss  
Title: City Manager

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
County Clerk

\_\_\_\_\_  
County Counselor

**STATE OF KANSAS                    )**  
**) ss**  
**COUNTY OF DOUGLAS            )**

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Dwight C. and Kimberly S. Purvis, known to me to be the same person(s) who executed the foregoing instrument on behalf of said limited liability company, and duly acknowledged the execution of the same.

\_\_\_\_\_  
Notary Public

My commission expires:

\_\_\_\_\_

**STATE OF KANSAS                    )**  
**) ss**  
**COUNTY OF DOUGLAS            )**

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Mike Gaughan, Chair of the Board of County Commissioners, known to me to be the same person(s) who executed the foregoing instrument as a Beneficiary, and duly acknowledged the execution of the same.

\_\_\_\_\_  
Notary Public

My commission expires:

\_\_\_\_\_

**STATE OF KANSAS                    )**  
**) ss**  
**COUNTY OF DOUGLAS            )**

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came David L Corliss, City Manager, City of Lawrence, Kansas, known to me to be the same person(s) who executed the foregoing instrument as a Beneficiary, and duly acknowledged the execution of the same.

\_\_\_\_\_  
Notary Public

My commission expires:

\_\_\_\_\_

## **SCHEDULE OF EXHIBITS**

- A. Legal Description of Property
- B. Map of Protected Property (Certificate of Survey)
- C. Conservation Values of Protected Property

**EXHIBIT A**  
**Legal Description of Property**

A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 13 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, KANSAS, NOW DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF SAID QUARTER SECTION, SAID POINT BEING 1276.45 FEET SOUTH OF THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE NORTH 89°41'24" WEST, 1680.79 FEET; THENCE SOUTH 89°40'25" WEST, 391.22 FEET; THENCE SOUTH 00°01'36" EAST, 559.72 FEET; THENCE NORTH 89°35'46" EAST, 391.91 FEET; THENCE NORTH 89°43'58" EAST, 1681.77 FEET TO A POINT ON THE EAST LINE OF SAID QUARTER SECTION; THENCE NORTH 00°12'15" WEST ALONG SAID EAST LINE, 542.25 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 26.29 ACRES, MORE OR LESS, SUBJECT TO EASEMENTS, RESTRICTIONS AND ROAD RIGHTS-OF-WAY OF RECORD ALL IN DOUGLAS COUNTY, KANSAS.

**EXHIBIT B**

**Map of Protected Property (Certificate of Survey)**

*Replace Page with Exhibit B*

## **EXHIBIT C**

### **Conservation Values of Protected Property**

Conservation Values on the Protected Property are described as follows:

Floodway Fringe based on the 100 year storm event as seen on FEMA Flood Insurance Rate Map (FIRM) Douglas County, Kansas and Incorporated Areas Panel No. 166 of 460, Map Number 20045C0166D effective date August 5, 2010 and Panel No. 167 of 460, Map Number 20045C0167D effective date August 5, 2010 and illustrated in the Firmettes attached.

*Replace Page with Exhibit C*

## CROSS ACCESS EASEMENT AND MAINTENANCE AGREEMENT

This Cross Access Easement and Maintenance Agreement (this "**Agreement**") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2013 by Dwight C. and Kimberly S. Purvis, 1167 E. 1200 Road Lawrence, Kansas 66046 ("**Developer**"), and County of Douglas County, Kansas 1100 Massachusetts, Lawrence, Kansas 66044 ("**County**"), and in favor of the County and property owners of the Cluster Development (defined below).

### RECITALS

A. Developer has received Certificate of Survey approval to improve its property located Southwest of the intersection of County Road 216 (E. 1200 Road) and County Route 458 (N. 1200 Road) in Wakarusa Township, County of Douglas, State of Kansas, and legally described as follows:

A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 13 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, KANSAS, NOW DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF SAID QUARTER SECTION, SAID POINT BEING 1276.45 FEET SOUTH OF THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE NORTH 89°41'24" WEST, 1680.79 FEET; THENCE SOUTH 89°40'25" WEST, 391.22 FEET; THENCE SOUTH 00°01'36" EAST, 559.72 FEET; THENCE NORTH 89°35'46" EAST, 391.91 FEET; THENCE NORTH 89°43'58" EAST, 1681.77 FEET TO A POINT ON THE EAST LINE OF SAID QUARTER SECTION; THENCE NORTH 00°12'15" WEST ALONG SAID EAST LINE, 542.25 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 26.29 ACRES, MORE OR LESS, SUBJECT TO EASEMENTS, RESTRICTIONS AND ROAD RIGHTS-OF-WAY OF RECORD ALL IN DOUGLAS COUNTY, KANSAS.

(the "**Cluster Development**").

B. As a condition of Certificate of Survey approval, Developer is required to enter into an agreement to create a Cross Access Easement on its property to allow for ingress and egress between the Residential Development Parcels to be located on the Cluster Development and to and from the adjacent public right-of-way, E 1200 Road/ County Road 216.

C. As a condition of Certificate of Survey approval, said Cross Access Easement shall be deemed dedicated to the City of Lawrence, Kansas, as a permanent public road right-of-way and street, upon annexation by the City of Lawrence, Kansas and the City's acceptance of dedication.

D. As a condition of Certificate of Survey approval, Developer is required to create a Maintenance Agreement for said Cross Access Easement.

### **GRANT OF EASEMENT**

**NOW, THEREFORE**, in consideration of the mutual promises and obligations contained herein and other valuable considerations, the sufficiency of which are hereby acknowledged, the Developer agrees as follows:

1. Definitions. Capitalized words shall have the meaning defined in this Agreement. The following capitalized words not otherwise defined in this Agreement shall have the following definitions:

**Certificate of Survey** means the Certificate of Survey of the Cluster Development, approved in accordance with the Subdivision Regulations for Lawrence and the Unincorporated Areas of Douglas County, Kansas, and recorded with the Office of the Douglas County, Kansas Register of Deeds.

**Residential Development Parcel** means that tract or tracts of real estate located within the Cluster Development for which a residence may be constructed prior to annexation to the City of Lawrence, Kansas, as identified in the Certificate of Survey.

**Subdivision Regulations** means the jointly adopted Subdivision Regulations for the City of Lawrence, Kansas and the Unincorporated Areas of Douglas County, Kansas, as amended, or such successor subdivision regulations as are then applicable to the Cluster Development.

2. Grant of Cross Access Easements. Developer grants and dedicates to County, and establishes for the benefit of the current and future owners of the Cluster Development, a permanent and perpetual easement and right of way over, through, and across the following described tract of real estate, for vehicular and pedestrian ingress and egress, together with construction, installation, and maintenance of public utilities, to and from the various tracts or parcels of the Cluster Development and County Road E 1200 Road:

A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 13 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, KANSAS BEING 60.00 FEET IN WIDTH, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EAST LINE OF SAID QUARTER SECTION, SAID POINT BEING 1818.70 FEET SOUTH OF THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE SOUTH 89°43'58" WEST, 40.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°12'15" WEST, 60.00 FEET; THENCE SOUTH 89°43'58" WEST, 1563.49 FEET; THENCE SOUTH 00°01'36" EAST, 60.00 FEET; THENCE NORTH 89°43'58" EAST, 1563.67 FEET TO THE POINT OF BEGINNING.

THE ABOVE CONTAINS 2.15 ACRES, MORE OR LESS ALL IN DOUGLAS COUNTY, KANSAS AND IS SUBJECT TO ANY RESTRICTIONS OF RECORD.

(the “**Cross-Access Easement Tract**”).

3. No Unreasonable Interference. No building, structure, obstruction, or other improvement shall be constructed, installed, or maintained in or upon the Easement Tracts and nothing else shall be done within the Easement Tracts that unreasonably interferes with the rights granted and established in this Agreement.

4. Construction, Repair and Maintenance.

A. Construction. Developer agrees to construct, at his sole expense, approximately 1,600 lineal feet of road with a 4” thick compacted aggregate surface within the Cross-Access Easement Tract (the “**Road**”). The Road shall be constructed within a reasonable time after the creation of the cross access easements.

B. Repair and Maintenance. Repair and maintenance costs for the roadway and associated improvements shall be provided by the owners of the Residential Development Parcels. Said maintenance shall also require snow removal, which shall not block the easement. The owner or owners of the Residential Development Parcel shall be responsible for this repair and maintenance until such time as the Cross Access Easement Tract is accepted as a public road or street for public maintenance by either the County or the City of Lawrence, Kansas. If there are more than one Residential Development Parcels, the owners of each Residential Development Parcel shall each share equally in all repair and maintenance of the Road.

5. Public Dedication. This Agreement shall be deemed a public dedication of the Cross-Access Easement Tract; provided, however, that County’s signing of this Agreement shall not be deemed an acceptance of the dedication or and acceptance of any maintenance obligations over the Cross Access Easement Tract or the Road.

6. Manner of Acceptance of Public Dedication. Prior to annexation of all or part of the Cluster Development into the City of Lawrence, Kansas, the County may accept the dedication of the Cross Access Easement Tract as a public road, upon such terms and conditions as it determines appropriate. If dedication of the Cross Access Easement Tract has not been previously accepted as a public road, then upon annexation of all or part of the Cluster Development into the City of Lawrence, Kansas, the City of Lawrence may accept the dedication of the Cross Access Easement Tract upon such terms and conditions as it determines at the time of annexation. Any acceptance of the dedication of the Cross-Access Easement Tract as a public road shall be by a signed agreement specifically referencing this Agreement, authorized by formal action of the governing body the County or City of Lawrence, as the case may be, and recorded with the Office of the Douglas County Register of Deeds.

7. Vacation of Private Easement. As part of this Agreement, the owners of the property wish to vacate an existing private easement recorded at the Douglas County, Register of Deeds in Book 350, Page 362-363 on July 7, 1981. The 35 foot private easement was for ingress and egress and for the construction and maintenance of utilities over, under and across the property described in this private easement. This Cross-Access Agreement provides the necessary ingress and egress for the existing utilities.

8. No Termination. No breach of this Agreement shall entitle any party to cancel, rescind or otherwise terminate this Agreement, but such limitation shall not affect in any manner any other rights or remedies which such party may have hereunder by reason of any breach of this Agreement. The ownership of the Cluster Development, now or in the future, by a single owner or owners shall not effectuate a merger or otherwise terminate this Agreement.

9. No Limitation of Remedies. Any violation or breach of this Agreement shall be considered a breach of the Certificate of Survey and a violation of the Subdivision Regulations, and the County shall have the authority to enforce this Agreement in any manner permitted by law. The various rights and remedies contained in this Agreement and reserved to the parties, except as otherwise provided in this Agreement, shall not be considered as exclusive of any other right or remedy, but shall be construed as cumulative and shall be in addition to every other remedy now or hereafter existing at law, in equity or by statute. No delay or omission of the right to exercise any power or remedy shall impair any such right, power or remedy or be construed as a waiver of any default or non-performance or as acquiescence therein.

10. Construction of Terms. This Agreement shall be governed by and construed in accordance with the laws of the State of Kansas. All headings herein are for convenience and shall not be resorted to for interpretation or construction. Any feminine or neuter pronoun shall be substituted for masculine form, or vice versa, and plural shall be substituted for singular where the context may require. No waiver of any provision of this Agreement shall be construed to be a waiver of any preceding or succeeding breach of such provision, or any other provision. This Agreement may be amended or modified only in writing, authorized and executed by the County (or the City of Lawrence, Kansas if the Cluster Development is then within the corporate boundaries of the City of Lawrence) and all owners of all or any part of the Cluster Development, and may not be amended or modified by oral agreements or understandings.

11. Severability. In case anyone or more of the provisions of this Agreement should be invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

12. Covenants Running With the Land. This Agreement and the easements granted, dedicated, and established hereby shall at all times be perpetual and construed appurtenant to the land and a covenant running with the land and shall be binding upon the owner or owners of all or part of the Easement Tract and all parties

claiming by, through, or under them, and shall be for the benefit of and limitations upon all future owners of the Cluster Development, provided, however, that upon acceptance of the dedication of the Cross Access Easement Tract by a governmental entity, whether the County or the City of Lawrence, Kansas, the Easement Tract shall become a public right of way, for the benefit of all members of the public; provided further, however, that the rights, duties, and obligations of each owner as set forth herein shall cease with the termination of his or its ownership, except for the duties and obligations arising during the period of his or its ownership.

IN WITNESS WHEREOF, Developer and County have executed this Agreement as of the year and date first above stated.

**DEVELOPER:**

\_\_\_\_\_  
Dwight C. Purvis

\_\_\_\_\_  
Kimberly S. Purvis

**COUNTY:**

\_\_\_\_\_  
Mike Gaughan  
Chairman County Commission

**STATE OF KANSAS**       )  
                                          )ss.  
**COUNTY OF DOUGLAS**   )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me, a Notary Public in and for the County of Douglas, personally appeared Dwight C. and Kimberly S. Purvis, to me known to be the same persons who signed and is described in the above instrument and acknowledged the same to be his free act and deed.

\_\_\_\_\_, Notary Public  
Douglas County, Kansas

**STATE OF KANSAS**       )  
                                          )ss.  
**County of Douglas**       )

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, a Notary Public in and for the County of Douglas, personally appeared Mike Gaughan, Chairman County Commissioners, on behalf of Douglas County Kansas to me known to be the same person who signed and is described in the above instrument and acknowledged the same to be his free act and deed.

\_\_\_\_\_, Notary Public  
Douglas County, Kansas

# Memorandum

## City of Lawrence – Douglas County Planning & Development Services

**To:** Lawrence-Douglas County Planning Commission  
**From:** Planning Staff  
**Date:** For February 25, 2013 Planning Commission Meeting  
**RE:** Misc. Item #1 - Horizon 2020/Truck Stop Language

### **Purpose**

This memo was prepared in response to direction from the Planning Commission to find all instances that “truck stops” is mentioned in *Horizon 2020*.

Staff performed a word search of *Horizon 2020* and was able to find only one instance that “truck stops” is mentioned. The only place staff was able to find “truck stops” mentioned is within the Auto-Related Commercial Centers description (see below). The Planning Commission voted unanimously on January 28, 2013 to remove “truck stops” from the Auto-Related Commercial Centers description.

### ***Auto-Related Commercial Centers***

A unique type of commercial development is an Auto-Related Commercial Center. These centers include a wide variety of uses such as auto sales and repair, truck stops, restaurants, hotels, and other similar uses. However, these uses are not limited to Auto-Related Commercial Centers. A common feature of all these uses is that they typically have a small amount of commercial square footage under roof, but require a large amount of acreage.

Because these centers have a limited variety of uses and a relatively small amount of commercial square footage, Auto-Related Commercial Centers do not fit within the definition of a Community or Regional Commercial Center. These types of centers are very intensive and therefore need to be directed to areas that have an ability to handle the intensive nature of an Auto-Related Commercial Center.

Auto-Related Commercial Centers shall be located at the intersection of two state or federally designated highways. To ensure that the Auto-Related Commercial Centers develop in a planned manner that provides a positive benefit to the community, Auto-Related Commercial Centers shall have a lot length-to-depth ratio of 3:2 and must be a minimum of 20 acres in size.

All the potential locations of an Auto-Related Commercial Center are in areas that serve as “gateways” into the city. Since they are in “gateway” areas, any

proposal for an Auto-Related Commercial Center shall be closely scrutinized for architectural appearance, landscaping, signage, etc.

**Recommendation**

Receive this memo and direct staff as appropriate.

**PLANNING COMMISSION REPORT**  
**Regular Agenda – Action Item**

PC Staff Report  
1/28/13

**ITEM NO. 4: COMPREHENSIVE PLAN AMENDMENT TO HORIZON 2020 CHAPTER 6 to add policies for the Auto-Related Commercial Centers designation (DDW)**

**CPA-5-5-11:** Consider Comprehensive Plan Amendment to Chapter 6 of Horizon 2020 to add policies for the Auto-Related Commercial Centers designation. *Initiated by Planning Commission 5/25/11.*

**STAFF RECOMMENDATION:** Staff recommends approval of this comprehensive plan amendment to *Horizon 2020* Chapter 6, Commercial Land Use, to add policies for the Auto-Related Commercial Centers designation, and recommends forwarding this comprehensive plan amendment to the Lawrence City Commission with a recommendation for approval.

**STAFF RECOMMENDATION:** If appropriate, approve and sign Planning Commission Resolution PCR-13-00010.

**KEY POINTS**

1. Auto-Related Commercial Centers are a unique type of commercial development that have auto intensive uses. They typically have a small amount of commercial square footage under roof, but require a large amount of acreage for parking or sales display.
2. A policies section for the Auto-Related Commercial Centers is not currently within Horizon 2020 Chapter 6, Commercial Land Use.
3. A couple changes were also made to the existing Auto-Related Commercial Centers description.

**SUMMARY**

**CPA-5-5-11:** This Comprehensive Plan Amendment was initiated by the Planning Commission on 5/25/11. The purpose of the amendment is to add policies to the Auto-Related Commercial Centers.

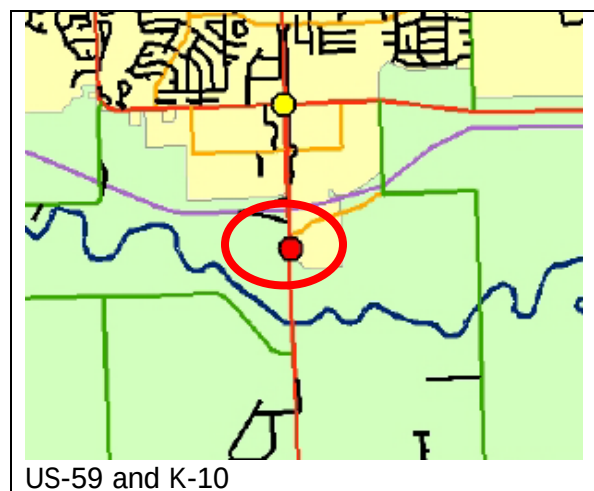
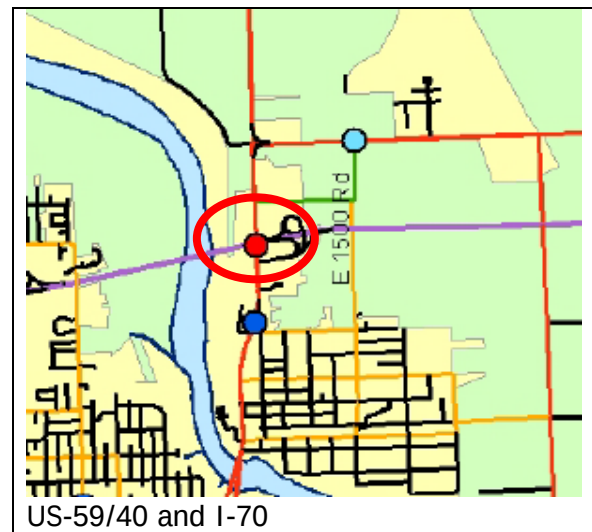
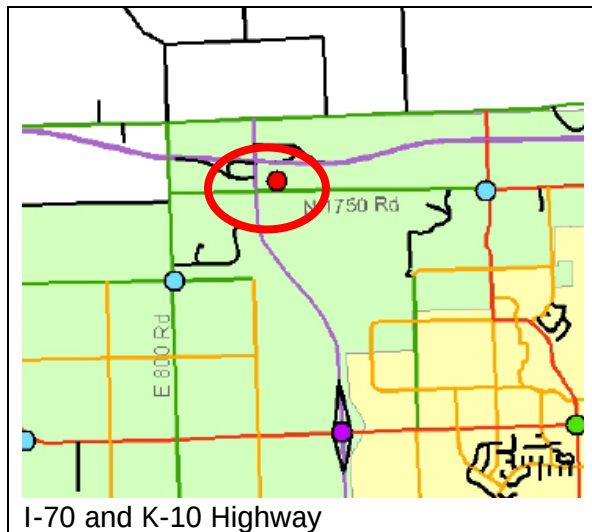
There are no other items related to this CPA.

**STAFF REVIEW**

The purpose of this amendment is to add policies to the Auto-Related Commercial Centers. In addition, a couple changes were made to the Auto-Related Commercial Centers description.

The policies were created by extracting information from the existing Auto-Related Commercial Centers description. The changes made to the existing description are meant to provide additional clarification to the description.

Horizon 2020 recommends the following intersections as potential future Auto-Related Commercial Centers:



Staff reviewed this amendment based upon the comprehensive plan amendment review criteria listed below [identified in Chapter 17 (Implementation) of *Horizon 2020*].

Included on the last page of this staff report is the proposed amendment to Chapter 6 (Commercial Land Use). If approved, this amendment will be added to the Auto-Related Commercial Centers description on page 6-11, and new policies will be added to page 6-40.

## COMPREHENSIVE PLAN AMENDMENT REVIEW

### 1. Does the proposed amendment result from changed circumstances or unforeseen conditions not understood or addressed at the time the Plan was adopted?

The proposed amendment is not the result of changed circumstances or unforeseen conditions. The Auto-Related Commercial Centers description in Chapter 6 does not contain policies like the other Commercial Center descriptions and therefore is inconsistent with the rest of Chapter 6.

This amendment addresses those inconsistencies by adding new policies to the Auto-Related Commercial Centers.

**2. Does the proposed amendment advance a clear public purpose?**

The proposed amendment is an advancement of a clear public purpose in that it adds policies to the Auto-Related Commercial Centers where they do not currently exist. Policies provide cleaner expectations to the development community. Correcting this inconsistency advances a clear public purpose.

**3. Is the proposed amendment consistent with the long-range goals and policies of the plan?**

The proposed amendment helps further the goals and policies for commercial land use while staying consistent with the overall intent of *Horizon 2020* by clarifying Auto-Related Commercial Center policy for redevelopment and new centers. The proposed amendment adds new policies and makes a couple changes to the description of the Auto-Related Commercial Centers.

**4. Does the proposed amendment result from a clear change in public policy?**

As the City of Lawrence and unincorporated Douglas County continue to grow and expand, there is a need to include the opportunity for development and redevelopment of large areas into Auto-Related Commercial Centers. These developments can offer the opportunity for auto-related commercial services at the intersections of major roadways. Auto-Related Commercial Center policies are missing in *Horizon 2020*. The proposed amendment is adding those policies to *Horizon 2020*.

**PROFESSIONAL STAFF RECOMMENDATION**

Staff recommends approval of this comprehensive plan amendment to *Horizon 2020* Chapter 6, Commercial Land Use, to add policies for the Auto-Related Commercial Centers designation, and recommends forwarding this comprehensive plan amendment to the Lawrence City Commission with a recommendation for approval.

Attachments:

- Proposed new text (new text is underlined, deleted text is ~~struck through~~)

**Amendment #1: Page 6-11, Chapter 6, Horizon 2020 (describing Auto-Related Commercial Centers):**

§ *Auto-Related Commercial Centers*

A unique type of commercial development is an Auto-Related Commercial Center. These centers include a wide variety of uses such as auto sales and repair, truck stops, restaurants, hotels, and other similar uses that attract a large amount of the traveling public. However, these uses are not limited to Auto-Related Commercial Centers. A common feature of all these uses is that they typically have a small amount of commercial square footage under roof, but require a large amount of acreage for parking or sales display.

Because these centers have a limited variety of uses and a relatively small amount of commercial square footage, Auto-Related Commercial Centers do not fit within the definition of a Community or Regional Commercial Center. These types of centers are very auto intensive and therefore need to be directed to areas that have an ability to handle the intensive nature of an Auto-Related Commercial Center.

Auto-Related Commercial Centers shall be located at the intersection of two state or federally designated highways. To ensure that the Auto-Related Commercial Centers develop in a planned manner that provides a positive benefit to the community, Auto-Related Commercial Centers shall have a lot length-to-depth ratio ~~of~~ between 1:1 and 3:2 and must be a minimum of 20 acres in size.

All the potential locations of an Auto-Related Commercial Center are in areas that serve as “gateways” into the city. Since they are in “gateway” areas, any proposal for an Auto-Related Commercial Center shall be closely scrutinized for architectural appearance, landscaping, signage, etc.

**Amendment #2: Page 6-40, New Criteria for Auto-Related Commercial Centers:**

**Policy 3.15: Criteria for Auto-Related Commercial Centers**

- A. Auto-Related Centers shall be located at the intersection of two state or federally designated highways.
- B. Auto-Related Centers shall have a lot length-to-depth ratio between 1:1 and 3:2 and shall be a minimum of 20 acres in size.
- C. As Auto-Related Centers are located in areas that serve as “gateways” to the city, any proposal shall be closely scrutinized for architectural appearance, landscaping, signage, etc.

**ORDINANCE NO. 8841**

**RESOLUTION NO. \_\_\_\_**

**A JOINT ORDINANCE OF THE CITY OF LAWRENCE, KANSAS, AND RESOLUTION OF DOUGLAS COUNTY, KANSAS, AMENDING *HORIZON 2020*, THE COMPREHENSIVE PLAN FOR THE CITY OF LAWRENCE AND UNINCORPORATED DOUGLAS COUNTY, CHAPTER 6 - COMMERCIAL, BY ESTABLISHING THEREIN POLICIES GOVERNING AUTO-RELATED COMMERCIAL CENTERS, BY ADOPTING AND INCORPORATING HEREIN BY REFERENCE "*HORIZON 2020*, THE COMPREHENSIVE PLAN FOR THE CITY OF LAWRENCE AND UNINCORPORATED DOUGLAS COUNTY, MARCH 2013 EDITION," AS PREPARED AND PUBLISHED BY THE LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING OFFICE.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS, AND BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS:**

**SECTION 1.** The Governing Bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, hereby find that the provisions of K.S.A. 12-743 and K.S.A. 12-747, governing the amendment of comprehensive plans, have been fully met regarding the consideration, approval, and adoption of the "*Horizon 2020*, the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, March 2013 Edition", amending "Chapter 6 – Commercial" of *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County.

**SECTION 2.** The Governing Bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, do hereby approve the recommendation of the Lawrence-Douglas County Metropolitan Planning Commission as memorialized at Resolution No. PCR-13-00010, and do hereby amend "Chapter 6 - Commercial" of *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, by adopting "*Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, March 2013, Edition" and by incorporating that document into *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, by reference.

**SECTION 3.** The "*Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, March 2013 Edition" as approved by Section 2 *supra*, is hereby adopted and incorporated herein by reference as if set forth in full. One copy of said "*Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, March 2013 Edition" shall be marked or stamped as "Official Copy as Adopted by Joint Ordinance No. 8841 and Resolution No. \_\_\_\_" and shall be filed, together with a copy of this joint ordinance and resolution, with the City Clerk. The City Clerk shall make the "Official Copy as Adopted by Joint Ordinance No. 8841 and Resolution No. \_\_\_\_" open to the public and available for inspection at all reasonable office hours. One additional copy of the "Official Copy as Adopted by Joint Ordinance No. 8841 and Resolution No. \_\_\_\_" shall, at the cost of the City of Lawrence, Kansas, be made available to the Lawrence-Douglas County Metropolitan Planning Office of the City of Lawrence, Kansas.

**SECTION 4.** The “*Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, March 2013 Edition” adopted by this joint ordinance and resolution replaces the existing "Chapter 6 - Commercial" of *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, and amendments thereto, it being the intent of the Governing Bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, that “*Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, March 2013 Edition” repeal and replace the same.

**SECTION 5.** If any section, clause, sentence, or phrase of this joint ordinance and resolution is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

**SECTION 6.** This joint ordinance and resolution shall be in full force and effect upon its adoption by the Governing Bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, and publication as provided by law.

**ADOPTED** by the Governing Body of the City of Lawrence, Kansas, this \_\_\_\_ day of \_\_\_\_\_, 2013.

**APPROVED:**

\_\_\_\_\_  
Robert J. Schumm  
Mayor

**ATTEST:**

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

**APPROVED AS TO FORM AND LEGALITY:**

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

**ADOPTED** by the Board of County Commissioners of Douglas County, Kansas, this \_\_\_\_ day of \_\_\_\_\_, 2013.

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Mike Gaughan  
Chair

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Nancy Thellman  
Commissioner

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Jim Flory  
Commissioner

**ATTEST:**

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Jameson D. Shew, County Clerk

\*\*\*\*\*

**NOTICE TO PUBLISHER**

Publish one time and return one Proof of Publication to the City Clerk, one to the City Attorney, and one to the County Clerk.

**ITEM NO. 4      COMPREHENSIVE PLAN AMENDMENT TO H2020, CHP 6 TO ADD POLICIES FOR THE AUTO-RELATED COMMERCIAL CENTERS DESIGNATION (DDW)**

**CPA-5-5-11:** Comprehensive Plan Amendment to Chapter 6 of Horizon 2020 to add policies for the Auto-Related Commercial Centers designation. *Initiated by Planning Commission 5/25/11.*

**STAFF PRESENTATION**

Mr. Dan Warner presented the item.

Commissioner von Achen asked why there was a minimum of 20 acres.

Mr. Warner said the minimum of 20 acres was meant to establish a good size commercial center.

Commissioner von Achen asked if it included truck repair and if that was a stand alone use.

Mr. Warner said there were a variety of uses that could be part of this use. He said the 20 acres was not necessarily going to be one use. He said it could be, for example, a hotel along with some auto uses such as a car lot. He said it was a development that would likely have multiple uses within the development, with auto repair being one of those potential uses. He said auto repair would be a compatible use with the auto sales use.

Commissioner von Achen inquired about the requirement of 20 acres.

Mr. McCullough said typically the land use designations try to pit an appropriate amount of acreage for the intended use. He said they were not trying to set out exact uses in the language, they were trying to provide examples of what the auto-related center uses could be at any given auto related designation.

Commissioner von Achen said she did not understand the requirement of 20 acres.

Mr. McCullough said when seeking to designate an auto-related center there needs to be enough land to accommodate those things. He said they would not want to put an auto-related center on 5 acres because it would not probably be compatible with its surroundings. He said any one use may not need 20 acres, but as a node of commercial designation it should be significant enough to capture and actually work to accommodate those uses that could go there.

Commissioner von Achen asked if a truck repair business would have to build within the designated area.

Mr. McCullough said it depended on the context. He said, for example, South Iowa Street was also designated as a community regional strip from Clinton down to the highway so there would be any number of opportunities within that existing strip development to do a stand alone auto repair business.

**PUBLIC HEARING**

Mr. Ted Boyle, North Lawrence Improvement Association, said the only issue the North Lawrence residents had was with truck stops.

Ms. Gwen Klingenberg, League of Women Voters, referenced the letter the League of Women Voters sent. She expressed concern about truck stops. She felt the Comprehensive Plan Amendment would go through smoothly if truck stops were removed.

Mr. Alan Cowles said he did not understand all the implications of this proposal. He concurred with the League of Women Voters. He asked Planning Commission to figure out what it would really turn into.

**COMMISSION DISCUSSION**

Commissioner Liese asked if the term truck stops could be removed.

Mr. McCullough said yes. He discussed the history of truck stops. He said there was no application to establish a truck stop within the City of Lawrence. He said they had quite a bit of discussion on the issue of truck stop within the Development Code and Comprehensive Plan policies. He said the last debate happened in 2012 when there was a Text Amendment that went through Planning Commission and City Commission related to establishing the IM zoning district. He said they discovered that truck stop was wrapped up in the definition of gas and fuel sales, so essentially a truck stop was permitted just about anywhere commercial would allow a gas station. He said through the work of the Planning Commission and City Commission they really tightened up where truck stops could be permitted and reduced where truck stops could locate by placing them through a Special Use Permit in the CR and IG districts. He said the City Commission did have the opportunity to strike the use completely from the Development Code and made a conscious decision not to do that and found some value in maintaining the truck stop use in the Development Code but with protection through the Special Use Permit process. He said in that discussion three areas were pointed out that were likely to get that use because the language existed in the Comprehensive Plan at that time. He stated if they deny this Comprehensive Plan Amendment as proposed it would still exist in the Comprehensive Plan as truck stop language. He said Planning Commission had the option to delete it from the list of possible examples but that did not necessarily delete it from the opportunity of someone requesting a zoning change and Special Use Permit from the Development Code without a Text Amendment to the Development Code. He said City Commission, in his opinion, most recently wanted truck stops included in the documents as potential to be developed somewhere within the city with full knowledge of where the potential for a truck stop could go.

Commissioner von Achen inquired about the rationale of putting these at the gateways of the city.

Mr. McCullough said the issue was where they would be close to the state highway/interstate system. He said the truck stop may be the most moot of issues because there were good services along I-70.

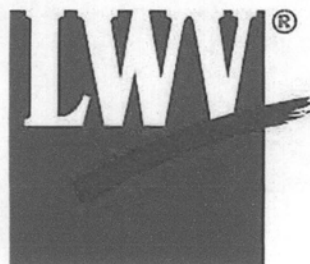
Commissioner Liese said there was an empty lot across from his store in North Lawrence that was used as a truck stop even though it was not zoned for a truck stop. He said he could not imagine a truck stop benefiting Lawrence. He said he would be in favor of changing the Comprehensive Plan to remove truck stops.

#### **ACTION TAKEN**

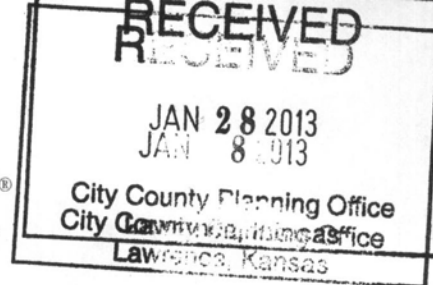
Motioned by Commissioner Liese, seconded by Commissioner Hird, to approve the Comprehensive Plan Amendment, CPA-5-5-11, to Chapter 6 of Horizon 2020, with the removal of truck stops, and forwarding to the City Commission and the Board of County Commissioners.

Unanimously approved 9-0.

Commissioner Liese directed staff to review Horizon 2020 for other uses of truck stops.



LEAGUE OF WOMEN VOTERS®  
OF LAWRENCE/DOUGLAS COUNTY



January 27, 2013

*President*  
**Melinda Henderson**

*President-Elect*  
**David Burress**

*Vice President*  
**Milton Scott**

*Secretary*  
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**Ruth Lichtwardt**

**Marlene Merrill**

**Mr. Bruce Liese, Chairman**

**Members**

**Lawrence-Douglas County Metropolitan Planning Commission**

**City Hall**

**Lawrence, KS 66044**

**RE: ITEM NO. 4: COMPREHENSIVE PLAN AMENDMENT TO HORIZON 2020 CHAPTER 6 to add policies for the Auto-Related Commercial Centers designation (DDW)**

**Dear Chairman Liese and Planning Commissioners:**

A recent change in the Zoning Ordinance has been to interpret the use category of Truck Stops, not as the original interpretation of the refueling provision for trucks included in filling stations, but rather as a separate, massive, multi-use overnight stop for trucks and their drivers. This change caused the City Commission and Planning Commission to give the Truck Stop Use its own category in the Land Development Code, restrict it to the CR (Regional Commercial District) and to IG (the General Industrial District), and require both Districts to obtain a Special Use Permit (SUP) before being approved. According to the thinking at the time, the SUP would allow the Commissions to attach the necessary conditions that would alleviate the "externalities" that accompany this very intensive use.

We understand that the purpose of the Text Amendment to Horizon 2020 to describe the conditions on the SUP to "add policies for the Auto-Related Commercial Centers designation" is to include Truck Stop Use.

However, along with this TA is a more vivid Location Map of the proposed locations for "Auto-Related Commercial Centers" that includes the new Truck Stop Use. This isn't a change in the proposed locations of Auto Related Commercial Centers, but because the potential intensity of the district has been considerably increased with the addition of the new definition of Truck Stop, these designations take on new meaning. We strongly object to these proposed locations if they include Truck Stops, and ask that you reconsider this district so as not to include the Truck Stop Use in these locations.

**Our reasons are as follows:**

- 1. I-70 is the probable intended location when traveling from the south to the north on Highway 59. Because there are two truck stops on I-70 near our city, truck stops are not needed in Lawrence.**

**PO BOX 1072 • LAWRENCE KS 66044-1072**

**league@sunflower.com • www.lawrenceleague.com  
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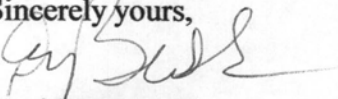
This is suggested in the Staff Report of June 12, 2012.

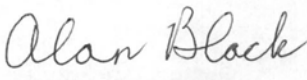
2. The "externalities" of truck stops (quoted from the June 12, 2012 Staff Report) including the constant activity of "truck and passenger vehicle traffic, parking lot lighting, sound and smell from idling engines, and substantial amounts of pavement," are very environmentally damaging effects. In addition, the potential for undesirable activities make the community better served when their location is isolated, such as is currently the case with the existing truck stops on I-70 both east and west of Lawrence.
3. Truck Stops are very large and intensive uses. It seems counterproductive to locate them at the Gateways to our city where the impression of Lawrence would then be immediate and extremely negative. Our land uses are supposed to benefit our city. We suggest that including Truck Stops in our Land Development Code in the proposed locations of Auto Related Commercial Centers would have the opposite effect.

Please reconsider the placement of Truck Stops in our Land Development Code and in Horizon 2020. It is doubtful that they are an appropriate land use in their new proposed locations in Lawrence.

Thank you for considering our letter.

Sincerely yours,

  
David Burress  
President-Elect

  
Alan Black, Chair  
Land Use Committee

# Memorandum

## City of Lawrence

### Planning and Development Services

**TO:** David L. Corliss, City Manager

**FROM:** Amy Miller, Long-Range Planner

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

**Date:** For March 26, 2013 meeting

**RE:** **CPA-4-2-12:** Comprehensive Plan Amendment to create CC600 District policies and revise area plans to designate the node of 6<sup>th</sup> Street and K-10 as a CC600.  
**TA-4-3-12:** Text amendment to the Development Code establishing the CC 600 District.  
**Z-4-5-12:** Rezoning request for approximately 146 acres located in the NW quadrant of the intersection of West 6<sup>th</sup> Street/Hwy 40 and Kansas Hwy 10 (K-10) from County A (Agriculture) District and County B1 (Neighborhood Business) District to the pending City of Lawrence District CC600 (Community Commercial) District.

#### Background:

- **CPA-4-2-12:** Comprehensive Plan Amendment to Chapter 6 of *Horizon 2020* to create CC600 District policies and to Chapter 14 Specific Plans, to revise the *West of K-10 Plan* and *A Nodal Plan for the Intersection of West 6th Street & Kansas Highway 10 (K-10)* designating the node of 6th Street and K-10 as a CC600.
- **TA-4-3-12:** Text Amendment to the City of Lawrence Land Development Code, Articles 1, 2 and 13, to provide for a CC600 (Community Commercial) District.
- **Z-4-5-12:** Rezoning Request for 146 acres located in the NW quadrant of the intersection of West 6<sup>th</sup> Street/Hwy 40 and Kansas Hwy 10 (K-10) from County A (Agriculture) District and County B1 (Neighborhood Business) District to the pending City of Lawrence District CC600 (Community Commercial) District.

The items listed above were considered together by the City and Planning Commissions.

4/10/12      *Items were initiated by City Commission.*

5/21/12      *Planning Commission forwarded the items to City Commission with recommendation for approval. (7-1-1 vote)*

- 7/11/12 County Commission approved CPA-4-2-12 (3-0 vote).
- 8/21/12 City Commission deferred the items. (Unanimous vote)
- 9/4/12 City Commission deferred the items. (Unanimous vote)
- 9/17/12 KU Endowment submitted a letter to the Lawrence City Commission regarding their purchase of land in the NE quadrant of the 6<sup>th</sup> and K-10 node with the purpose of locating athletic facilities on the site and invited the City to locate their proposed recreational center on that site as well.
- 9/18/12 City Commission withdrew the applications. (4-1 vote)
- 9/25/12 City Commission rescinded their previous vote to withdraw the applications and remanded the items back to Planning Commission for review with the following specific direction: "Given the change in circumstance that the regional recreation center/sports village is no longer planned for the Gateway Addition property west of K-10, the City Commission has not approved or dis-approved the applications and directs the Planning Commission to review the comprehensive plan, text amendment and rezoning applications in light of the change in circumstance of the original recreation center/sports village relocating to a property east of K-10." (Unanimous vote)
- 10/24/12 Planning Commission discussed the remanded items and the following actions were taken:

**CPA-4-2-12:**

Planning Commission recommended approval of the Comprehensive Plan Amendment to establish CC600 policies in Chapter 6 of Horizon 2020, but to delete the revisions to the area plans designating the 6<sup>th</sup> St/Hwy 40 and K-10 intersection as a CC600 node. (Unanimous vote) The Planning Commission authorized the Chair to sign PC Resolution PCR-5-4-12 and repealed the previous resolution. (Unanimous vote)

**TA-4-3-12:**

Planning Commission recommended approval of the proposed Text Amendment to the Land Development Code to establish a CC600 District. (Unanimous vote)

**Z-4-5-12:**

Planning Commission recommended denial of the rezoning request to CC600 to the CC. (4-3 vote)

The PC actions in October effectively recommended establishing CC600 policies in Horizon 2020 and creating the accompanying zoning district, but not employing them at the 6<sup>th</sup> and K-10 node and not rezoning the subject 146 acres to the CC600 district.

1/15/13

*City Commission discussed the Planning Commission recommendation and remanded the items back to the Planning Commission by the following motion:*

***Moved by Cromwell, seconded by Carter, to return item 2 (a through c) to the Planning Commission directing the PC to consider the appropriateness of designating this node as a CC600 node as it relates to other possible nodes that could support a CC600 designation, discuss the appropriate allocation of the 240,000 sq. ft. of retail use that is not currently allocated to the Mercato Development if it is determined that the node should be designated as a CC600 node, and discuss the appropriateness of allowing residential uses for the specific CC600 district on the property that is the subject of the rezoning application. Motion carried 4-1 with Dever opposed.***

### **Planning Commission Action on Remanded Items**

The Planning Commission discussed the remanded items at their February 25, 2013 meeting, as directed by the City Commission. The following actions were taken as a result of this discussion:

**1) Consider the appropriateness of designating this node as a CC600 node as it relates to other possible nodes that could support the CC600 designation.**

Moved by Commissioner Blaser, seconded by Commissioner Culver to find that the 6<sup>th</sup> and K-10 node should be designated as a CC600 Commercial Center. Motion Carried 7-1, with commissioner Josserand voting in opposition.

**2) Discuss the appropriate allocation of the 240,000 square feet of retail uses that is not currently allocated to the Mercato Development.**

Moved by Commissioner von Achen, seconded by Commissioner Belt, to find that the 240,000 square feet of retail uses that are not currently allocated to the Mercato Development at the node be allocated as follows:

- i. NW Corner – 155,000 square feet
- ii. SW Corner – 25,000 square feet
- iii. SE Corner – 60,000 square feet

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

**3) Discuss the appropriateness of allowing residential uses for the specific CC600 district on the property that is the subject of the rezoning application.**

Moved by Commissioner Britton, seconded by Commissioner von Achen, to find that residential uses should be allowed, except the Multi-Dwelling Residential Structure use, as part of the CC600 district on the property that is the subject of the rezoning application per the limitations existing in the Development Code. Motion Carried 6-2, with Commissioners Burger and Culver voting in opposition.

**In addition to the motions above, The Planning Commission also made recommendations on the three agenda items, CPA-4-2-12, TA-4-3-12 and Z-4-5-12:**

**Comprehensive Plan Amendment CPA-4-2-12:**

- Moved by Commissioner Blaser, seconded by Commissioner von Achen, to approve the Comprehensive Plan Amendment as originally drafted and presented at the May PC Meeting, which establishes the CC600 policies in *H2020*, and designates the 6<sup>th</sup> St./K-10 node as CC600 Commercial Center. This also includes a modification to the *West of K-10 Plan* that revises the amounts of allowable retail square footage at the node as follows:
  - § NW Corner – 155,000 square feet
  - § SW Corner – 25,000 square feet
  - § SE Corner – 60,000 square feet

The *West of K-10 Plan* as revised will also supersede *A Nodal Plan for the Intersection of West 6th Street & Kansas Highway 10 (K-10)*. The Planning Commission also authorized the Chair to sign PCR-13-00060. Motion carried 6-2, with Commissioners Culver and Josserand voting in opposition.

**Text Amendment TA-4-3-12:**

- Moved by Commissioner Belt, seconded by Commissioner Blaser, to approve the text amendment establishing the CC600 zoning district in the Development Code. Unanimously approved 8-0.

**Rezoning Request Z-4-5-12:**

- Moved by Commissioner Britton, seconded by Commissioner Blaser, to approve the rezoning request with the following conditions:
  - 1) The amount of retail square feet on the subject property shall not exceed 155,000 square feet, and
  - 2) The uses shall be restricted to those uses included in the staff memo with the exception that Multi-Dwelling Structure is not a permitted use.

Motion carried 6-2, with Commissioners Burger and Culver voting in opposition.

**Possible Actions:**

**(Staff Recommended Actions are underlined.)**

**Comprehensive Plan Amendment CPA-4-2-12:**

- Approve the Comprehensive Plan Amendment as originally drafted and presented at the May PC Meeting, which establishes the CC600 policies in *H2020*, and designates the 6<sup>th</sup> St./K-10 node as CC600 Commercial Center. This also includes a modification to the *West of K-10 Plan* that revises the amounts of allowable retail square footage at the node as follows:
  - § NW Corner – 155,000 square feet

§ SW Corner – 25,000 square feet

§ SE Corner – 60,000 square feet

The West of K-10 Plan as revised will also supersede A Nodal Plan for the Intersection of West 6th Street & Kansas Highway 10 (K-10). Adopt Joint City Ord 8470/ County Resolution No. \_\_\_\_\_ on first reading.

- Approve the Comprehensive Plan Amendment with revisions and adopt Joint City Ord 8470/ County Resolution No. \_\_\_\_\_ on first reading.
- Return the Comprehensive Plan Amendment to the Planning Commission providing specific further direction for the PC to consider.
- Deny the Comprehensive Plan Amendment.
- Withdraw the Comprehensive Plan Amendment.

**Text Amendment TA-4-3-12:**

- Approve the text amendment as recommended by the PC at their May, October and February meetings and adopt City Ordinance 8741 on first reading.
- Approve the text amendment with modifications and adopt City Ordinance 8741 on first reading.
- Return the text amendment to the PC for further consideration, stating the reasons for failure to approve or disapprove and providing specific further direction for the PC to consider.
- Deny the text amendment.
- Withdraw the text amendment.

**Rezoning Request Z-4-5-12:**

- Approve the Rezoning request as recommended by the Planning Commission at their February 25, 2013 meeting, subject to the following conditions:
  1. The amount of retail square feet on the subject property shall not exceed 155,000 square feet, and
  2. The uses shall be restricted to those uses included in the staff memo with the exception that Multi-Dwelling Structure is not a permitted use.

and adopt City Ordinance 8742 on first reading. (super majority vote (4/5) required due to valid protest petition)

- Approve the Rezoning request with modifications and adopt City Ordinance 8742 on first reading. (super majority vote (4/5) required due to valid protest petition)
- Return the Rezoning request to the Planning Commission for further review stating the reasons for failure to approve or disapprove and providing specific further direction for the PC to consider.
- Deny the Rezoning Request. (Per Section 20-1303(j)(2), a successive application shall not be accepted for a period of 12 months from the date of CC denial unless a successive application is substantially different from the original application that was denied. It is Staff's opinion that a change in applicant does

- not qualify as a substantially different application. A substantially different application shall not be accepted until 120 days after the date of denial.)
- Withdraw the Rezoning Request. (Per Section 20-1303(j)(1), withdrawal of an original application after it has been advertised for public hearing shall constitute denial of the application as if the public hearing had been held and concluded. If withdrawn, the same criteria for submitting a successive application within 12 months and 120 days apply.)

*Note: If the City Commission adopts the revisions to CPA-4-2-12 as recommended by the Planning Commission, the Douglas County Board of County Commissioners will need to consider CPA-4-2-12 and adopt the joint city ordinance/ county resolution before it is published.*

ORDINANCE NO. 8740

RESOLUTION NO. \_\_\_\_

A JOINT ORDINANCE OF THE CITY OF LAWRENCE, KANSAS, AND RESOLUTION OF DOUGLAS COUNTY, KANSAS, AMENDING *HORIZON 2020*, THE COMPREHENSIVE PLAN FOR THE CITY OF LAWRENCE AND UNINCORPORATED DOUGLAS COUNTY, CHAPTER 6 - COMMERCIAL, BY ESTABLISHING THEREIN POLICIES GOVERNING CC600 (COMMUNITY COMMERCIAL) DISTRICTS, AND CHAPTER 14 - SPECIFIC PLANS, BY REVISING THEREIN THE "WEST OF K-10 PLAN" TO DESIGNATE THE SIXTH STREET AND K-10 NODE AS A CC600 (COMMUNITY COMMERCIAL) NODE AND DELETING THEREFROM THE EXISTING "A NODAL PLAN FOR THE INTERSECTION OF WEST SIXTH STREET AND KANSAS HIGHWAY 10 (K-10)", BY ADOPTING AND INCORPORATING HEREIN BY REFERENCE "*HORIZON 2020*, THE COMPREHENSIVE PLAN FOR THE CITY OF LAWRENCE AND UNINCORPORATED DOUGLAS COUNTY, MARCH 2013 EDITION," AS PREPARED AND PUBLISHED BY THE LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING OFFICE.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS, AND BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS:

**SECTION 1.** The Governing Bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, hereby find that the provisions of K.S.A. 12-743 and K.S.A. 12-747, governing the amendment of comprehensive plans, have been fully met regarding the consideration, approval, and adoption of the "*Horizon 2020*, the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, March 2013 Edition", amending "Chapter 6 – Commercial and Chapter 14 - Specific Plans of *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County.

**SECTION 2.** The Governing Bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, do hereby approve the recommendation of the Lawrence-Douglas County Metropolitan Planning Commission as memorialized at Resolution No. PCR-13-00060, and do hereby amend Chapter 6 - Commercial, and Chapter 14 - Specific Plans, of *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, by adopting "*Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, March 2013 Edition" and by incorporating that document into *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, by reference.

**SECTION 3.** The "*Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, March 2013 Edition" as approved by Section 2, *supra*, is hereby adopted and incorporated herein by reference as if set forth in full. One copy of said "*Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, March 2013 Edition" shall be marked or stamped as "Official Copy as Adopted by Joint

Ordinance No. 8740 and Resolution No. \_\_\_\_” and shall be filed, together with a copy of this joint ordinance and resolution, with the City Clerk. The City Clerk shall make the “Official Copy as Adopted by Joint Ordinance No. 8740 and Resolution No. \_\_\_\_” open to the public and available for inspection at all reasonable office hours. One additional copy of the “Official Copy as Adopted by Joint Ordinance No. 8740 and Resolution No. \_\_\_\_” shall, at the cost of the City of Lawrence, Kansas, be made available to the Lawrence-Douglas County Planning Office of the City of Lawrence, Kansas.

**SECTION 4.** The “*Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, March 2013 Edition” adopted by this joint ordinance and resolution replaces the existing Chapter 6 - Commercial and Chapter 14 - Specific Plans of *Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, and amendments thereto, it being the intent of the Governing Bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, that “*Horizon 2020*, The Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, March 2013 Edition” repeal and replace the same.

**SECTION 5.** If any section, clause, sentence, or phrase of this joint ordinance and resolution is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

**SECTION 6.** This joint ordinance and resolution shall be in full force and effect upon its adoption by the Governing Bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, and publication as provided by law.

**ADOPTED** by the Governing Body of the City of Lawrence, Kansas, this \_\_\_\_ day of \_\_\_\_\_, 2013.

**APPROVED:**

\_\_\_\_\_  
Robert J. Schumm  
Mayor

**ATTEST:**

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

**APPROVED AS TO FORM AND LEGALITY:**

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

**ADOPTED** by the Board of County Commissioners of Douglas County, Kansas, this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Mike Gaughan  
Chair

\_\_\_\_\_  
Nancy Thellman  
Commissioner

\_\_\_\_\_  
Jim Flory  
Commissioner

**ATTEST:**

\_\_\_\_\_  
Jameson D. Shew, County Clerk

\*\*\*\*\*

**NOTICE TO PUBLISHER**

Publish one time and return one Proof of Publication to the City Clerk, one to the City Attorney, and one to the County Clerk.

PC Minutes 2/27/13

**ITEM NO. 1      W OF K-10 PLAN & NODAL PLAN FOR W 6<sup>TH</sup> ST & K-10; CC600 (AAM)**

**CPA-4-2-12:** Reconsider Comprehensive Plan Amendment to Chapter 6 of Horizon 2020 to create CC600 District policies and to Chapter 14 Specific Plans, to revise the West of K-10 Plan and A Nodal Plan for the Intersection of West 6th Street & Kansas Highway 10 (K-10) designating the node of 6th Street and K-10 as a CC600. (PC Item 9; approved with modifications 7-0 on 10/24/12) *Returned to Planning Commission by City Commission on 1/15/13.*

**ITEM NO. 2      TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; CC600 (SDM)**

**TA-4-3-12:** Reconsider Text Amendment to the City of Lawrence Land Development Code, Articles 1, 2 and 13, to provide for a CC600 (Community Commercial) District. (PC Item 10; approved 7-0 on 10/24/12) *Returned to Planning Commission by City Commission on 1/15/13.*

**ITEM NO. 3      A & B1 TO CC600; 146 ACRES; W 6<sup>TH</sup> ST & K-10 (MKM)**

**Z-4-5-12:** Reconsider rezoning approximately 146 acres located in the NW quadrant of the intersection of West 6<sup>th</sup> Street/Hwy 40 and Kansas Hwy 10 (K-10) from County A (Agriculture) District and County B1 (Neighborhood Business) District to the pending district CC600 (Community Commercial) District. (PC Item 11; denied 4-3 on 10/24/12) *Returned to Planning Commission by City Commission on 1/15/13.*

**STAFF PRESENTATION**

*Commissioners Belt and Culver arrived at the meeting around 7:15pm.*

Mr. Scott McCullough presented items 1-3 together.

Commissioner Josseland said there were still larger questions about whether this was the right time for CC600. He wanted to make sure they looked back at some of the overarching questions. He asked about the SLT and K-10 node.

Mr. McCullough said the node was designated as a future CC400 node. He said the full impact of K-10 was not known and would take some sort of street network planning. He said staff analysis was that it was too premature to say one way or the other whether it could support a CC600, but staff did not foreclose the idea.

Commissioner Burger asked if the stakeholders from all four quadrants were aware of the proposal.

Mr. McCullough said yes, he emailed the representatives from each corner.

Commissioner von Achen asked how the 90% at the two corners was figured.

Mr. McCullough said it was based on the existing policy for the CC200 and CC400 criteria in the Comprehensive Plan. He said they wanted to align the CC600 criteria with the existing policy.

Ms. Stogsdill said the commercial chapter was rewritten with the Planning Commission subcommittee in the early 2000. She said that factor came in then but she did not know specifically what the reasoning was other than expecting the majority of intensive commercial would be on two corners as opposed to evenly spread out around the intersection.

Commissioner Josserand inquired about non-ground floor units versus work/live units. He asked what a building with retail and office on the first floor and residential above it would be.

Mr. McCullough said that would be a non-ground floor dwelling unit.

Commissioner Josserand asked for an example of a work/live unit.

Mr. McCullough said he believed there was one on 9<sup>th</sup> Street where an individual lived in a commercially zoned house with a non-residential industry in a different part of the house with direct access to it. He said work/live units would not require to be above the ground floor.

Commissioner Josserand asked if CC600 had a 50% limit on residential.

Mr. McCullough said as proposed it would have the same 50% limit.

Commissioner Blaser asked if a non-ground floor dwelling unit could only be two stories.

Mr. McCullough said no, basically downtown was where non-ground floor dwelling units existed. He said the value of the non-ground floor dwelling units was that they were reserved for non-residential. He said it was not typical in other commercial districts, such as commercial strip, because developers did not want to mix zonings.

Commissioner Blaser said he could see some advantages to it, such as helping to stop sprawl.

Ms. Stogsdill said it was possible for a project to include multiple buildings, for example, a one story restaurant and a mixed use building that was non-ground floor residential with retail or office on the first floor. She said the 50% could be part of a project not all in one building.

Commissioner Culver asked if it was per structure.

Mr. McCullough said no, it was per project.

### **APPLICANT PRESENTATION**

Mr. Matt Gough, Barber Emerson Law Firm, said this was the fourth time this matter had come before Planning Commission. He said the three agenda items had been thoroughly considered, evaluated, and discussed. He said the applicant agreed with all the recommendations of staff except for the allocation of retail square feet. He said CC600 was an appropriate designation of the 6<sup>th</sup> and SLT interchange. He said in addition to the recommendation of staff, the neighbors supported the rezoning request. He mentioned that Mr. Lance Johnson had been present to speak in support of the CC600 designation but had to leave.

### **PUBLIC HEARING**

Mr. Michael Kelso said the protest petition was encouraged by past legal counsel. He said all of the property owners rescinded the protest petition. He felt this was the time to rezone the property so the owner could market the property. He said the neighbors were comfortable with the CC600 designation. He urged Planning Commission to approve the items.

Mr. Ron Crawford said he supported the CC600 under the restrictions outlined. He felt this location was a good place for mixed-use.

### **COMMISSION DISCUSSION**

Commissioner Belt disclosed ex parte that he spoke with Mr. Matt Gough and Mayor Bob Schumm regarding items 1-3.

Commissioner Culver disclosed ex parte that he met with Mr. Gough on February 13<sup>th</sup> to recap items 1-3. He said he also saw Ms. Jane Eldredge at a United Way event this evening and she mentioned him needing to be at Planning Commission.

Commissioner Burger disclosed ex parte that she requested from staff the build out square footage of different locations around town.

Mr. McCullough said the information provided to Commissioner Burger was from one of the last retail market studies. He displayed it on the overhead.

Commissioner Burger said she read the City Commission minutes and asked if Mr. Price Banks was representing a group or himself.

Mr. McCullough said he believed he was representing himself.

Commissioner Burger asked why the fifth City Commissioner did not vote in favor of sending this back to Planning Commission.

Mr. McCullough said he believed the dissenting vote was supportive of the proposal as presented.

Ms. Amy Miller gave an overview of the 2010 Retail Market Study.

Commissioner Josserand expressed concern about the timing of the rezoning. He felt zoning too early would impact the remainder of the city. He expressed concern about vacancy rates in retail. He wondered about the wisdom of adding so much additional retail to the inventory. He said he was frustrated by the process and wished they had the ability to study it longer. He said maybe they should reexamine some of the land uses on the northeast corner.

Commissioner von Achen asked staff to respond to Commissioner Josserand's comments.

Mr. McCullough said if they looked at some of the intersection driven nodes like 6<sup>th</sup> and Wakarusa, 9<sup>th</sup> and Iowa, or 19<sup>th</sup> and Massachusetts they could see relatively what a node looks like today. He stated the value of the table was to put it in perspective. He said the majority of commercial was located in corridors.

Commissioner von Achen inquired about Commissioner Josserand's concern about increased vacancy caused by this development.

Mr. McCullough said one of the things coming forward was a text amendment that would consider changing the criteria of how commercial projects are analyzed. He said they are required by Code to treat commercial rezoning requests as if they were completely built out and vacant the day they got their rezoning. He said that was part of the commercial retail inventory and what effect it would have on the vacancy rate. He said staff did not think that was a practical criteria but that was how they were obligated to view commercial projects today. He said some things had changed in the world that would lead staff to want to revise the criteria. He said they were not seeing speculative building development today, especially in the commercial sector. He said they were not necessarily seeing the vacancy rate harm the city in general or even pockets of the city. He said it would be a challenge to point to an area and say vacancy was really bringing down a neighborhood.

Commissioner Burger inquired about the recommendation from the staff report:

*'This intersection is not appropriate as a CC600 Commercial Center because the north corners south of 31<sup>st</sup> Street (the areas between 31<sup>st</sup> Street and K-10) already have in excess of 900,000 square feet of commercial retail. It may be more appropriate to designate the South Iowa corridor as a Regional Commercial Center that extends south of K-10 Highway interchange. A review of the proposed CC600 policies follows.'*

She said the concerns she had in previous meetings about the CC600, regarding its magnitude, was no longer a concern. She said 31<sup>st</sup> and Iowa was a vibrant area that was infilling itself.

Commissioner Belt said the footprint of the site did not bother him as much but he was concerned about the growth west which would mean it would not always be a gateway. He said it was important to design this in such a way to allow flexibility for the developer and give the community the best possible product.

Commissioner von Achen said she did not want to squander the area into residential.

Mr. McCullough said there was enough land there to support some amount of residential use in a mixed-use context. He said staff was comfortable with the 50% standard cap.

Commissioner Burger asked how this tool precludes high density development of multi-family.

Mr. McCullough said it does not preclude it but instead sets a cap on it. He said it must be mixed-use development.

Commissioner Blaser said he was not concerned about overbuilding because the area would take years to develop. He said he did not have a problem with the CC600 designation there.

**ACTION TAKEN on the appropriateness of designating this node as a CC600 node as it relates to other possible nodes that could support the CC600 designation.**

Motioned by Commissioner Blaser, seconded by Commissioner Culver, to find that the 6<sup>th</sup> and K-10 node should be designated as a CC600 Commercial Center.

Commissioner Josserand asked what the hurry was to act today and felt they needed to take a longer look.

Commissioner Blaser did not see a problem with moving ahead. He felt it would be a gateway with the two highways and wanted a place to welcome people to the city.

Commissioner Culver said the zoning provided some certainty for property owners of each quadrant of the intersection, as well as certainty for adjacent property owners. He said it would also provide some certainty for a gateway and help plan for other nodes identified in the report. He said in the City Commission minutes one Commissioner stated they needed to get somewhere ahead of the market to insure commercial areas were available when the market needs it. He said part of planning was getting a little bit ahead of development and having available land for future development.

Commissioner Burger said they had the benefit of good information included the packet. She said all four quadrant stakeholders were notified and considered. She said the neighbors in the northwest

quadrant worked hard to provide a detailed product. She said she was concerned about the amount of residential.

Commissioner Britton said if they went ahead and approved it he felt like it would be alright and they wouldn't end up with something terrible. He said he had a nagging feeling that they might be missing an opportunity to shape that area into something different and exceptional. He felt the CC600 made sense in that area and allowed flexibility.

Mr. McCullough asked if the motion included staff's recommendation of allowable retail square footage for the corners.

Commissioner Blaser said the 155,000 square feet should be included on the northwest corner. He felt that some of the commercial should be shifted south. He agreed with the square feet recommended by staff.

Commissioner Culver said he would be more supportive of the original recommendation of 180,000 square feet on the northwest corner.

Commissioner Liese said CC600 was a good tool based on months and months of considering it. He thought the concern of it being difficult to develop in Lawrence was addressed by creating a tool like this and by finding a place for it. He felt the area would be a gateway and draw from other communities west of Lawrence.

Commissioner Britton asked what opportunities there would be after this to incentivize development.

Mr. McCullough said this may be the last opportunity for Planning Commission to set the course for development. He said procedurally most would be site plan processes.

Commissioner Blaser said KDOT agreed they would be working to make it a gateway area with their designs.

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

Commissioner Culver said he would not be opposed to the idea of sticking with the original recommendation of 180,000 square feet on the northwest corner given it was 146 acres.

Commissioner Liese asked Mr. Gough to comment.

Mr. Gough said if they revert back to the original allocation the remaining 60,000 square feet would remain unallocated among the southerly two nodes.

Mr. McCullough said that was accurate. He said it would remove 25,000 square feet from the south. He said one of the benefits of doing it this way was it would allocate all of it to the actual corners. He said the original one left 60,000 square feet up in the air for the future. He said the benefit of the revision was that it made future decisions easier. He said knowing what they know now about the node, they would not recommend allocating what Mercato had because it was not a going home corner of this intersection. He said the going home routes were important.

**ACTION TAKEN on the appropriate allocation of the 240,000 square feet of retail uses that is not currently allocated to the Mercato Development.**

Motioned by Commissioner von Achen, seconded by Commissioner Belt, to find that the 240,000 square feet of retail uses that are not currently allocated to the Mercato Development at the node be allocated as follows:

- i. NW Corner – 155,000 square feet
- ii. SW Corner – 25,000 square feet
- iii. SE Corner – 60,000 square feet

Commissioner Britton said he accepted staffs explanations and that the going home routes made sense. He said there would be plenty of opportunities to develop on the northwest quadrant with other uses.

Commissioner Culver asked the applicant to reiterate his counterargument to staff's recommendation about the analysis and why they would support the 180,000 square feet at the northwest corner.

Mr. Gough said staff's per square foot allocation, which was the first part of the analysis, was 167,000 square feet. He said the 146 acres in gross was over 6 million square feet. He said there was an ocean of real estate that could be used for 180,000 square feet of retail and use the non-retail commercial uses that were permitted in CC600. He said taking the most visible and largest corner and allocating it down from 180,000 square feet to 155,000 square feet made it harder to have the ability to build it out.

Commissioner Britton asked if the plan could be amended in the future if there was need to increase retail.

Mr. McCullough said yes, it was feasible.

Commissioner Blaser asked if the owner of the southeast corner made any kind of statement.

Mr. McCullough said staff met with the owner and the owner's representative on the issue and they were comfortable with the original proposal. He said he had not spoken with the owner about the revised proposal. He said the owner made statements that they would like more retail on their corner.

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

Commissioner von Achen said she still had concerns and thought staff was depending on assumptions based on what had already happened. She did not feel they should have to rely on indefinable assumptions rather than just putting it into the Code what percentage of housing they really do want. She felt 50% of housing was squandering a valuable entrance to the city.

Commissioner Josserand asked staff if the percentage of housing could be reduced in the node.

Mr. McCullough said there were some options. He said this would be applied city wide through the use standards in several commercial districts. He said it would take a text amendment to effect all of the city.

Commissioner Josserand asked what it would take to affect just this node.

Mr. McCullough said possibly a condition could be crafted to reduce the maximum percentage of residential that references the use standard. He said there were three residential uses in play in the Code. He said two of them were essentially hooked to a mixed-use structure and one of them allowed for standalone residential as part of a mixed-use project. He said they all had the 50% rule.

Commissioner Burger asked if there was an example for where that principle was applied and built to. She asked if Bauer Farm would be in the same category.

Mr. McCullough said no, Bauer Farm was built using a different set of Code standards.

Commissioner Liese asked the applicant to comment on the residential percentage.

Mr. Gough said the purpose of asking for CC600 zoning was not to position this for apartments. He said allowing residential as a component to a mixed-use development added a tool in the available inventory of uses allowed. He said residential was not the primary objective but that it was important to leave options open. He said the neighbors would have the opportunity to look at every request along the way as part of the site plan process. He stated maybe the Planning Commissioners were picturing residential in a negative light, such as a large apartment complex, but that there were other options, such as a retirement community.

Commissioner Burger asked staff if this was the only quadrant that had the stipulation.

Mr. McCullough said the northeast corner, Mercato, currently had CC400 zoning and was the only CC zoning in the node. He said the southeast corner was not zoned for its commercial purpose yet. He said the southwest corner was in the county and not annexed or zoned. He said essentially Mercato was the only commercial zoning in the node and it had unrestricted CC400 zoning on about half of it and PCD zoning on the other portion of the commercial part.

Commissioner von Achen said her objection to allowing 50% of residential was not because of any negative connotations with it, but because it would take up land that should be reserved for commercial.

Commissioner Britton asked what if residential was restricted to mixed-use buildings and prohibit standalone multi-family buildings. He said he was picturing large apartment complexes and he did not think it belonged out there.

Mr. McCullough said if that was what they wanted they could strike multi-dwelling structure from the use table.

Commissioner Britton inquired about getting rid of multi-family standalone and the 50% requirement.

Mr. McCullough said he did not know that they could relax a Code standard without going through the text amendment process.

Commissioner Josserand said the idea of reducing the residential component from 50% was appealing to him.

**ACTION TAKEN on the appropriateness of allowing residential uses for the specific CC600 district on the property that is the subject of the rezoning application.**

Motioned by Commissioner Britton, seconded by Commissioner von Achen, to find that residential uses should be allowed, but restrict multi-dwelling structure use, as part of the CC600 district on the property that is the subject of the rezoning application per the limitations existing in the Development Code.

Commissioner Culver inquired about options to revisit that use within the plan.

Mr. McCullough said a future owner could rezone to revise the condition or to revise the conditional zoning to bring the multi-dwelling structure back in. He said for example, if there was interest in building a standalone apartment project the owner could rezone to the RM district or seek the rezoning.

Commissioner Culver asked the applicant to comment.

Mr. Gough said he did not support the change of removing standalone multi-family. He said there would need to be a matching amount of non-residential before residential could be done. He stated by eliminating standalone structures they would not be eliminating that use they consider to be bad, they would be eliminating all standalone multi-family structures of whatever size and to whatever target market. He thought it may be more appropriate to consider it as a part of the site planning process. He felt they would be limiting options.

Commissioner Britton felt that by excluding standalone multi-family from the zoning it would push it to be something a little bit different than what was elsewhere, in terms of residential, and excluded the opportunity to end up with half commercial and half residential with two separate areas. He felt it would help drive land use away from residential to primary job uses.

Commissioner von Achen said it would also allow for the mixed-use component with pedestrian use of the area.

Motion carried 6-2, with Commissioners Burger and Culver voting in opposition.

**ACTION TAKEN on Item 1 for Comprehensive Plan Amendment CPA-4-2-12**

Motioned by Commissioner Blaser, seconded by Commissioner von Achen, to approve the Comprehensive Plan Amendment as originally drafted and presented at the May Planning Commission Meeting, which establishes the CC600 policies in *H2020*, and designates the 6<sup>th</sup> St./K-10 node as CC600 Commercial Center. This also includes a modification to the West of K-10 Plan that revises the amounts of allowable retail square footage at the node as follows:

- NW Corner – 155,000 square feet
- SW Corner – 25,000 square feet
- SE Corner – 60,000 square feet

The West of K-10 Plan as revised will also supersede *A Nodal Plan for the Intersection of West 6th Street & Kansas Highway 10 (K-10)*. The Planning Commission also authorizes the Chair to sign PCR-13-00060.

Commissioner Culver said he supported the Comprehensive Plan Amendment as originally presented in May without the square footage allocations.

Commissioner Josserand said he would vote against the motion based on premature timing.

Motion carried 6-2, with Commissioners Culver and Josserand voting in opposition.

**ACTION TAKEN on Item 2 for Text Amendment TA-4-3-12**

Motioned by Commissioner Belt, seconded by Commissioner Blaser, to approve the Text Amendment, TA-4-3-12, to the City of Lawrence Land Development Code, to provide for a CC600 (Community Commercial) District.

Unanimously approved 8-0.

**ACTION TAKEN on Item 3 for Rezoning Z-4-5-12**

Motioned by Commissioner Britton, seconded by Commissioner Blaser, to approve the rezoning, Z-4-5-12, approximately 146 acres located in the NW quadrant of the intersection of West 6<sup>th</sup> Street/Hwy 40 and Kansas Hwy 10 (K-10) from County A (Agriculture) District and County B1 (Neighborhood Business) District to the pending district CC600 (Community Commercial), with the following conditions:

- 1) The amount of retail square feet on the subject property shall not exceed 155,000 square feet.
- 2) The uses shall be restricted to those uses included in the staff memo, with the exception that Multi-Dwelling Structure is not a permitted use.

Motion carried 6-2, with Commissioner Burger and Culver voting in opposition.

# Memorandum

## City of Lawrence – Douglas County Planning and Development Services

**TO:** Lawrence Douglas County Planning Commission  
**FROM:** Planning Staff  
**DATE:** For February 25, 2013 Planning Commission Meeting  
**RE:** **CPA-4-2-12:** Comprehensive Plan Amendment to create CC600 District policies and revise area plans to designate the node of 6<sup>th</sup> Street and K-10 as a CC600.  
**TA-4-3-12:** Text amendment to the Development Code establishing the CC 600 District.  
**Z-4-5-12:** Rezoning request for approximately 146 acres located in the NW quadrant of the intersection of West 6<sup>th</sup> Street/Hwy 40 and Kansas Hwy 10 (K-10) from County A (Agriculture) District and County B1 (Neighborhood Business) District to the pending City of Lawrence District C C600 (Community Commercial) District.

### Background:

The items listed above were considered together by the City and Planning Commissions at various meetings. A detailed history of those actions can be found in the staff memo that went to the City Commission at their January 15, 2013 meeting ([http://www.lawrenceks.org/assets/agendas/cc/2013/01-15-13/pl\\_cpa-4-2-12\\_ta-4-3-12\\_z-4-5-12\\_staff\\_memo.html](http://www.lawrenceks.org/assets/agendas/cc/2013/01-15-13/pl_cpa-4-2-12_ta-4-3-12_z-4-5-12_staff_memo.html)).

The City Commission considered the Planning Commission recommendations at their January 15, 2013 meeting and ultimately made the following motion:

**Moved by Cromwell, seconded by Carter,** to return item 2 (a through c) to the Planning Commission directing the PC to consider the appropriateness of designating this node as a CC600 node as it relates to other possible nodes that could support a CC600 designation, discuss the appropriate allocation of the 240,000 sq. ft. of retail use that is not currently allocated to the Mercato Development if it is determined that the node should be designated as a CC600 node, and discuss the appropriateness of allowing residential uses for the specific CC600 district on the property that is the subject of the rezoning application. Motion carried 4-1 with Dever opposed.

## **Discussion:**

In light of the City Commission's direction at their January 15, 2013 meeting, staff has prepared a detailed analysis, broken down into three parts based on the motion made at the meeting. Links are provided to three separate analysis memos for each item below:

- 1) Consider the appropriateness of designating this node as a CC600 node as it relates to other possible nodes that could support the CC600 designation.
- 2) Discuss the appropriate allocation of the 240,000 square feet of retail uses that is not currently allocated to the Mercato Development.
- 3) Discuss the appropriateness of allowing residential uses for the specific CC600 district on the property that is the subject of the rezoning application.

## **Recommended Actions:**

**The following is a summary of the staff recommendations for each of the three items noted above:**

- 1) Consider the appropriateness of designating this node as a CC600 node as it relates to other possible nodes that could support the CC600 designation.
  - a. Find that the 6<sup>th</sup> and K-10 node should be designated as a CC600 Commercial Center.
- 2) Discuss the appropriate allocation of the 240,000 square feet of retail uses that is not currently allocated to the Mercato Development.
  - a. Find that the 240,000 square feet of retail uses that are not currently allocated to the Mercato Development at the node be allocated as follows:
    - i. NW Corner – 155,000 square feet
    - ii. SW Corner – 25,000 square feet
    - iii. SE Corner – 60,000 square feet
- 3) Discuss the appropriateness of allowing residential uses for the specific CC600 district on the property that is the subject of the rezoning application.
  - a. Find that residential uses should be allowed as part of the CC600 district on the property that is the subject of the rezoning application per the limitations existing in the Development Code.

**In addition to the motions above, the Planning Commission must also make recommendations on the three agenda items, CPA-4-2-12, TA-4-3-12 and Z-4-5-12. Staff recommends the following actions:**

### **Comprehensive Plan Amendment CPA-4-2-12:**

- Approve the Comprehensive Plan Amendment as originally drafted and presented at the May PC Meeting, which establishes the CC600 policies in *H2020*, and designates the 6<sup>th</sup> St./K-10 node as CC600 Commercial Center. This also includes a modification to the West of K-10 Plan that revises the amounts of allowable retail square footage at the node as follows:
  - NW Corner – 155,000 square feet

- SW Corner – 25,000 square feet
- SE Corner – 60,000 square feet

The West of K-10 Plan as revised will also supersede *A Nodal Plan for the Intersection of West 6th Street & Kansas Highway 10 (K-10)*. The Planning Commission will also need to authorize the Chair to sign PCR-13-00060.

**Text Amendment TA-4-3-12:**

- Approve the text amendment establishing the CC600 zoning district in the Development Code as recommended by the PC at their May and October meetings.

**Rezoning Request Z-4-5-12:**

- Approve the Rezoning request with the following conditions:
  - 1) The amount of retail square feet on the subject property shall not exceed 155,000 square feet, and
  - 2) The uses shall be restricted to those uses included in the staff memo referenced above.

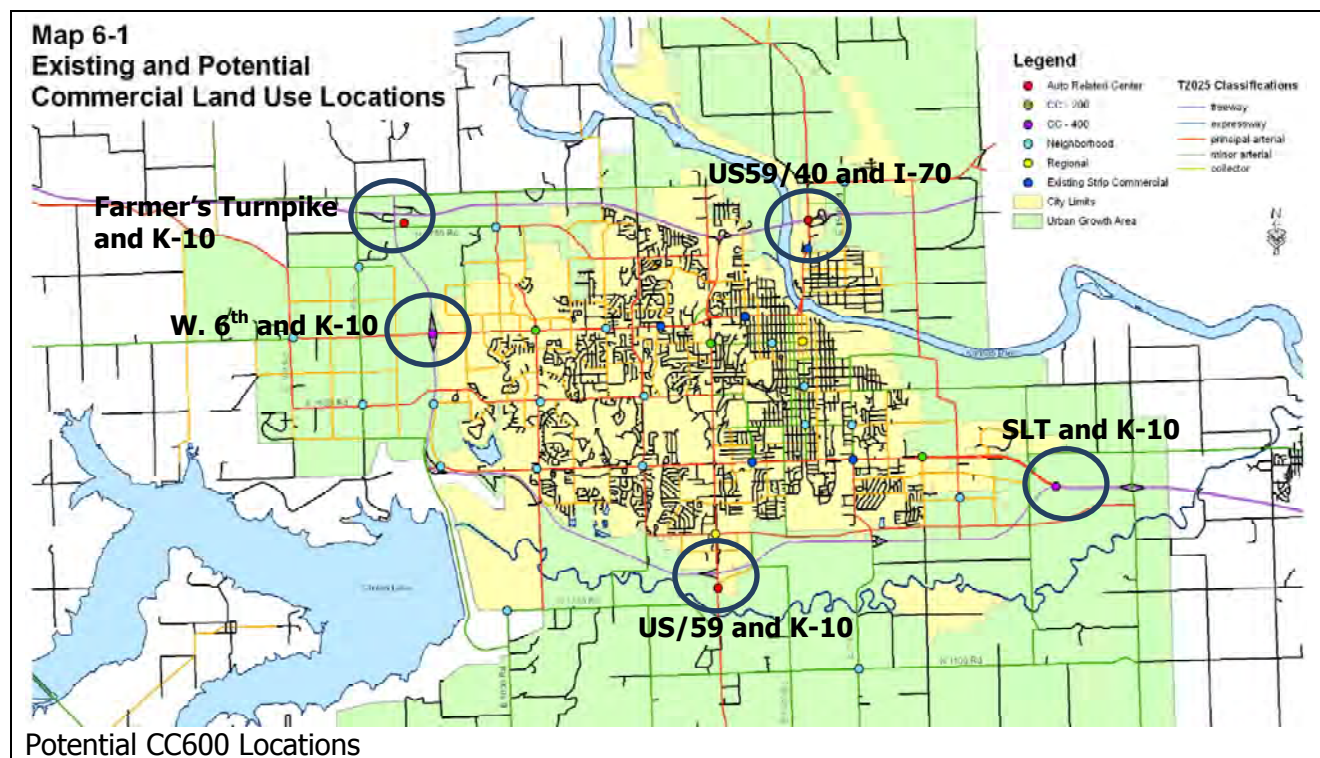
# Memorandum

## City of Lawrence – Douglas County Planning & Development Services

**To:** Lawrence-Douglas County Planning Commission  
**From:** Planning Staff  
**Date:** For February 25, 2013 Planning Commission Meeting  
**RE:** Review various sites for possible CC600 designation

### Purpose

The Lawrence City Commission directed staff to review the suitability of various highway intersections as CC600 Commercial Centers. Staff chose sites that are located at the intersections of two highways and are designated by *Horizon 2020* as Auto-Related or CC400 Commercial Centers. This report examines the proposed W. 6<sup>th</sup> Street and K-10 Highway location, in addition to four other locations.



### Recommendations Summary

- W. 6<sup>th</sup> Street and K-10 - Appropriate for the CC600 designation.
- Farmer's Turnpike and K-10 - Appropriate as an Auto-Related Center, but not appropriate for the CC600 designation.
- US59/40 and I-70 - Existing commercial center that is not appropriate for the CC600 designation.
- South Lawrence Trafficway and K-10 - Appropriate for the CC400 designation, but not

appropriate for the CC600 designation at this time.

- US59 (South Iowa) and K-10 – Appropriate as an Auto-Related Center or as a Regional Center, but not appropriate for the CC600 designation.

### **W. 6<sup>th</sup> Street and K-10 Highway**

This intersection is designated as a CC400 Commercial Center by *Horizon 2020*. The presence of the proposed regional recreation center adjacent to the commercial node is a large part of the request to designate this intersection as a CC600 Commercial Center.

The northeast corner has zoning approvals for commercial and residential uses. The southeast corner is developed with single-family and duplex uses and has zoning approvals for high density residential and office land uses. The portion of the intersection that fronts W. 6<sup>th</sup> Street is currently undeveloped and does not have zoning approvals, but is designated for commercial uses. The northwest portion of the intersection is undeveloped and is seeking CC600 zoning. The southwest portion of the intersection is developed with a church with the rest of the corner designated for future industrial/employment uses.

This intersection is located on a major commuter route and a large volume of traffic uses K-10 to access I-70 and to return to Lawrence from I-70. To a lesser extent, commuters also use Hwy. 40 to commute to and from Lawrence.

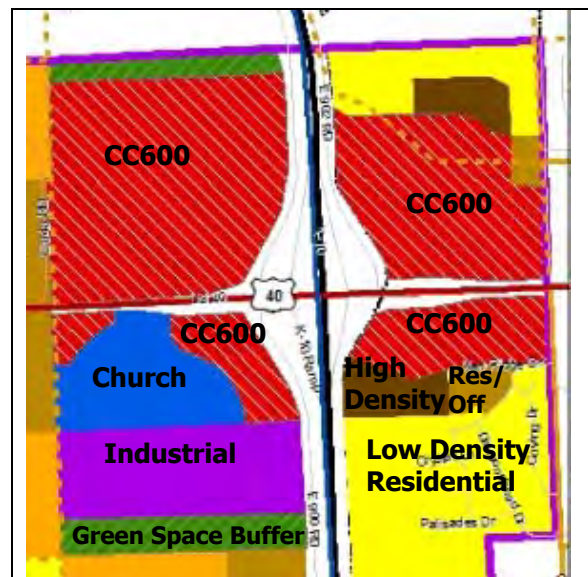
This intersection lies on the edge of Lawrence. As such, it is expected that Lawrence will continue to grow west, north and south of this intersection into the future. The intersection also is adjacent to the proposed recreation center, which is north of the northeast corner of the commercial node. The proposed recreation center has the potential to attract many visitors to this intersection, thus increasing the demand for retail in the area.

### **Recommendation**

It is appropriate to expand the CC400 Commercial Center designation of this intersection to the CC600 Commercial Center. This is a major intersection now and in the future, and should have a sufficient amount of commercial retail development. A review of the CC600 policies follows.



W. 6<sup>th</sup> Street and K-10 Highway



Proposed West of K-10 Plan Future Land Use

## Proposed

### Policy 3.10: Criteria for Community Commercial Centers (under 600,000 square feet) CC600

- A. CC600 Centers shall be located at the intersection of two state or federally designated highways. *This is the US-40 and K-10 Highways intersection.*
- B. CC600 Centers shall have a maximum of 600,000 gross square feet of commercial retail space as defined in this chapter. Other uses of a non-retail nature shall not have a space limitation. *At this time, the node is designated for 400,000 square feet of commercial retail space. The CC600 proposal would limit the commercial retail space to 600,000 square feet, though non-retail commercial uses would also be permitted.*
- C. A maximum of 90 percent of the commercial square footage, as defined in this chapter, in a new CC600 Center shall be located on two corners of the intersection. The remaining commercial square footage, as defined in this chapter, shall be located on one or both of the remaining corners. *Currently the northeast corner has approximately 360,000 square feet of approved commercial retail square footage. The remaining 240,000 square feet would be allocated to the other corners. The subject proposal would meet this criterion.*
- D. No more than two commercial buildings over 100,000 gross square feet each may be located on a single corner of the node. *The subject proposal, through conditional zoning, would meet this criterion.*
- E. Corners of the node that are not developed with commercial uses should be utilized for office, employment-related, public and semi-public, parks and recreation, and higher-density residential uses with extensive on-site screening. Encourage the development of mixed-use centers (office, employment-related uses, public and semi-public uses) adjacent to community commercial development to provide mutual attraction to employees and retailers and to enhance the visual image of the area. *The southwest corner currently has a religious institution use with the rest of the intersection planned for industrial/employment uses. The southeast corner currently has zoning for high density residential along with existing low and medium-density residential uses. There is also potential for office uses. Commercial uses are planned but zoning approvals are not currently in place. The northwest corner is currently undeveloped. In addition to the commercial zoning approvals for the northeast corner, there are also zoning approvals for a range of residential uses along with potential for office uses.*
- F. A nodal or area plan must be completed before a development proposal for any corner of a CC600 Center is forwarded to the Planning Commission. Expansion of the CC600 center shall require amendment of the nodal or area plan. *A Nodal Plan (A Nodal Plan for the Intersection of West 6<sup>th</sup> Street & Kansas Highway 10) and a Sector Plan (West of K-10 Plan) exist for this intersection. Designating the intersection as a CC600 requires changes to those plans. Proposed changes*

have been considered by the Planning Commission at their May and October 2012 meetings.

- G. CC600 Centers shall develop in a manner that is consistent with the city's adopted design guidelines. Commercial Design review is required for all new commercial development.

### **I-70 and K-10 Highway**

*Horizon 2020* currently designates the northwest and northeast corners of this intersection as an Auto-Related Commercial Center.

Although there is no separation requirement for CC600 Districts, this intersection is approximately 1¾ miles from the W. 6<sup>th</sup> Street and K-10 intersection, which is currently designated a CC400 with a request to designate it as a CC600.

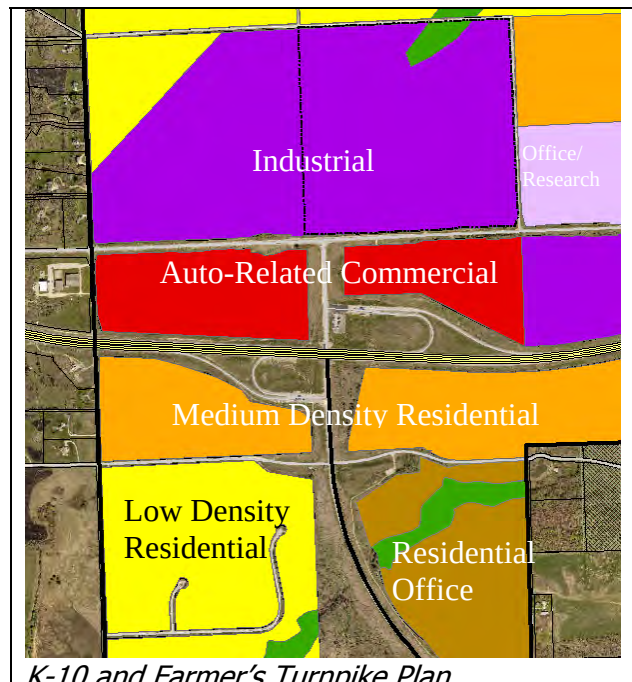
The size of the two corners of the intersection that are designated as a future Auto-Related Commercial Center are limited by an I-70 ramp and the close proximity to N. 1800 Road, which is a principle arterial. The two corners may not have the necessary land area to support a large commercial retail area. This may require the commercial retail uses to extend north or east of the intersection onto property which is currently designated for industrial uses by the *K-10 and Farmer's Turnpike Plan*. The concentration of industrial use in this area is important for community-wide economic development and should be protected from encroachment by commercial retail uses. Further, there is no planned use that is generating the need to re-designate this node.

### **Recommendation**

This intersection is not appropriate as a future CC600 Commercial Center. A review of the proposed CC600 policies follows.



K-10 and I-70



K-10 and Farmer's Turnpike Plan

### **Proposed**

#### **Policy 3.10: Criteria for Community Commercial Centers (under 600,000 square feet) CC600**

- A. CC600 Centers shall be located at the intersection of two state or federally designated highways. [This is the I-70 and K-10 Highway intersection.](#)

- B. CC600 Centers shall have a maximum of 600,000 gross square feet of commercial retail space as defined in this chapter. Other uses of a non-retail nature shall not have a space limitation. [The property is undeveloped. This criterion could be met if re-designated as a CC600.](#)
- C. A maximum of 90 percent of the commercial square footage, as defined in this chapter, in a new CC600 Center shall be located on two corners of the intersection. The remaining commercial square footage, as defined in this chapter, shall be located on one or both of the remaining corners. [The property is undeveloped. This criterion could be met if re-designated as a CC600.](#)
- D. No more than two commercial buildings over 100,000 gross square feet each may be located on a single corner of the node. [The property is undeveloped. This criterion could be met if re-designated as a CC600.](#)
- E. Corners of the node that are not developed with commercial uses should be utilized for office, employment-related, public and semi-public, parks and recreation, and higher-density residential uses with extensive on-site screening. Encourage the development of mixed-use centers (office, employment-related uses, public and semi-public uses) adjacent to community commercial development to provide mutual attraction to employees and retailers and to enhance the visual image of the area. [The property is undeveloped. This criterion could be met if re-designated as a CC600.](#)
- F. A nodal or area plan must be completed before a development proposal for any corner of a CC600 Center is forwarded to the Planning Commission. Expansion of the CC600 center shall require amendment of the nodal or area plan. [A Sector Plan exists for this intersection. The Farmer's Turnpike and K-10 Plan designates the 4 corners for Auto-Related Commercial and Medium Density Residential future land use. The Plan would have to be amended to reflect the CC600 designation. There has been no change in circumstance to warrant such an amendment.](#)
- G. CC600 Centers shall develop in a manner that is consistent with the city's adopted design guidelines. [Commercial Design review is required for all new commercial development.](#)

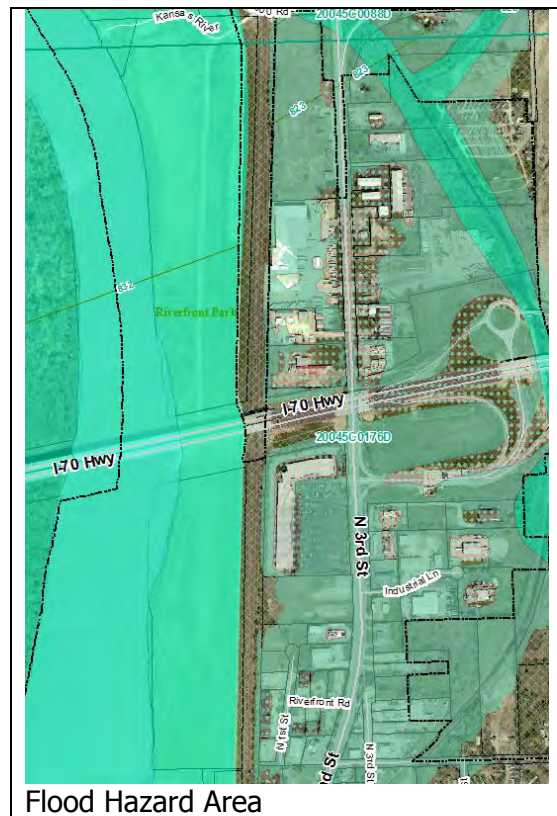
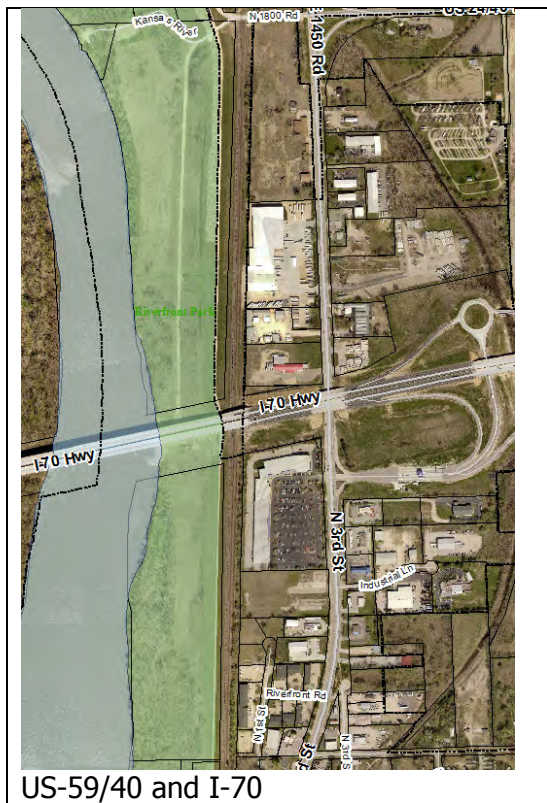
### **US59/40 and I-70**

*Horizon 2020* currently designates this intersection as an Auto-Related Commercial Center. The intersection is developed with commercial and industrial uses. There remains little available land to develop additional commercial uses.

Further, the vast majority of the intersection is located within the 100-year floodplain. Additional development in the area has implications for storm water management. The *Northeast Sector Plan* is a future land use plan for the Grant Township area north and east of this intersection. The *Northeast Sector Plan* recommends very limited future development due to a number of factors, including storm water concerns.

### **Recommendation**

This intersection is not appropriate as a CC600 Commercial Center. A review of the proposed CC600 policies follows.



### **Proposed**

#### **Policy 3.10: Criteria for Community Commercial Centers (under 600,000 square feet) CC600**

- A. CC600 Centers shall be located at the intersection of two state or federally designated highways. [This is the US-59/40 and I-70 intersection.](#)
- B. CC600 Centers shall have a maximum of 600,000 gross square feet of commercial retail space as defined in this chapter. Other uses of a non-retail nature shall not have a space limitation. [The intersection currently has less than](#)

600,000 gross square feet being used as commercial retail space. To reach that level of commercial retail development the intersection likely will have to be redeveloped with larger commercial buildings. Larger buildings, and their associated parking, could exacerbate the existing storm water issues in this area.

- C. A maximum of 90 percent of the commercial square footage, as defined in this chapter, in a new CC600 Center shall be located on two corners of the intersection. The remaining commercial square footage, as defined in this chapter, shall be located on one or both of the remaining corners. This is a developed intersection that wasn't originally planned as a commercial node. Therefore it is difficult to determine if it currently meets this criterion given the existing development.
- D. No more than two commercial buildings over 100,000 gross square feet each may be located on a single corner of the node. Buildings of this size, and their associated parking, could exacerbate the existing storm water issues in this area.
- E. Corners of the node that are not developed with commercial uses should be utilized for office, employment-related, public and semi-public, parks and recreation, and higher-density residential uses with extensive on-site screening. Encourage the development of mixed-use centers (office, employment-related uses, public and semi-public uses) adjacent to community commercial development to provide mutual attraction to employees and retailers and to enhance the visual image of the area. While there are some non-commercial employment related uses, all of the corners contain some retail development. There is no residential in the immediate area.
- F. A nodal or area plan must be completed before a development proposal for any corner of a CC600 Center is forwarded to the Planning Commission. Expansion of the CC600 center shall require amendment of the nodal or area plan. There is no Nodal or Area Plan for the intersection. The *Northeast Sector Plan* is immediately adjacent to the area.
- G. CC600 Centers shall develop in a manner that is consistent with the city's adopted design guidelines. Commercial Design review is required for all new commercial development.

### **K-10 Highway and the South Lawrence Trafficway**

*Horizon 2020* currently designates this intersection as a CC400 Commercial Center. The intersection is currently undeveloped. The exact location of the commercial node is unknown at this time due to the lack of a developed transportation system in the area.

This area is poised to become a major transportation intersection upon completion of the South Lawrence Trafficway.

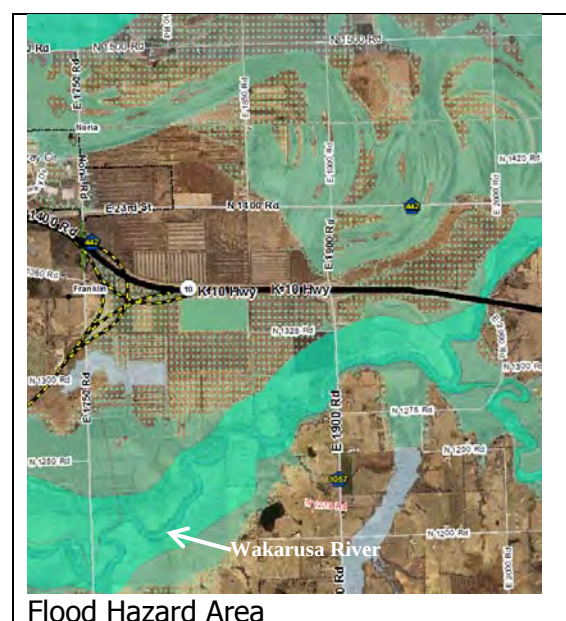
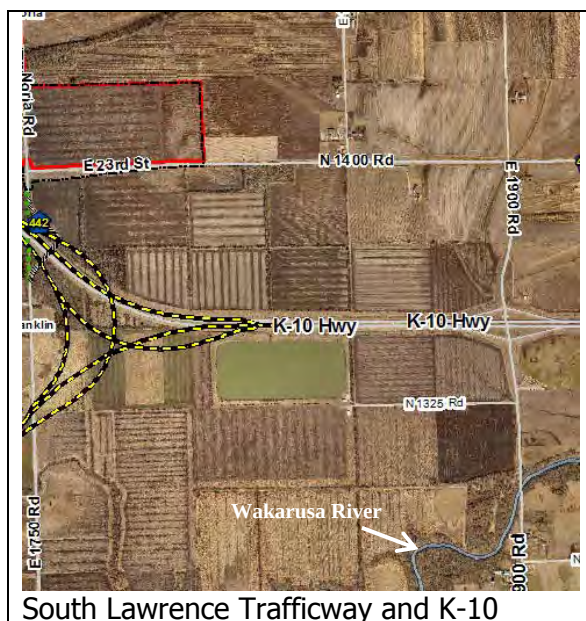
This area is less likely to see a large amount of residential development immediately adjacent to the intersection, compared with the W. 6<sup>th</sup> Street and K-10 node, due to the presence of the Wakarusa River, which is south of the intersection, and the regulatory flood hazard areas.

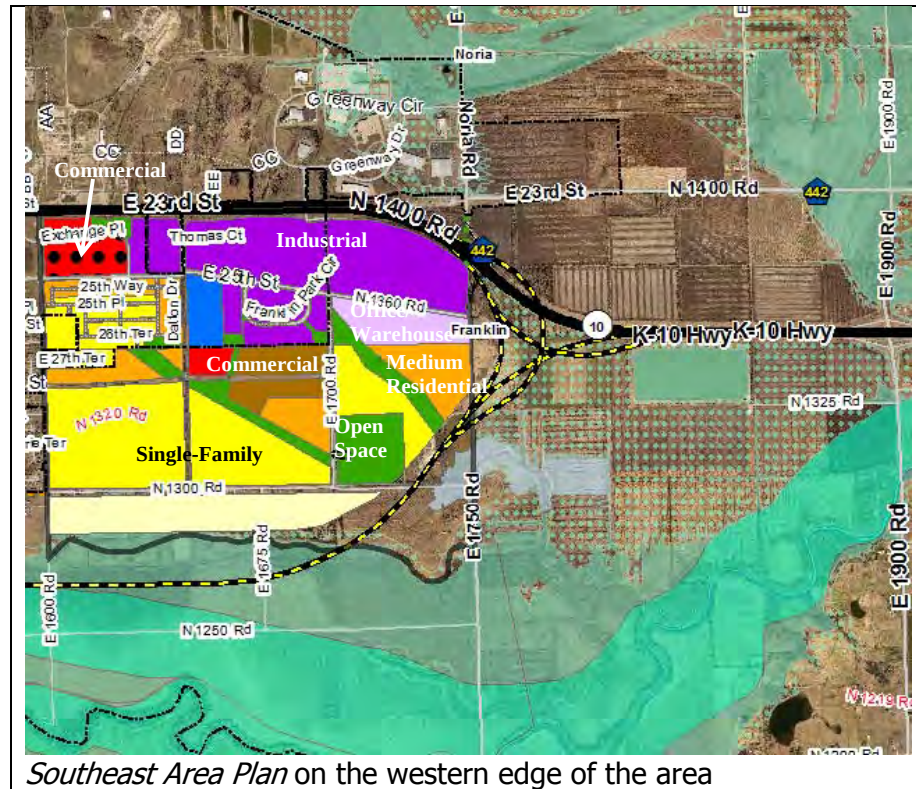
The *Southeast Area Plan* covers an area west of this intersection. The Plan designates a range of land uses for the area including low, medium and high density residential, industrial/employment uses, and Neighborhood and Community Commercial designations. The commercial designations are approximately 1 and 2 miles from this intersection.

A lack of significant future residential development along with future commercial designations west of the area do not support expanding this node from a CC400 to a CC600 designation at this time, though the true impact of completing the South Lawrence Trafficway is unknown and this area may someday support the CC600 designation.

### **Recommendation**

While the intersection may be appropriate for the CC400 designation, it is not appropriate for expansion to a CC600 designation at this time. A review of the proposed CC600 policies follows.





## Proposed

### Policy 3.10: Criteria for Community Commercial Centers (under 600,000 square feet) CC600

- A. CC600 Centers shall be located at the intersection of two state or federally designated highways. This is the future intersection of the South Lawrence Trafficway and K-10 Highway.
- B. CC600 Centers shall have a maximum of 600,000 gross square feet of commercial retail space as defined in this chapter. Other uses of a non-retail nature shall not have a space limitation. The property is undeveloped. This criterion could be met if re-designated as a CC600.
- C. A maximum of 90 percent of the commercial square footage, as defined in this chapter, in a new CC600 Center shall be located on two corners of the intersection. The remaining commercial square footage, as defined in this chapter, shall be located on one or both of the remaining corners. The property is undeveloped. This criterion could be met if re-designated as a CC600.
- D. No more than two commercial buildings over 100,000 gross square feet each may be located on a single corner of the node. The property is undeveloped. This criterion could be met if re-designated as a CC600.
- E. Corners of the node that are not developed with commercial uses should be utilized for office, employment-related, public and semi-public, parks and

recreation, and higher-density residential uses with extensive on-site screening. Encourage the development of mixed-use centers (office, employment-related uses, public and semi-public uses) adjacent to community commercial development to provide mutual attraction to employees and retailers and to enhance the visual image of the area. [The property is undeveloped. This criterion could be met if re-designated as a CC600.](#)

- F. A nodal or area plan must be completed before a development proposal for any corner of a CC600 Center is forwarded to the Planning Commission. Expansion of the CC600 center shall require amendment of the nodal or area plan. [The is no Nodal or Area Plan for the intersection.](#)
- G. CC600 Centers shall develop in a manner that is consistent with the city's adopted design guidelines. [Commercial Design review is required for all new commercial development.](#)

### **US59 (Iowa Street) and K-10**

*Horizon 2020* currently designates the southern portion of the intersection as an Auto-Related Commercial Center. The southern portion of the intersection is currently undeveloped. The northern portion of the intersection is currently developed with strip commercial uses and is designated as a Regional Commercial Center (1.5 million square feet of retail).

The South Iowa corridor from 23<sup>rd</sup> Street to K-10 Highway is a strip commercial area with a large amount of commercial retail square footage. The area has essentially become a Regional Commercial Center, and *Horizon 2020* recognizes the area as such.

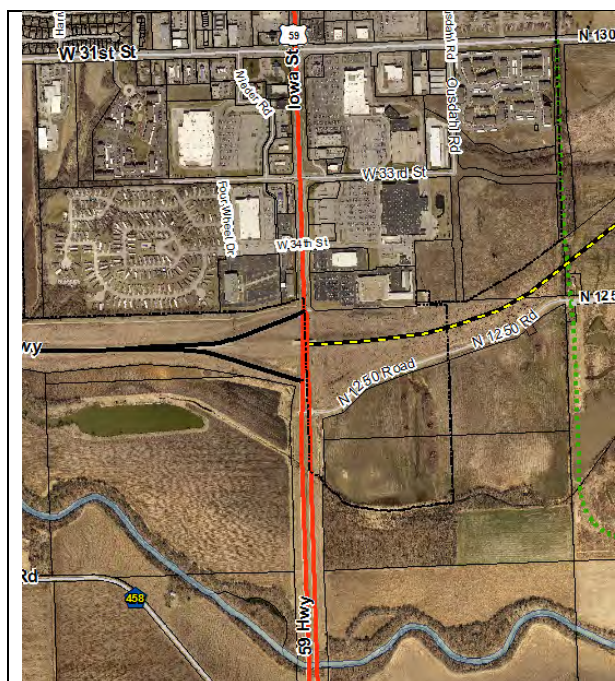
The Wakarusa River is south of the area and the portion of the intersection south of K-10 contains regulatory flood hazard area.

The *Revised Southern Development Plan* designates land uses for this intersection. The Plan designated the northwest and northeast corners as a Regional Commercial Center with the southwest and southeast corners designated as Auto-Related Commercial and open space.

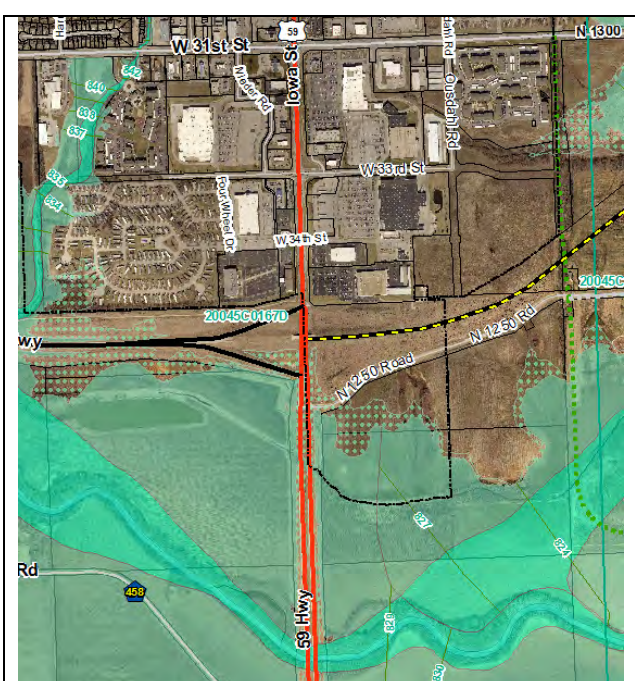
As Lawrence grows south of the Wakarusa River in the future, it may be appropriate to extend the regional commercial uses south of K-10 Highway, a designation that would surpass the CC600 designation as the north corners of the node, south of 31<sup>st</sup> Street, already have more than 900,000 square feet of commercial retail.

### **Recommendation**

This intersection is not appropriate as a CC600 Commercial Center because the north corners south of 31<sup>st</sup> Street (the areas between 31<sup>st</sup> Street and K-10) already have in excess of 900,000 square feet of commercial retail. It may be more appropriate to designate the South Iowa corridor as a Regional Commercial Center that extends south of K-10 Highway interchange. A review of the proposed CC600 policies follows.



US-59 and K-10



Flood Hazard Area



utilized for office, employment-related, public and semi-public, parks and recreation, and higher-density residential uses with extensive on-site screening. Encourage the development of mixed-use centers (office, employment-related uses, public and semi-public uses) adjacent to community commercial development to provide mutual attraction to employees and retailers and to enhance the visual image of the area. [There are some residential uses within the northwest corner. Otherwise, the bulk of the uses in the northwest and northeast corners are commercial retail uses.](#)

- F. A nodal or area plan must be completed before a development proposal for any corner of a CC600 Center is forwarded to the Planning Commission. Expansion of the CC600 center shall require amendment of the nodal or area plan. [The Revised Southern Development Plan is the plan for the area. Designating the property south of K-10 as anything other than Auto-Related Commercial may require an amendment to the Plan.](#)
- G. CC600 Centers shall develop in a manner that is consistent with the city's adopted design guidelines. [Commercial Design review is required for all new commercial development.](#)

# Memorandum

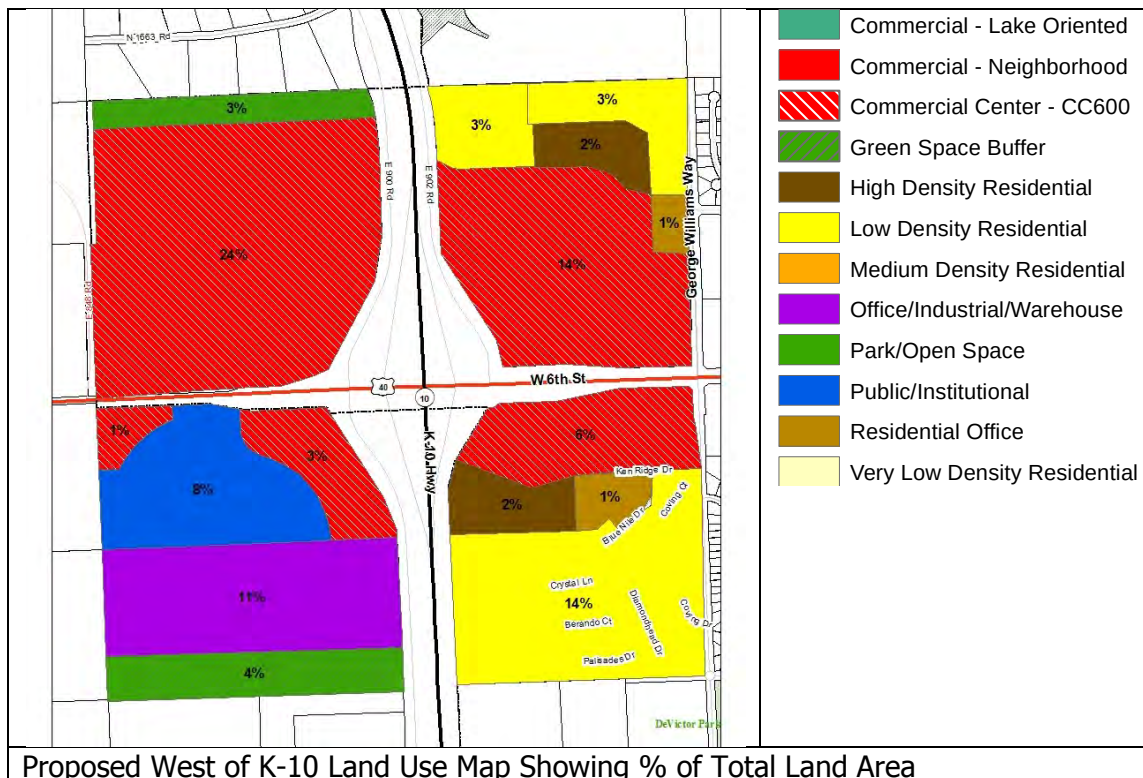
## City of Lawrence – Douglas County Planning and Development Services

**TO:** Lawrence Douglas County Planning Commission  
**FROM:** Planning Staff  
**DATE:** For February 25, 2013 Planning Commission Meeting  
**RE:** Analysis of Appropriate Allocation of Retail Square Footage at 6<sup>th</sup> and K-10 Node.

### Purpose:

The City Commission directed the Planning Commission to analyze the appropriate allocation of the total amount of retail square footage at the 6<sup>th</sup> St. and K-10 commercial node that is not currently allocated to the Mercato development if the node were to be designated as a CC600 node.

Designating the node as a CC600 allows for a maximum of 600,000 square feet of retail space on the four corners of the node. The Mercato development has already been granted approximately 360,000 square feet of retail space, leaving 240,000 square feet of retail space to be split between the three remaining corners. The applicant for the rezoning of the northwest corner has requested 180,000 square feet of retail space be allocated to that corner, leaving 60,000 square feet to be divided between the southeast and southwest corners under the applicants scenarios.



**Analysis:**

At the January 15, 2013 City Commission Meeting, Comm. Dever introduced the idea that the retail square footage might be split taking into consideration the ratio of land designated as CC600 in the proposed West of K-10 plan at each corner to the total land area designated as CC600 for the node as a whole. Staff undertook an exercise to determine what split of retail square footage that would amount to. This scenario takes into consideration that land use approvals have already been given to the Mercato development giving the northeast corner zoning approvals for 360,000 square feet of retail space. Splitting the remaining 240,000 square feet of retail space between the three corners of the node results in a distribution as follows:

| <b>Analysis of Retail Sq. Footage Based on West of K-10 Plan Land Use Ratios</b> |                          |                              |                                                     |                                                                          |                                           |
|----------------------------------------------------------------------------------|--------------------------|------------------------------|-----------------------------------------------------|--------------------------------------------------------------------------|-------------------------------------------|
|                                                                                  | Square Feet of Land Area | % of Total Land Area of Node | % of total area of CC600 with Mercato SQ FT Removed | If 600,000 was distributed based on land area with Mercato SQ FT Removed | % of CC600 Retail Space including Mercato |
| <b>NW Corner</b>                                                                 |                          |                              |                                                     |                                                                          |                                           |
| <b>Commercial - CC600</b>                                                        | <b>5,683,684</b>         | <b>24.2%</b>                 | <b>69.9%</b>                                        | <b>167,745</b>                                                           | <b>28.0%</b>                              |
| Green Space Buffer                                                               | 613,429                  | 2.6%                         |                                                     |                                                                          |                                           |
| <b>SW Corner</b>                                                                 |                          |                              |                                                     |                                                                          |                                           |
| <b>Commercial - CC600</b>                                                        | <b>1,043,243</b>         | <b>4.4%</b>                  | <b>12.8%</b>                                        | <b>30,790</b>                                                            | <b>5.1%</b>                               |
| Office/Industrial/Warehouse                                                      | 2,517,669                | 10.7%                        |                                                     |                                                                          |                                           |
| Public/Institutional                                                             | 1,845,825                | 7.9%                         |                                                     |                                                                          |                                           |
| Green Space Buffer                                                               | 1,039,864                | 4.4%                         |                                                     |                                                                          |                                           |
| <b>SE Corner</b>                                                                 |                          |                              |                                                     |                                                                          |                                           |
| High Density Residential                                                         | 560,208                  | 2.4%                         |                                                     |                                                                          |                                           |
| Low Density Residential                                                          | 3,216,256                | 13.7%                        |                                                     |                                                                          |                                           |
| Residential Office                                                               | 296,340                  | 1.3%                         |                                                     |                                                                          |                                           |
| <b>Commercial - CC600</b>                                                        | <b>1,404,979</b>         | <b>6.0%</b>                  | <b>17.3%</b>                                        | <b>41,466</b>                                                            | <b>6.9%</b>                               |
|                                                                                  |                          |                              |                                                     |                                                                          |                                           |
| <b>NE Corner</b>                                                                 |                          |                              |                                                     |                                                                          |                                           |
| High Density Residential                                                         | 463,847                  | 2.0%                         |                                                     |                                                                          |                                           |
| Low Density Residential                                                          | 1,376,594                | 5.9%                         |                                                     |                                                                          |                                           |
| Residential Office                                                               | 166,273                  | 0.7%                         |                                                     |                                                                          |                                           |
| <b>Commercial - CC600</b>                                                        | <b>3,264,096</b>         | <b>13.9%</b>                 |                                                     | <b>360,000</b>                                                           | <b>60.0%</b>                              |
|                                                                                  |                          |                              |                                                     |                                                                          |                                           |
| <b>Total Land Area - CC600</b>                                                   | <b>11,396,002</b>        |                              |                                                     |                                                                          |                                           |

Distribution based on total land area would amount to roughly 168,000 square feet of retail space being allocated to the northwest corner, 31,000 square feet being allocated to the southwest corner and 42,000 being allocated to the southeast corner after taking

into consideration the roughly 360,000 already allocated to the northeast corner through zoning approvals.

The above distribution scenario does not take into consideration the fact that while there is a cap on retail square footage that is associated with the CC600 zoning, other uses are permitted in the proposed CC600 zoning district and can be located on that land taking up some of the total land area designated as CC600. Only uses defined as retail businesses by Section 20-1107 of the Land Development Code count towards the cap of 600,000 square feet of retail space at the node. Those businesses are defined as ones whose primary coding under the North American Classification System (NAICS) are 44-45 (Retail Trade), 722 (Food Services and Drinking Places), 811 (Repair and Maintenance), and 812 (Personal and Laundry Services). Examples of uses that are not included in the 600,000 square foot retail allocation but are permitted in the CC600 zoning district are hotels, banks, office uses, etc.

Other factors to consider when allocating retail square footage at this node include the location of the regional recreation center and the effect that "going home" transportation routes will have on the pattern of travel around the node. The locating of the regional recreation center north of the northeast corner of the node will increase the need for retail uses at this node, hence the staff recommendation that this node be designated as a CC600 instead of a CC400. In allocating retail square footage based on the location of the regional recreation center, consideration should be given to the idea that the easiest transportation route for users of the center to get to retail services would be to travel next door to the Mercato development or south on George Williams Way using the signaled intersection at 6<sup>th</sup> Street to the southeast corner of the node. The third easiest route will be to use the signaled intersection and travel west on 6<sup>th</sup> Street to the northwest corner.

"Going home" transportation routes take into consideration that most people will make stops at retail stores on their way home from work, especially when that is convenient. For this intersection, those routes are the southeast corner and northwest corner.

### **Recommendation:**

In summary, several criteria were analyzed to refine the assessment of allocating the permitted retail uses at the subject node – distribution based on the amount of land proposed to be designated CC600, the impact of the planned regional recreation center, and taking into account the "going home" route of the traveling public.

In staff's opinion, allocating additional square footage to the southeast corner addresses some of these identified factors, while maintaining a significant amount of retail at the northwest corner, a going home route itself upon build out of the West of K-10 area. Therefore, staff is recommending that retail square footage at this node be allocated as follows:

| <b>Allocation of Retail Space in Original W. of K-10 Plan Revisions</b> |                                         |                                |
|-------------------------------------------------------------------------|-----------------------------------------|--------------------------------|
|                                                                         | <b>Retail Square Footage Allocation</b> | <b>% of CC600 Retail Space</b> |
| <b>NW Corner CC600</b>                                                  | 180,000                                 | 30.0%                          |
| <b>SE &amp; SW Corner CC600</b>                                         | 60,000                                  | 10.0%                          |
| <b>NE Corner CC600</b>                                                  | 360,000                                 | 60.0%                          |

| <b>Revised Staff Recommendation of Allocation of Retail Space</b> |                                         |                                |
|-------------------------------------------------------------------|-----------------------------------------|--------------------------------|
|                                                                   | <b>Retail Square Footage Allocation</b> | <b>% of CC600 Retail Space</b> |
| <b>NW Corner CC600</b>                                            | 155,000                                 | 25.8%                          |
| <b>SW Corner CC600</b>                                            | 25,000                                  | 4.2%                           |
| <b>SE Corner CC600</b>                                            | 60,000                                  | 10.0%                          |
| <b>NE Corner CC600</b>                                            | 360,000                                 | 60.0%                          |

# Memorandum

## City of Lawrence – Douglas County Planning & Development Services

**TO:** Lawrence-Douglas County Planning Commission

**FROM:** Planning Staff

**Date:** For February 25, 2013 Planning Commission Meeting

**RE:** Item No. 3: Rezoning Request from A & B 1 to CC600; 146 acres;  
W 6<sup>th</sup> Street and K-10 and Discussion of Appropriateness of  
Residential Uses in the NW quadrant of the CC600 District.

**Purpose:**

The City Commission requested analysis of whether residential uses should be permitted in the proposed CC600 zoning for the project known as Gateway Addition located at the northwest corner of 6<sup>th</sup> St. and K-10 Highway.

### **RESIDENTIAL USE / MIXED USE DEVELOPMENT**

Residential uses are permitted in several commercial zoning districts (CN1, CN2, CD, CC, and CS) as a means to encourage mixed use development. Mixed use is a preferred development pattern as it allows the multi-use of buildings or properties thereby allowing the creation of denser development and limiting sprawl. Mixed use also provides live/work/shop opportunities within walking distance which reduces vehicle miles traveled and helps conserve energy.

One change made with the adoption of the 2006 Development Code was the inclusion of standards to ensure that areas that were zoned for commercial uses could not be developed solely with residential uses; thereby permitting a mix of uses without eroding the commercial nature of the development. This was done, in part, recognizing that multi-dwelling development could have a faster absorption rate than commercial development and certain intersections designated for commercial development should be preserved with sufficient capacity to accomplish the commercial needs of the community. Residential uses typically do not require the same level of transportation network as a high-intensity commercial area and the residential land use designation is more prevalent than the commercial use designation.

Residential uses which are permitted in the proposed CC600 District include *Multi-Dwelling Structures*, *Non-Ground Floor Dwelling Units* and *Work/Live Units*. Section 20-1734 contains the following definitions of these residential uses:

***Multi-Dwelling Structure:*** A structure that contains 3 or more dwelling units that share common walls or floor/ceilings with 1 or more units. The land underneath the structure is not divided into separate lots. A multi-dwelling includes structures commonly called garden apartments, apartments and condominiums.

***Non-Ground Floor Dwelling Unit:*** Residential dwelling(s) permitted in any vertical mixed use structure which are located above the ground level or first level of the structure or below the ground level or first level of a structure and do not have direct internal access to a nonresidential use.

***Work/Live Units:*** A space within a building that consists of a dwelling unit which is accessory to a nonresidential use and has direct internal access to the nonresidential use.

The residential uses permitted in the CC600 District include both apartments which are a part of a mixed use structure and stand-alone apartment buildings. Per Section 20-517 of the Development Code, residential uses are only permitted in the CC Districts when the residential units are constructed as part of a mixed-use project when at least 50% of the gross floor area is developed with nonresidential uses.

Concern has been raised for the opportunity that the code affords to permit 50% of the 146 acres to be developed with residential uses. While mixed use development is generally viewed as beneficial for a variety of reasons as noted above, a high-intensity commercial node at the intersection of two state highways may be better served with an even greater limitation on residential uses to take advantage of the auto-related transportation system by maximizing the amount of commercial uses at the site.

Residential development could also occur in this area through a rezoning to a multi-dwelling district. If residential uses were not permitted within the CC600 District, but were found to be appropriate in some areas of the corner it would be necessary to revise the area plan to designate areas for residential development. The benefit to allowing the residential uses to be included within the CC600 District is the amount of flexibility provided the developer. The project could develop with solely commercial uses or residential uses could be included as part of a mixed use project.

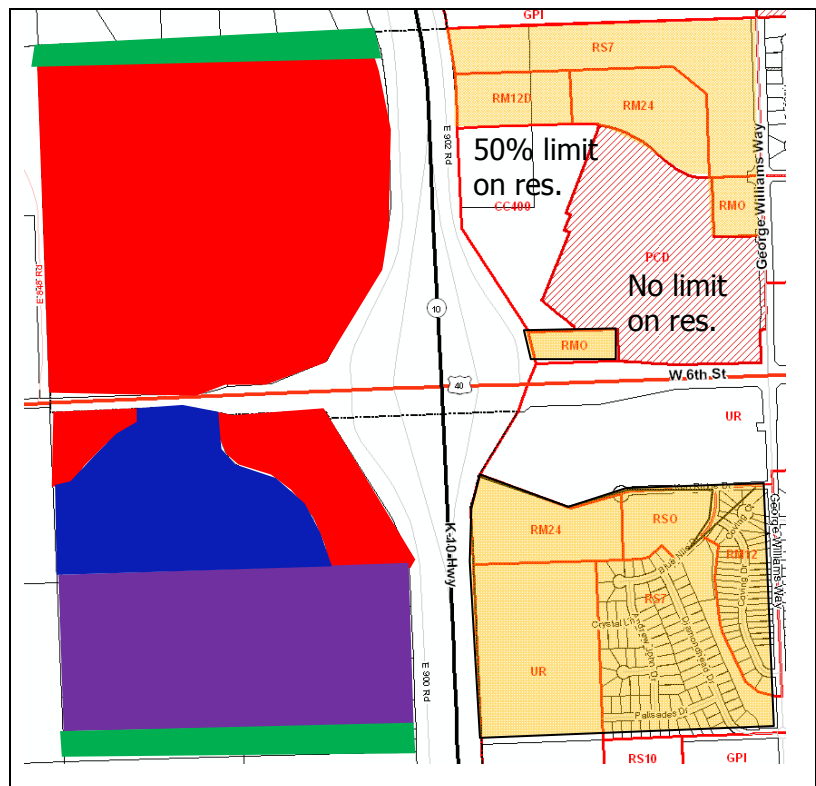
## **UNIFORMITY WITH OTHER QUADRANTS OF THE NODE**

The NE corner of the W 6th Street/Hwy 40 and K-10 node (Mercato) is zoned CC400 and PCD as well as residential zonings of varying densities. (Figure 1) Residential dwelling units are permitted in the PCD District with a maximum density of 35 dwelling units per net residential acre, per the list of permitted uses in Section 20-1004 of the pre-2006 Code. The Mercato Development has an approved Preliminary Development Plan, but the specific uses of the non-commercial buildings are not noted on the plans. More information on the specific uses would be provided at the Final Development Plan stage.

The other commercial section of Mercato was rezoned to the CC400 District. This district permits the *Multi-Dwelling Structures*, *Work/Live Units*, and *Non-Ground Floor Dwelling Units* subject to the 50% limitation noted earlier. The CC400 zoned area has not yet been site planned.

The southeast quadrant of the node is partially developed with residential uses and has rezonings to residential districts recently approved. The area along W 6<sup>th</sup> Street is recommended for commercial uses in the area plan. The south west quadrant of the node is developed with a *Religious Assembly* use and the area plan recommends Office/Industrial uses south of the church. CC600 is recommended adjacent to the church property along W 6<sup>th</sup> Street/ Highway 40. *Multi-Dwelling Structures, Work/Live Units* and *Non-Ground Floor Dwelling Units* would be permitted up to 50% of the gross floor area of a mixed use project.

The uses recommended in the May 21, 2012 staff report were uses which were compatible with the proposed regional recreation center. With the regional recreation use relocating east of K-10 Highway, the recommended uses are still appropriate to serve the demand generated by the recreation uses and also the demand generated by the normal growth of the city. Residential uses are viewed by staff as compatible with the existing and recommended uses of the node given their presence at the other corners of the node.



**Figure 1.** Distribution of zoning and land uses in the subject node. Zonings in place are shown for northeast and southeast quadrants. Area zoned UR in the southeast quadrant is recommended for CC600 Zoning. Zonings recommended in the long range plan shown for the northwest and southwest quadrants.

## OPTIONS

- Permit residential uses in the proposed CC600 zoning district at this quadrant of the node as allowed by the Development Code.
- Place a condition on the proposed CC600 zoning that prohibits residential uses at this quadrant of the node.
- Place a condition on the proposed CC600 zoning that limits the amount of residential uses permitted at this quadrant of the node at a lower level than that provided by the Development Code.

In staff's opinion residential uses are appropriate in the northwest quadrant of this node to maintain uniformity with the other quadrants and provide the flexibility to allow developers to design mixed use developments.

## STAFF RECOMMENDATION

Based on the discussion above, Staff recommends that residential uses be permitted in the proposed CC600 zoning as allowed by the Development Code.

### Attachments

#### Attachment A: Revised Recommended Use Table

It was brought to staff's attention that the use *School* was not included in the recommended use table, Table 1 of the November 12, 2012 Staff Report for the rezoning request. The recommended use table has been revised to include this use and is attached with this memo. The first column of the table below shows the uses which are permitted in the CC600 District and those which staff recommends be restricted from this quadrant. (Restricted uses are shown as ~~struckthrough~~.)

| Table 1: Recommended Uses                                       |                                                                 |
|-----------------------------------------------------------------|-----------------------------------------------------------------|
| Permitted Uses-- CC District                                    | Uses Recommended For NW Quadrant                                |
| <b>Residential</b>                                              | <b>Residential</b>                                              |
| Multi-Dwelling Structure (mixed use, 50% non-residential)       | Multi-Dwelling Structure (mixed use, 50% non-residential)       |
| Non-Ground Floor Dwelling Unit (mixed use, 50% non-residential) | Non-Ground Floor Dwelling Unit (mixed use, 50% non-residential) |
| Work-Live Unit (mixed use, 50% non-residential)                 | Work-Live Unit (mixed use, 50% non-residential)                 |
| <del>Group Home (SUP)</del>                                     |                                                                 |
| <b>Community Facilities</b>                                     | <b>Community Facilities</b>                                     |
| <del>Cemetery</del>                                             |                                                                 |
| College/University                                              | College/University                                              |
| Cultural Center/Library                                         | Cultural Center/Library                                         |
| Day Care Center                                                 | Day Care Center                                                 |
| <del>Day Care Home</del>                                        |                                                                 |
| Lodge, Fraternal and Civic Assembly                             | Lodge, Fraternal and Civic Assembly                             |
| Postal and Parcel Service                                       | Postal and Parcel Service                                       |
| Public Safety                                                   | Public Safety                                                   |
| School*                                                         | School*                                                         |
| <del>Funeral and Internment</del>                               |                                                                 |
| <del>Temporary Shelter (accessory or SUP)</del>                 |                                                                 |
| Social Service Agency                                           | Social Service Agency                                           |
| <del>Community Meal Program (accessory or SUP)</del>            |                                                                 |
| Utility Minor                                                   | Utility Minor                                                   |
| <del>Utility Major</del>                                        |                                                                 |
| <b>Medical Facilities</b>                                       | <b>Medical Facilities</b>                                       |
| Health Care Office/Clinic                                       | Health Care Office/Clinic                                       |
| Outpatient Care Facility                                        | Outpatient Care Facility                                        |

| Recreational Facilities                                  | Recreational Facilities                                  |
|----------------------------------------------------------|----------------------------------------------------------|
| Active Recreation                                        | Active Recreation                                        |
| Entertainment and Spectator Sports (General and Limited) | Entertainment and Spectator Sports (General and Limited) |
| Participant Sports and Recreation (Indoor and Outdoor)   | Participant Sports and Recreation (Indoor and Outdoor)   |
| Passive Recreation                                       | Passive Recreation                                       |
| Nature Preserve / Undeveloped                            | Nature Preserve / Undeveloped                            |
| Private Recreation                                       | Private Recreation                                       |
| Religious Assembly                                       | Religious Assembly                                       |
| Religious Institution (Community or Neighborhood)        | Religious Institution (Community or Neighborhood)        |
| Commercial Use Group                                     | Commercial Use Group                                     |
| Animal Services                                          |                                                          |
| Kennel                                                   |                                                          |
| Livestock Sales                                          |                                                          |
| Animal Sales and Grooming                                |                                                          |
| Veterinary                                               |                                                          |
| Eating and Drinking Establishments                       | Eating and Drinking Establishments                       |
| Accessory Bar                                            | Accessory Bar                                            |
| Bar or Lounge                                            | Bar or Lounge                                            |
| Brewpub                                                  | Brewpub                                                  |
| Fast Order Food                                          | Fast Order Food                                          |
| Fast Order Food with Drive-In                            | Fast Order Food with Drive-In                            |
| Private Dining Establishments                            | Private Dining Establishments                            |
| Quality Restaurant                                       | Quality Restaurant                                       |
| Offices                                                  | Offices                                                  |
| Administrative and Professional                          | Administrative and Professional                          |
| Financial, Insurance and Real Estate                     | Financial, Insurance and Real Estate                     |
| Other                                                    | Other                                                    |
| Parking                                                  | Parking                                                  |
| Accessory                                                | Accessory                                                |
| Commercial Parking Facilities                            |                                                          |
| Retail Sales and Services                                | Retail Sales and Services                                |
| Building Maintenance                                     |                                                          |
| Business Equipment                                       |                                                          |
| Business Support                                         | Business Support                                         |
| Construction Sales and Service                           |                                                          |
| Food and Beverage                                        | Food and Beverage                                        |
| Mixed Media Store                                        |                                                          |
| Personal Convenience                                     | Personal Convenience                                     |

|                                                                   |                                            |
|-------------------------------------------------------------------|--------------------------------------------|
| Personal Improvement                                              | Personal Improvement                       |
| <del>Repair Service, Consumer</del>                               |                                            |
| Retail Sales, General (65,000 sq ft limit)                        | Retail Sales, General (65,000 sq ft limit) |
| <del>Retail Establishment , Large (100,000 sq ft or more)</del>   |                                            |
| <del>Retail Establishment, Medium (less than 100,000 sq ft)</del> |                                            |
| <del>Retail Establishment, Specialty</del>                        |                                            |
| <del>Sex Shop</del>                                               |                                            |
| <del>Sexually Oriented Theater</del>                              |                                            |
| <b>Transient Accommodations</b>                                   | <b>Transient Accommodations</b>            |
| <del>Campground</del>                                             |                                            |
| Hotel Motel, Extended Stay                                        | Hotel Motel, Extended Stay                 |
| <b>Vehicle Sales &amp; Service</b>                                | <b>Vehicle Sales &amp; Service</b>         |
| Cleaning (car wash)                                               | Cleaning (car wash)                        |
| <del>Fleet Storage</del>                                          |                                            |
| Gas and Fuel Sales                                                | Gas and Fuel Sales                         |
| <del>Heavy Equipment Repair</del>                                 |                                            |
| <del>Heavy Equipment Sales/ Rental</del>                          |                                            |
| <del>Inoperable Vehicles Storage</del>                            |                                            |
| <del>Light Equipment Repair</del>                                 |                                            |
| <del>Light Equipment Sales/Rental</del>                           |                                            |
| RV and Boats Storage                                              |                                            |
| <b>Industrial Facilities</b>                                      | <b>Industrial Facilities</b>               |
| <del>Laundry Service</del>                                        |                                            |
| <del>Manufacturing and Production Ltd (SUP)</del>                 | Manufacturing and Production Ltd (SUP)     |
| <del>Manufacturing and Production Tech</del>                      | Manufacturing and Production Tech          |
| <del>Research Service</del>                                       | Research Service                           |
| <b>Wholesale Storage and Distribution</b>                         | <b>Wholesale Storage and Distribution</b>  |
| <del>Exterior Storage (when accessory)</del>                      |                                            |
| <del>Heavy (SUP)</del>                                            |                                            |
| Light                                                             | Light                                      |
| Mini-warehouse                                                    |                                            |
| <b>Adaptive Reuse</b>                                             |                                            |
| <del>Designated Historic Property</del>                           |                                            |
| <b>Agriculture</b>                                                | <b>Agriculture</b>                         |
| <del>Agricultural Sales</del>                                     |                                            |
| Crop Agriculture                                                  | Crop Agriculture                           |
| <b>Communications Facilities</b>                                  | <b>Communications Facilities</b>           |
| Amateur and Receive Only (accessory)                              | Amateur and Receive Only (accessory)       |

|                                        |                                        |
|----------------------------------------|----------------------------------------|
| Communications Service Establishment   | Communications Service Establishment   |
| Telecommunication Antennae (accessory) | Telecommunication Antennae (accessory) |
| Telecommunication Tower (SUP)          | Telecommunication Tower (SUP)          |
| Satellite Dish (accessory)             | Satellite Dish (accessory)             |
| <b>Recycling</b>                       | <b>Recycling</b>                       |
| Large Collection                       | Large Collection                       |
| Small Collection                       | Small Collection                       |

\* The use *School* was omitted from the original list of recommended uses provided in the May 21, 2012 staff report.

# **West of K-10 Plan**

**Lawrence-Douglas County Planning Department**

**Lawrence-Douglas County Planning Commission –  
Douglas County Board of County Commissioners –  
Lawrence City Commission –**

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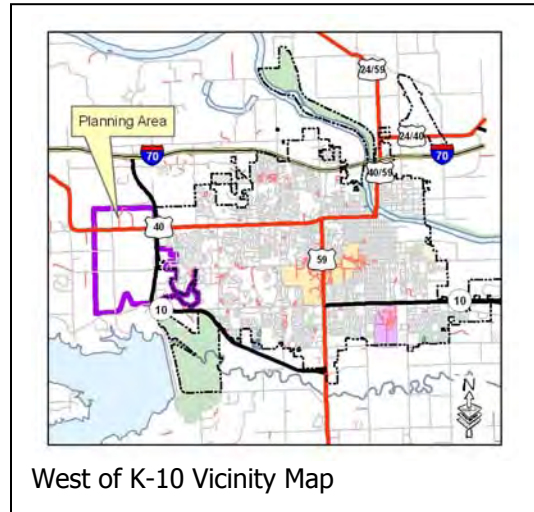
## I. Introduction and Purpose

### Location

The West of K-10 planning area is located primarily west of K-10 Highway (South Lawrence Trafficway) and north and south of US Highway 40. The planning area also contains some land east of K-10.

### Setting

The area is primarily rural in nature. It has access to two highways, US 40 and K-10. I-70 is nearby and north of the area. Clinton lake lies south of the area.



### Earlier Planning Efforts

The *West 6<sup>th</sup> Street and K-10 Nodal Plan* was adopted by the City of Lawrence on November 11, 2003. The Plan addressed future land use for the four corners that make up the intersection of West 6<sup>th</sup> Street/US 40 and the South Lawrence Trafficway/K-10. This revision supersedes the *West 6<sup>th</sup> Street/K-10 Nodal Plan* and the land use policy guidance for the intersection of US 40 and K-10 Highways is now found in this Plan. ~~The West of K-10 Future Land Use map (Map 4-1) deviates from The *West 6<sup>th</sup> Street/K-10 Nodal Plan* by designating land in the southwest corner differently. The alterations reflect changing conditions since the nodal plan was adopted. This Plan recommends updating the *West 6<sup>th</sup> Street/ K-10 Nodal Plan* following adoption of this Plan to reflect the new approved land uses.~~

The City of Lawrence hired PlaceMakers, a national consulting firm, to write a Traditional Neighborhood Design (TND) code that could be used to develop TND neighborhoods in the future. In early 2007, PlaceMakers held a design workshop in Lawrence. Part of the scope of work for PlaceMakers was to master plan a number of areas, inside and outside of Lawrence, including approximately two square miles west of K-10. The approximately two square miles were located directly west of K-10, south of US 40, north of Clinton Lake, and east of E. 800 Rd. All of the property owners in that area were invited to a number of meetings to gain their input on future development. PlaceMakers produced a TND master plan for the area that is based on the Lawrence SmartCode, which they also produced.

**Purpose**

The purpose of the West of K-10 Sector Plan is to plan for urban density growth in the area west of K-10. This Plan will act as the City's official land use guide for growth in the West of K-10 area.

**Relation to Other Plans**

This Plan constitutes an amendment to *Horizon 2020*. The Plan ~~deviates from the West 6<sup>th</sup> Street/K-10 Nodal Plan and~~ is consistent with Horizon 2020. Additional policy guidance has foundation in the following plans:

- *Transportation 2030*, Lawrence/Douglas County Long Range Transportation Plan. Lawrence/ Douglas County Metropolitan Planning Office and Parsons Brinkerhoff. March 26, 2008.
- Lawrence-Douglas County Bicycle Plan, Lawrence/Douglas County Metropolitan Planning Office. May 2004.
- City of Lawrence, Kansas Water Master Plan. Black & Veatch. December 2003.
- City of Lawrence, Kansas Wastewater Master Plan. Black & Veatch. December 2003.

**Process**

Planning Staff developed a 1<sup>st</sup> draft of the Plan with input from other City departments. The 2<sup>nd</sup> draft of the plan, revised after public comments were received on the 1<sup>st</sup> draft was made available for public comment. A third draft of the plan was made available for Planning Commission review on September 24, 2008. A 4<sup>th</sup> draft of the plan was produced based on Planning Commission direction. The Planning Commission and City Commission approved the 4<sup>th</sup> draft. The Board of County Commissioners directed staff to make changes to the 4<sup>th</sup> draft. The Planning Commission agreed with the changes suggested by the County Commission and approved the 5<sup>th</sup> draft March 25, 2009. The County Commission approved the 5<sup>th</sup> draft on May 6, 2009. The City Commission approved the 5<sup>th</sup> draft on June 6, 2009.

## **II. Existing Conditions**

### **A. Current Land Use**

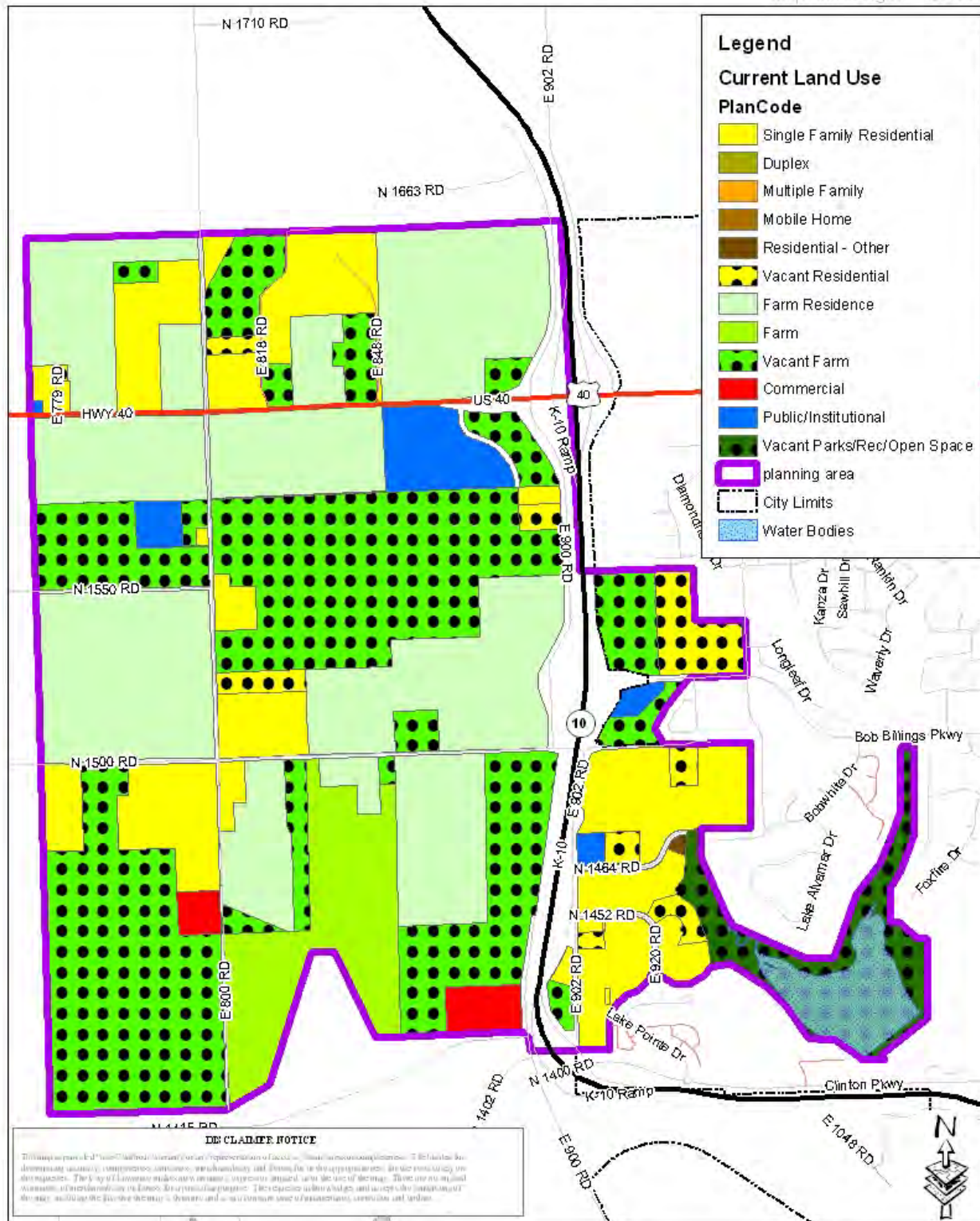
The current land uses in the planning area consist of approximately 2,438 acres of land, excluding street right-of-way, as shown in Table 2-1. The majority of the planning area, approximately 1,800 acres, is in farm use. Most of the remainder of the land uses are types of residential uses. Commercial, public/institutional and vacant parks/recreation/open space are also land uses included in the planning area. (See Map 2-1)

Table 2-1

| <b>Current Land Use</b>     | <b>Total Acreage</b> |
|-----------------------------|----------------------|
| Single Family Residential   | <b>381.49</b>        |
| Mobile Home                 | <b>0.83</b>          |
| Residential - Other         | <b>1.40</b>          |
| Vacant Residential          | <b>77.94</b>         |
| Farm Residence              | <b>855.24</b>        |
| Farm                        | <b>150.72</b>        |
| Vacant Farm                 | <b>792.67</b>        |
| Commercial                  | <b>28.11</b>         |
| Public/Institutional        | <b>22.44</b>         |
| Vacant Parks/Rec/Open Space | <b>126.70</b>        |
| <b>Total</b>                | <b>2,437.55</b>      |

# West of K-10 Plan Map 2-1 Current Land Use

Map Date: August 16, 2008



## B. Current Zoning

The City of Lawrence *Land Development Code* and the Douglas County *Zoning Ordinance* are intended to implement the goals and policies in *Horizon 2020* in a manner that protects the health, safety, and general welfare of the citizens. The *Land Development Code* and the Douglas County *Zoning Ordinance* establish zoning regulation for each land use category which development must follow.

The planning area is primarily located in the county and partially within the city limits. Map 2-2 shows the current zoning designations and the Tables 2-2 and 2-3 below describe the map designations.

Table 2-2

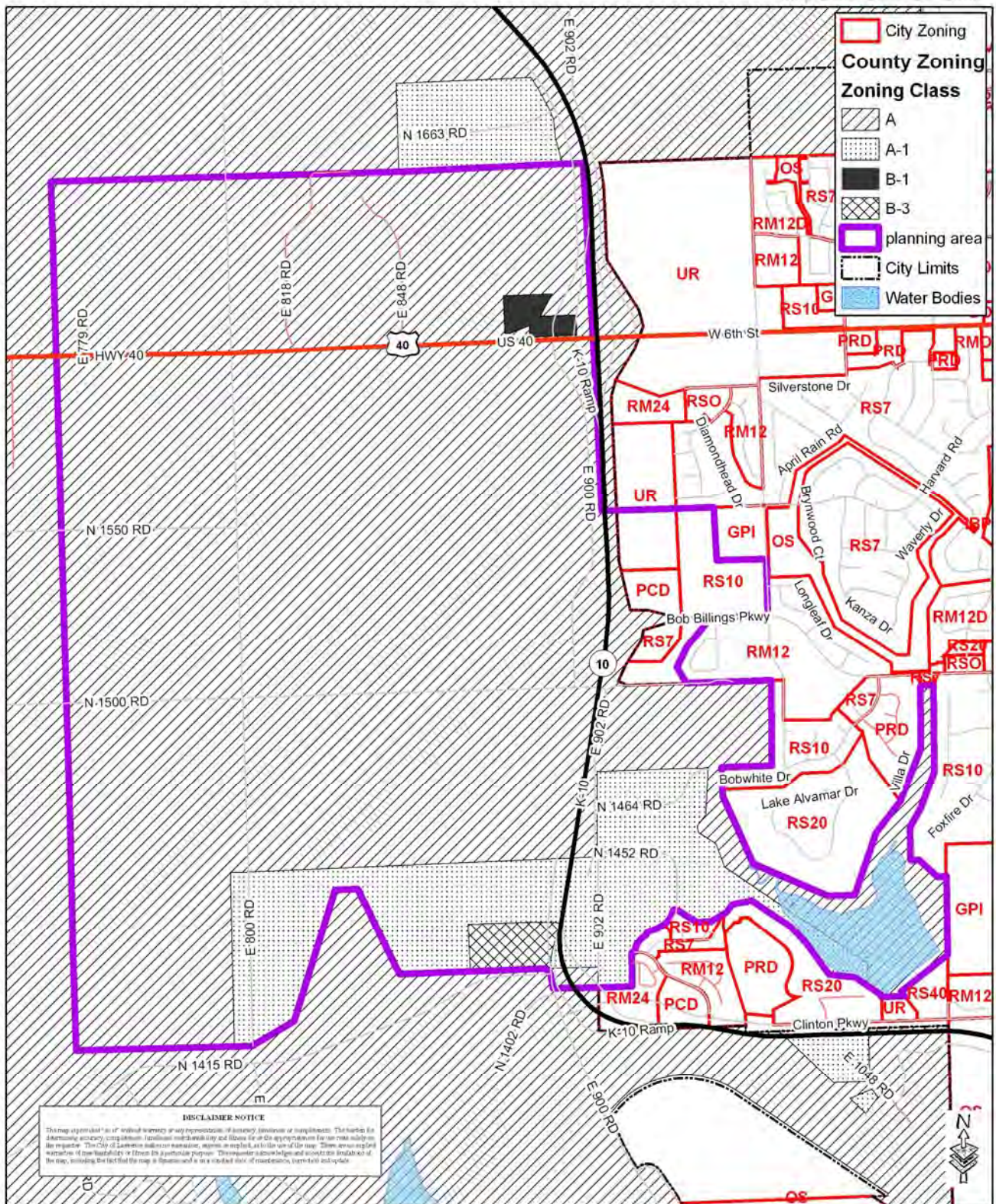
| City Zoning | District Name                                                      | Comprehensive Plan Designation |
|-------------|--------------------------------------------------------------------|--------------------------------|
| RS10        | Single-Dwelling Residential<br>(10,000 sq. feet per dwelling unit) | Low-Density Residential        |
| RS7         | Single-Dwelling Residential<br>(7,000 sq. feet per dwelling unit)  | Low-Density Residential        |
| RM12        | Multi-Dwelling Residential<br>(12 dwelling units per acre)         | Medium-Density Residential     |
| PCD         | Planned Commercial<br>Development                                  | N/A                            |
| UR          | Urban Reserve                                                      | N/A                            |

Table 2-3

| County Zoning | District Name             | Comprehensive Plan Designation |
|---------------|---------------------------|--------------------------------|
| A             | Agricultural              | Agriculture                    |
| A-1           | Suburban Home Residential | Very-Low Density Residential   |
| B-1           | Neighborhood Business     | N/A                            |
| B-3           | Limited Business          | N/A                            |

# West of K-10 Plan Map 2-2 Current Zoning

Map Date: June 26, 2008



## **C. Current Infrastructure**

### **Water**

City water is provided to very few properties in the planning area. There is a hydrant and a 16", PVC pipe line southeast of the intersection of US 40 and K-10 which is outside of the Lawrence city limits and another line east of K-10 along Bob Billings Parkway, within the City limits. All other properties obtain water either from private wells or from Rural Water District #1. The water lines are shown on Map 2-3.

### **Sanitary Sewer**

City sanitary sewer is provided to the majority of the properties east of K-10 that are not within Lawrence city limits. There is one 10" and one 8" PVC City sanitary sewer line that cross K-10 to the north and to the south of N. 1500 Road. All other properties are serviced by private septic systems. The sanitary sewer lines are shown on Map 2-3.

### **Storm Sewer**

City storm sewer provides a 24" corrugated metal pipe along Bob Billings Parkway within the planning area. The remainder of the planning area has streams for storm water drainage. The storm water pipes, streams and storm channels are shown on Map 2-4.

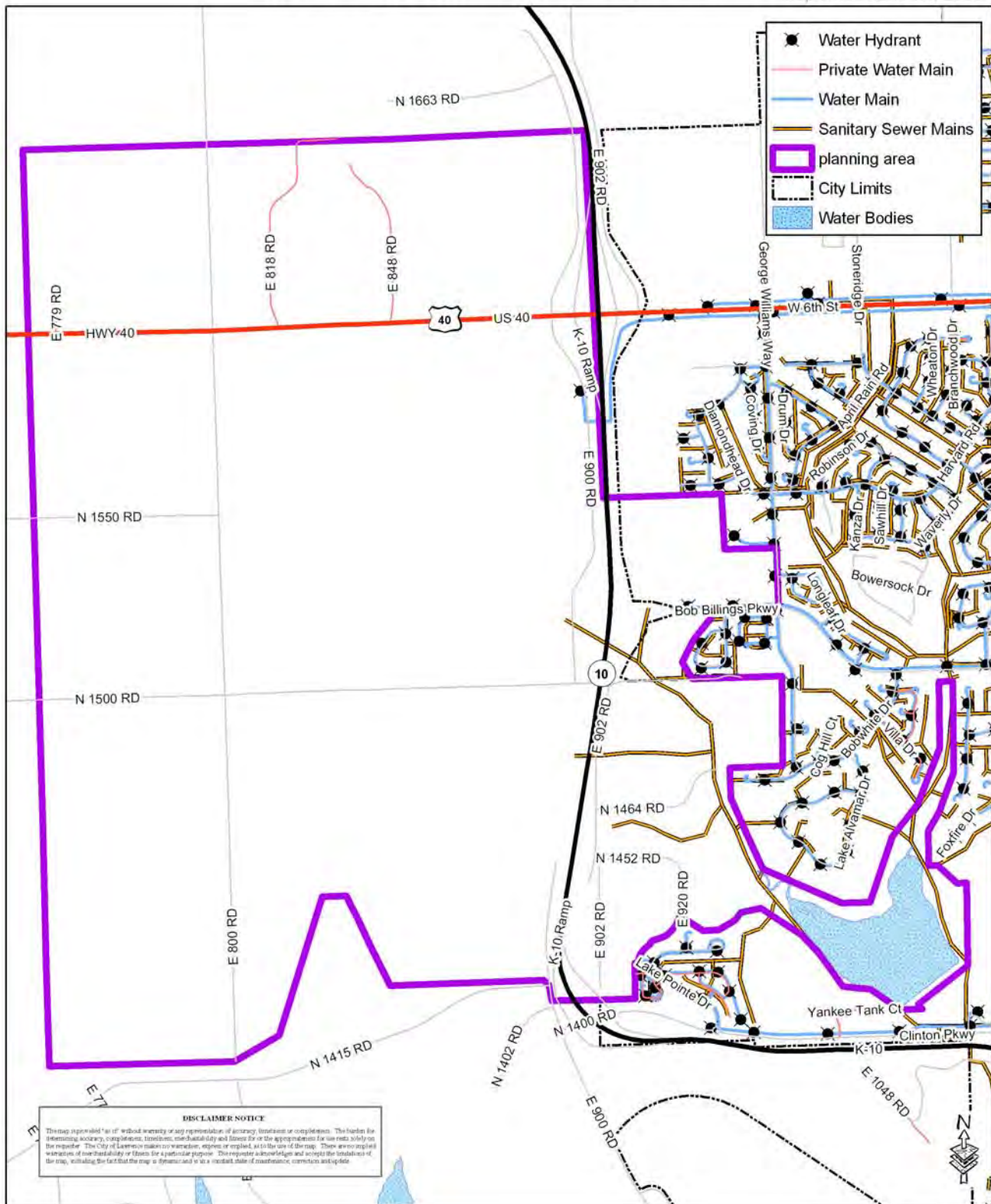
### **Gas**

Southern Star Gas has two lines running through the planning area. One line crosses the planning area across the northeastern corner and the other line crosses at the southern portion of the planning area.

# West of K-10 Plan

## Map 2-3 City Water and Sanitary Sewer

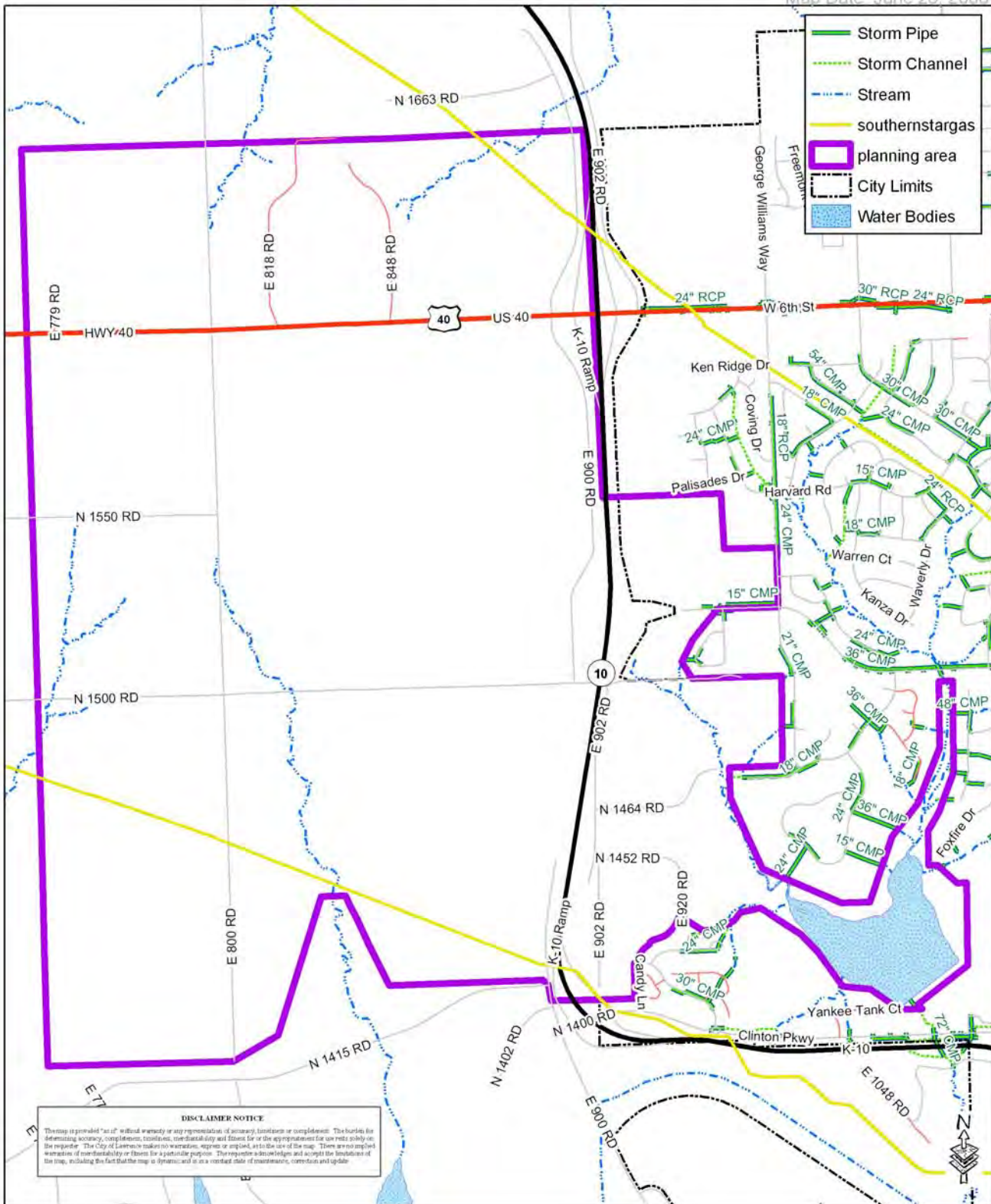
Map Date: June 26, 2008



# West of K-10 Plan

## Map 2-4 City Storm Water and Southern Star Gas

Map Date: June 26, 2008



## **D. Parks and Recreational Facilities**

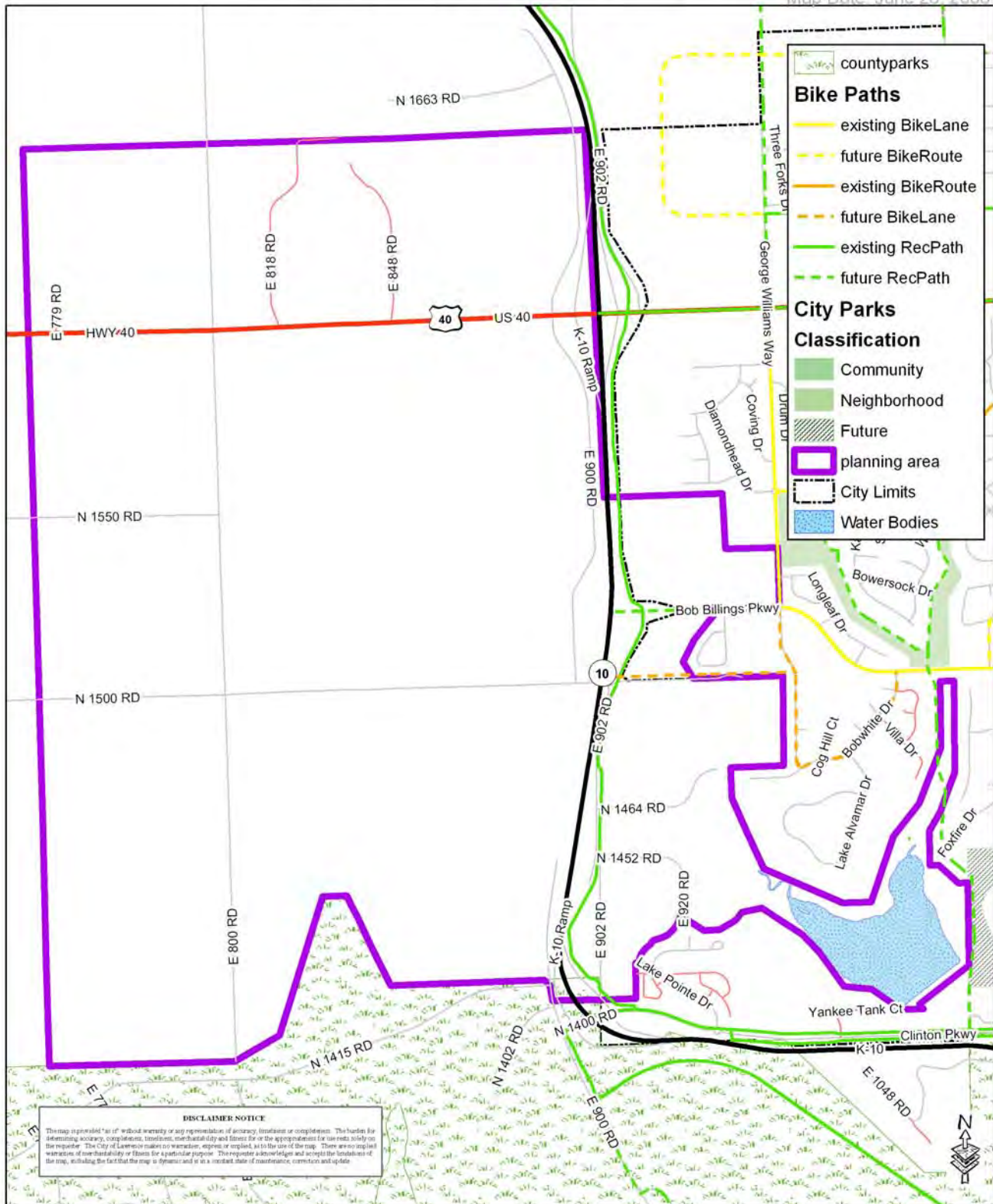
There are currently no existing parks and recreation facilities or park properties located in the plan area. Clinton Lake is directly south of the plan area.

The planning area includes existing and future bike routes, lane, and recreational paths and these are shown on Map 2-5. Bike lanes are a separate space designated with striping, signage or pavement markings for exclusive use by bicycles with a street or road. There is an existing bike lane along Bob Billings Parkway in the planning area and currently stops where the road ends. Bike routes are a network of streets to enable direct, convenient, and safe access for bicyclists. There is a future bike route identified in the planning area along N. 1500 Road. A recreational path is a separate path adjacent to and independent of the street and is intended solely for non-motorized travel. There are existing recreational paths located on the east side of the South Lawrence Traffic Way (SLT/K-10) and a future recreational path from where Bob Billings Parkway ends to the South Lawrence Traffic Way (SLT/K-10).

Different types of bicycle facilities are attached to a certain street classification. Recreational Paths are part of Arterials, Bike Lanes are part of Collectors, and Bike Routes are also part of Collectors.

# West of K-10 Plan Map 2-5 Parks and Recreation Facilities

Map Date: June 26, 2008



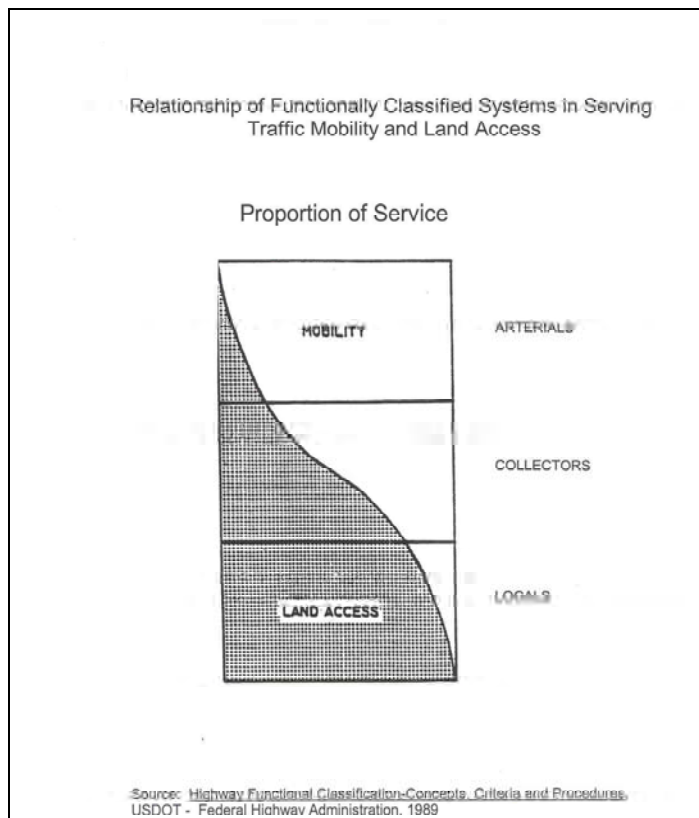
## E. Transportation

*Transportation 2030* (T2030) is the comprehensive, long-range transportation plan for the metropolitan area. T2030 designates streets according to their functional classification or their primary purpose. These functional classifications are shown on Map 2-6. The classification system can be described as a hierarchy from the lowest order, (local streets) that serve to provide direct access to adjacent property, to (collector streets) that carry traffic from local streets, to major thoroughfares (arterial streets) that carry traffic across the entire city. Freeways and expressways are the highest order of streets and are designed with limited access to provide the highest degree of mobility to serve large traffic volumes with long trip lengths.

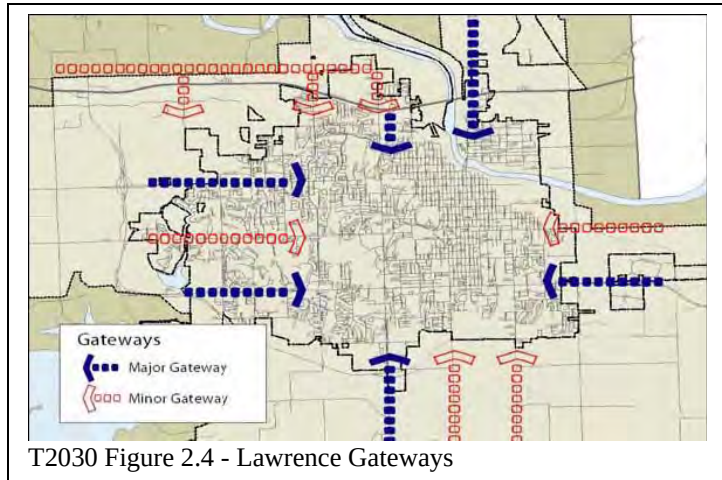
The graphic on the right helps explain the relationship between functional classification in serving traffic mobility and land access.

Chapter 2 of T2030 discusses and identifies minor and major gateways into and out of Lawrence. T2030 states, "Gateways are locations on transportation corridors that define the entrances to cities. These provide visitors with a first

impression of the city and often indicate the transition from rural to urban land uses. As such, cities desire to make these locations as attractive and informative as possible. As noted in T2030 in Figure 2.4, there are several roadways that represent gateways into the city of Lawrence or into smaller communities within the region that should be reviewed for aesthetic and informational enhancements when they are improved."



The planning area for the *West of K-10 Plan* includes three of the *Transportation 2030* identified gateways into Lawrence from the west. US Hwy 40 and Clinton Parkway are identified as major gateways to Lawrence and Bob Billings Parkway is identified as a minor gateway to Lawrence.



T2030 Figure 2.4 - Lawrence Gateways

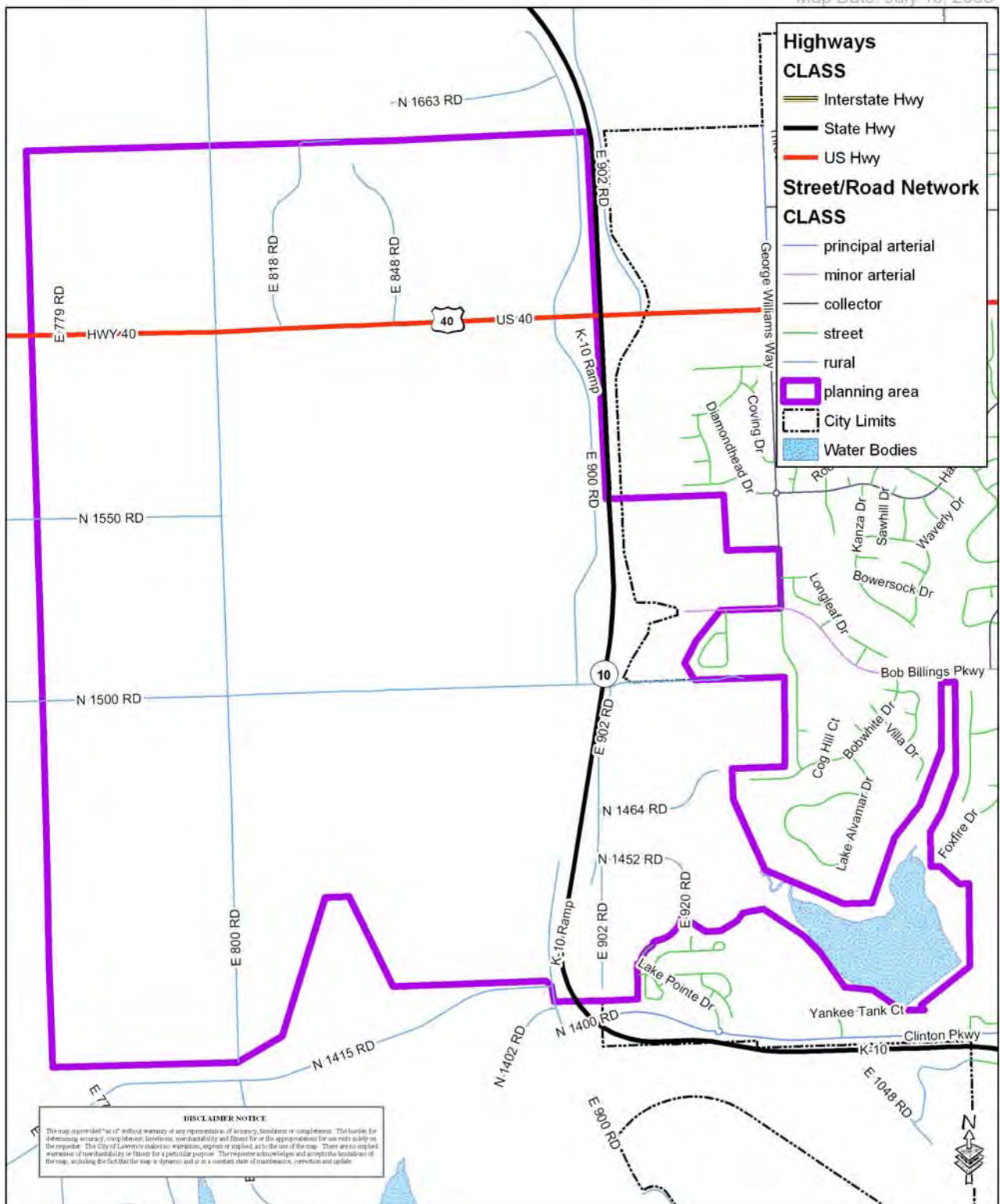
*Transportation 2030* identifies the South Lawrence Traffic Way (SLT/K-10) and US Hwy 40 as truck routes.

There are no immediate plans to widen K-10 Highway beyond the current two travel lanes.

Currently there are no transit routes that travel to or through the planning area.

# West of K-10 Plan Map 2-6 Street Classification

Map Date: July 10, 2008



## **F. Schools**

### School Districts

The *West of K-10 Planning Area* is located entirely within the Lawrence USD 497 school district. The Perry-Lecompton USD 343 school district is located just to the southwest and northeast of the planning area. (See Map 2-7)

### School Locations

Lawrence has one public and one private school located just east of the planning area. The public school is Langston Hughes Elementary School which includes grades kindergarten through sixth grade. Langston Hughes is located along George Williams Way, east of the planning area.

The private school is Corpus Christi Catholic School which includes grades kindergarten through sixth grade. Corpus Christi is located east of the planning area along Bob Billings Parkway.

The Lawrence School District has purchased property within the West of K-10 planning area. The school district has not identified what type of school is to be located at this site. The school district property is located southeast of the intersection of N. 1500 Road and E. 800 Road.

## **G. Stormwater**

The sector plan area lies within The Baldwin Creek drainage basin on the north, the Yankee Tank Creek drainage basin on the east, and parts of the Upper Wakarusa Watershed on the west and south (see Map 2-8 for drainage basins and Map 2-9 for contours).

The Baldwin Creek drainage basin lies in the north central part of Douglas County, and encompasses approximately 5,470 acres (approximately 8.5 square miles). The drainage basin consists of two sub-basins. The first sub-basin is bounded on the south by a major ridge line (the Kanwaka Ridge) that generally follows US Highway 40/ West 6<sup>th</sup> Street and extends approximately 1 mile west of the South Lawrence Trafficway and one-quarter mile south of U.S. 40 Highway at its southwestern most extent. Land in this sub-basin drains northward toward the main channel of Baldwin Creek, which begins in the middle of sections 20 and 21 and drains northeastward toward the Kansas River. The creek channel and the associated floodplain broadens and flattens as the creek approaches the Kansas River. The second sub-basin of Baldwin Creek is a much more expansive land area with approximately 4,200 acres. It lies southwesterly and northerly of the smaller sub-basin, extending southwesterly beyond the west leg of the South Lawrence Trafficway and northward to Lakeview Lake. This sub-basin drains from southwest to northeast toward the Kansas River.

Parts of the West of K-10 plan area lie in the Yankee Tank Creek drainage basin. This basin generally lies south of US Highway 40, west of Wakarusa Drive, north of 31<sup>st</sup> street and east of E 650 Road. The west sub-basin was identified in the

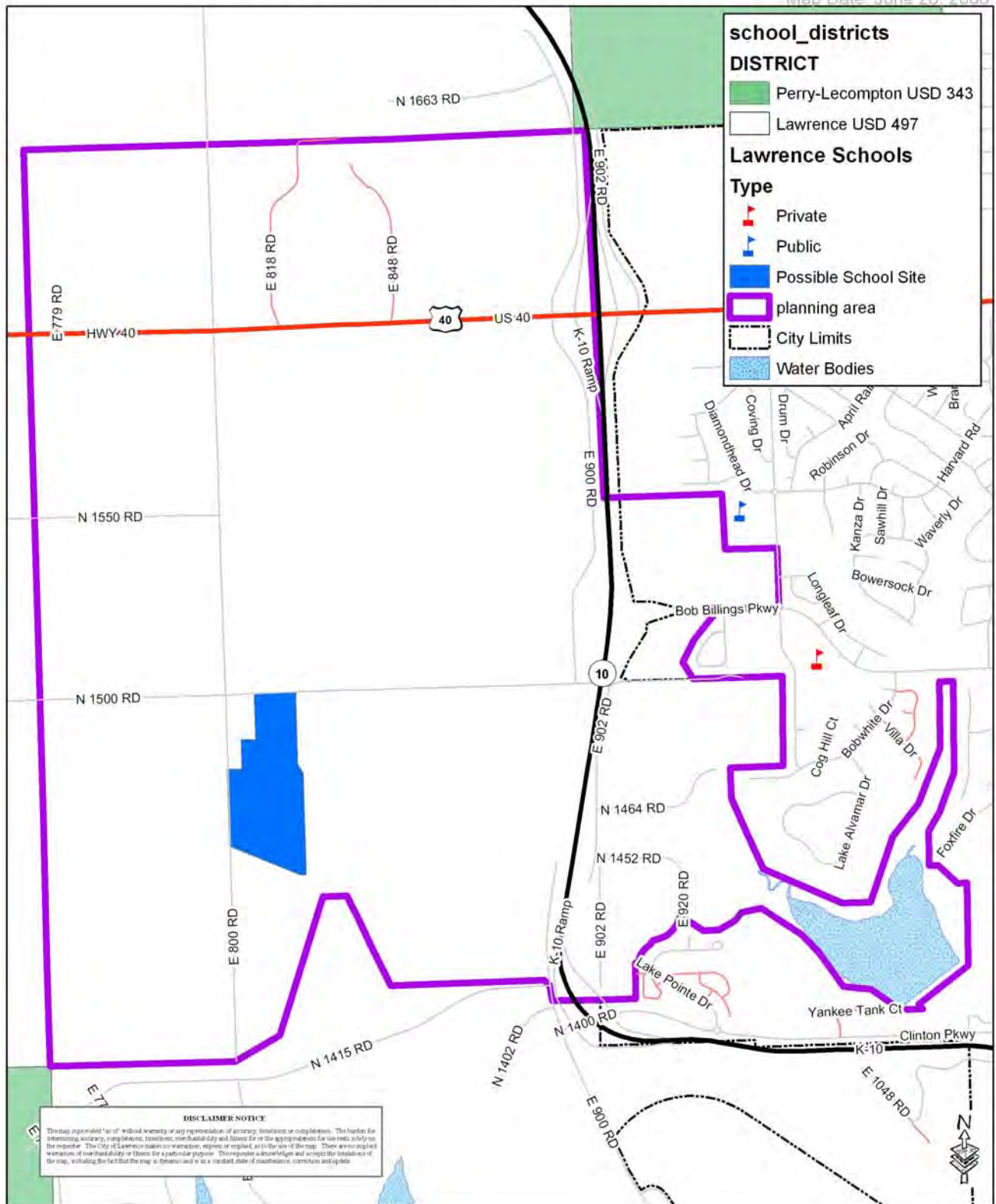
1996 Stormwater Management Master Plan as encompassing 756 acres and drains into Yankee Tank Lake (Lake Alvamar), a private lake just north of Clinton Parkway.

On the west and south of the plan area is part of the Upper Wakarusa Watershed which covers 367 square miles in total across Douglas, Shawnee, Osage and Wabunsee counties. The watershed drains into Clinton Lake, which serves as a major source of drinking water for the City of Lawrence. In 2003, the Upper Wakarusa Watershed Restoration and Protection Strategy (WRAPS) was completed, which identified thirteen water quality goals. Primary concerns include excess sediment, phosphorus, nitrogen and fecal coliform bacteria going from the watershed into the river and lake. The WRAPS strategy is based on a combination of riparian/stream bank restoration measures to reduce sediment and nutrient input. Specific care should be taken as lands in this watershed develop to have a positive impact on the water quality.

# West of K-10 Plan

## Map 2-7 School Districts and Possible School Location

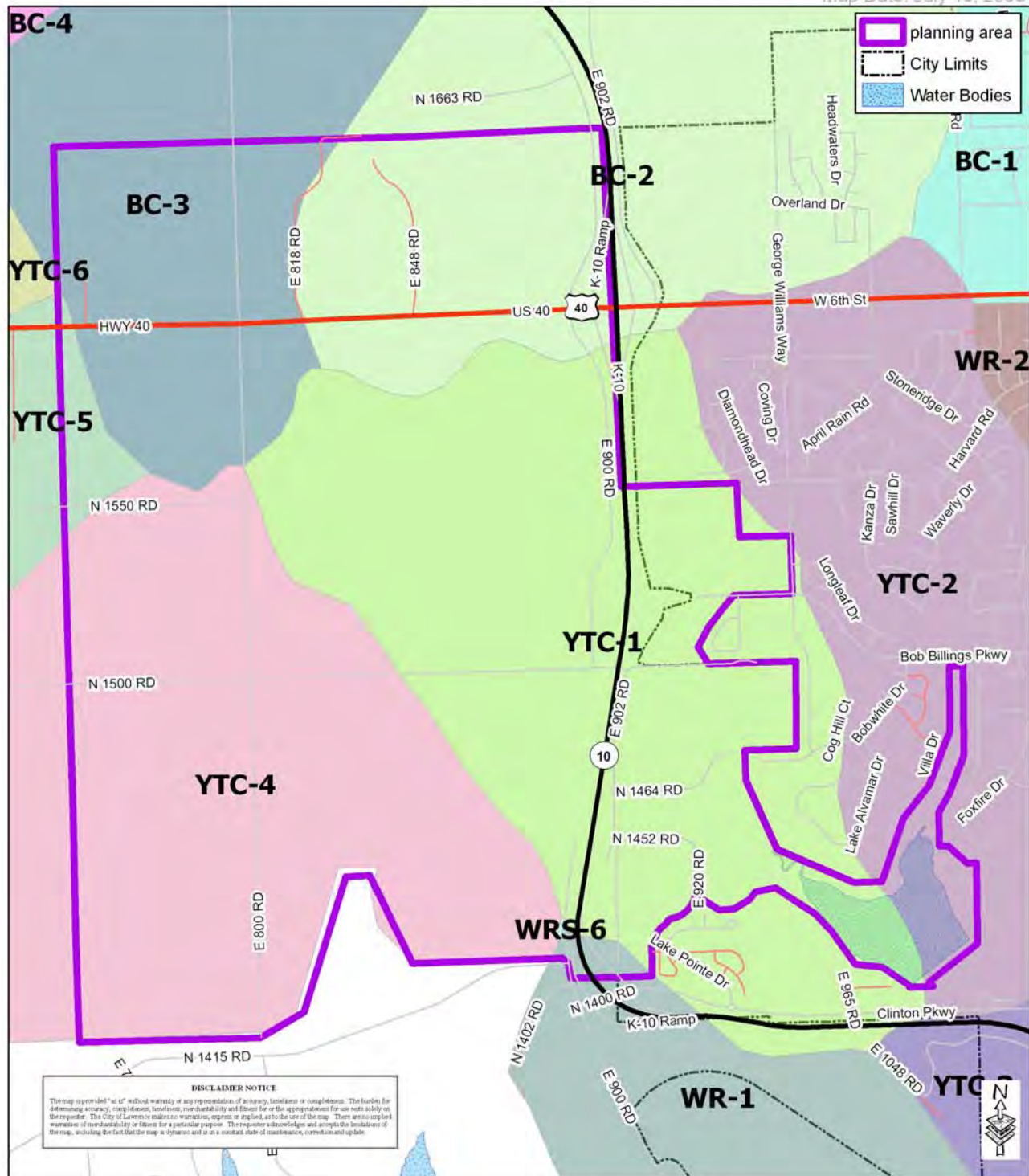
Map Date: June 26, 2008



## West of K-10 Plan Map 2-8 Drainage Sub-Basins

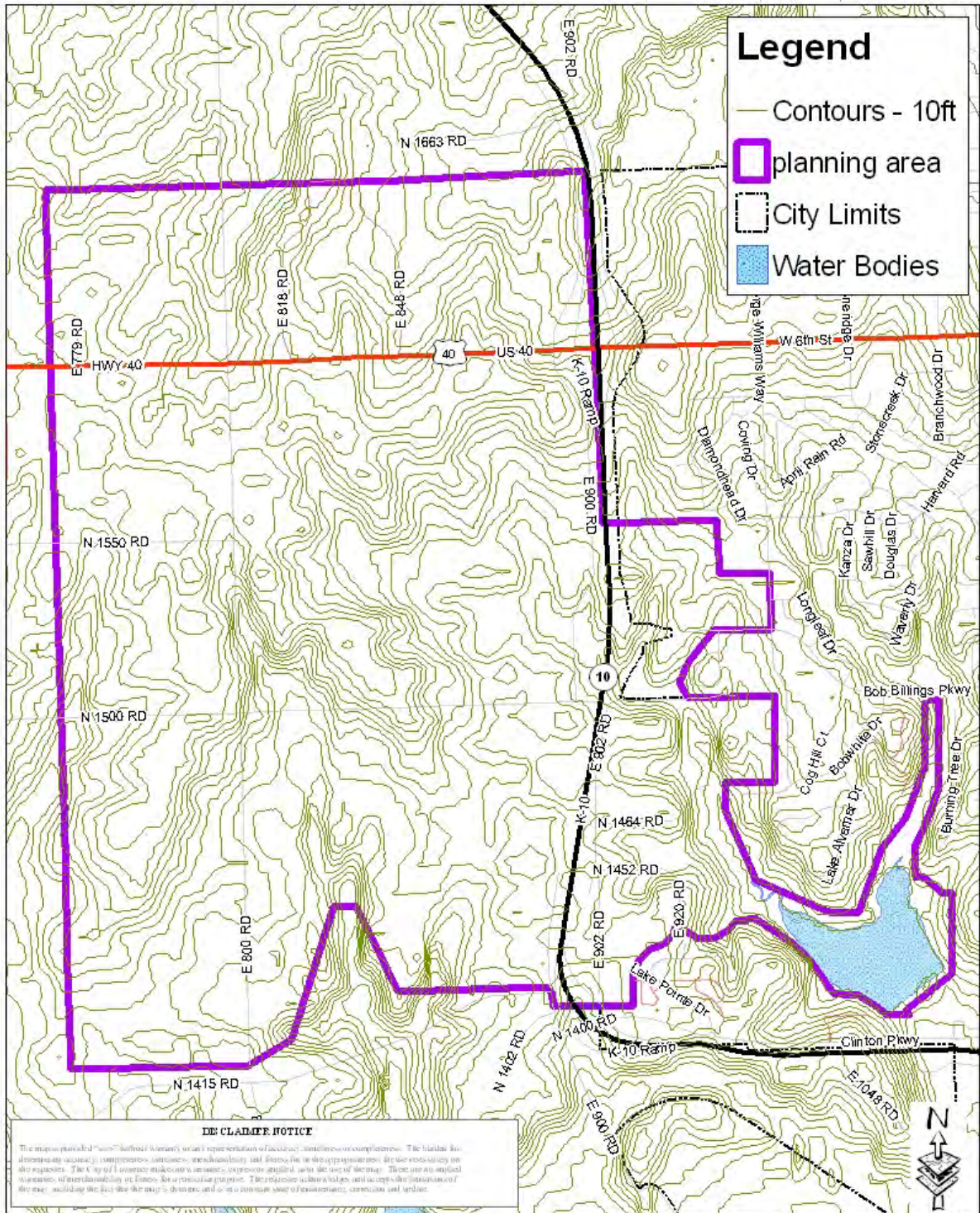
Map depicts drainage sub-basins of the planning area for Baldwin Creek (BC),  
Yankee Tank Creek (YTC), and Wakarusa River (WRS).

Map Date: July 10, 2008



# West of K-10 Plan Map 2-9 Contours

Map Date: September 30, 2008



### III. Goals and Guiding Principles

The following policy statements in Sections III - VIII are for the development of the West of K-10 Plan area. "Shall" statements identify the items that are expected to be incorporated into development within the planning area. "Should" and "encouraged" statements identify the items that are strongly recommended to be incorporated into development within the planning area. "Shall" statements are stronger than "should" and "encouraged" statements.

#### LAND USE

**Goal** – Create unique mixed-use neighborhoods; encourage healthy development of commercial, office and employment uses; develop strong park/trail system.

#### Guiding Principles

- A mix of uses within neighborhoods is encouraged.
- A mix of housing types should be built within each neighborhood. Neighborhoods should not be developed with a single housing type, ie. single family.
- Allow for Traditional Neighborhood Design (TND) neighborhoods in the area. TND neighborhoods shall be properly integrated with adjoining suburban-style neighborhoods.
- Allow for large employment uses at appropriate locations in the planning area.
- Allow for neighborhood-level commercial activities within the planning area.
- Integrate parks and open space within the neighborhoods.

#### PUBLIC FACILITIES & INFRASTRUCTURE

**Goal** – Provide ongoing infrastructure and public facilities improvements as the area develops at urban densities.

#### Guiding Principles

- Improve K-10 and Bob Billings Parkway/15<sup>th</sup> Street to a separated grade intersection.
- Encourage trail connections to the existing regional trail system.
- Sewer and water system capacity shall be adequate prior to urban development.

- Create pedestrian friendly streetscapes (streets and sidewalks) that connect to a neighborhood's amenities and assets.
- Co-locate public facilities where feasible and appropriate.

## **NEIGHBORHOOD CHARACTER**

**Goal** – Develop unique neighborhoods that are sustainable and remain viable over the long-term.

### **Guiding Principles**

- Connectivity is a priority; neighborhoods should connect to each other and to amenities and focal points within the area.
- Visual corridors should be protected as development occurs in the planning area.
- Create an identity that gives residents and visitors a sense of the neighborhood (i.e. create gateways at neighborhood entrances).

## **ENVIRONMENT**

**Goal** – Develop neighborhoods and new development with the natural layout of the land in mind.

### **Guiding Principles**

- Neighborhoods should be built in ways that protect existing natural drainage and ecosystems.
- Priority should be given to stormwater measures that protect Clinton Lake from development run-off as this area reaches urban densities.

#### **IV. Future Land Use**

The West of K-10 Future Land Use Section illustrates conceptual guides for future development and redevelopment that embody the vision and goals presented in Section III. The future land use map in this Section is conceptual and should not be used to determine precise zoning boundaries. The following land uses, zoning districts, and densities are the "maximum recommended" and assume less intensive land uses, zoning districts, or densities are appropriate.

This section presents two future land use options for the planning area. One is a conventional development option and the other is a Traditional Neighborhood Design (TND) option. Property owners and developers have the option of choosing one of the options in order to develop in the planning area after the land becomes part of the city of Lawrence.

The West of K-10 Plan supersedes and replaces the West 6<sup>th</sup> Street/K-10 Nodal Plan. The Future Land Use Policies of the West of K-10 Plan now apply to the four corners of the West 6<sup>th</sup> Street and K-10 intersection.

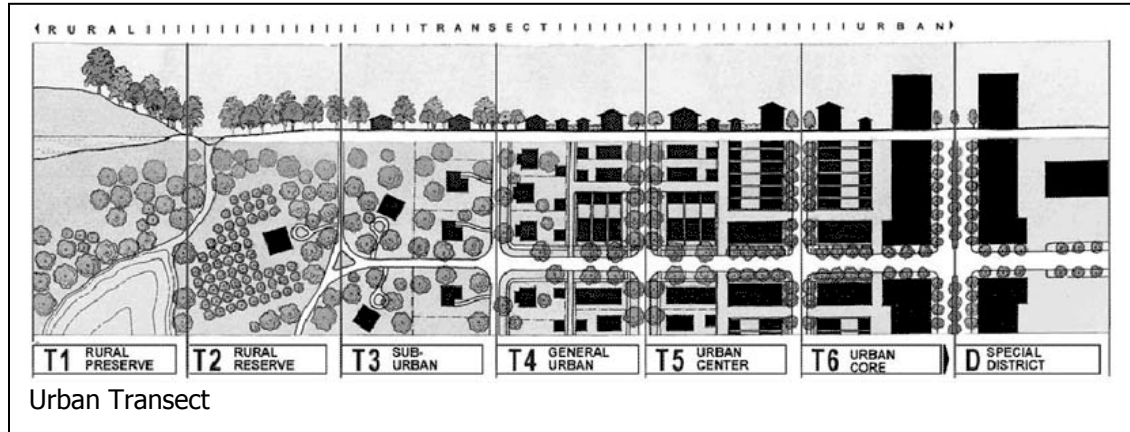
##### **Conventional Future Land Use Option**

The conventional future land use option for West of K-10 (Map 4-1) was developed using a combination of adopted policy, existing conditions including City zoning and stormwater considerations, projections based on past build-out patterns in west Lawrence, and comments from stakeholders and the Planning Commission. This option is predominantly a low density residential pattern that also allows for higher densities near commercial and employment uses and at the intersections of future major roads.

~~This option is predominately consistent with the adopted *West 6<sup>th</sup> and South Lawrence Trafficway Nodal Plan*. Land use designations have been changed in the southwest quadrant to reflect the existing church at 847 Hwy 40 and additional development considerations. The uses that carry over from the *West 6<sup>th</sup> and South Lawrence Trafficway Nodal Plan* are predominately employment related.~~

## TND Option

The model for the TND option (Map 4-2) is built primarily around work the PlaceMakers firm did in early 2007. Through a week long charrette (design workshop) process, PlaceMakers, with the input from the area's landowners, produced a TND master plan based on the Transect method of organizing development. The model shows how TND neighborhoods could be organized in part of this planning area.



The *Lawrence SmartCode* is the regulatory tool that will be used to implement the TND option. The *Lawrence SmartCode* was calibrated by PlaceMakers based on the charrette and from collaboration with City staff after the charrette and public comment. The TND option of development in the area will only be available if the *Lawrence SmartCode* is adopted by the Lawrence City Commission.

The model is meant to provide a guide to future TND development in the planning area. Landowners/developers will have to develop their own plans that conform to the *Lawrence SmartCode* in order to develop TND neighborhoods. There are two community types allowed by the *Lawrence SmartCode* in a Greenfield development situation. One community type is a Cluster Land Development (CLD). The other community type is a Traditional Neighborhood Development (TND). A minimum of 60 acres is required to develop a new TND neighborhood. 40 acres is required to develop a CLD neighborhood.

## Compatibility

An obvious challenge arises with providing two future land use options for the planning area. Compatibility issues will inevitably arise when placing a suburban development next to one designed to be a TND. The challenge is how to properly and effectively build new neighborhoods when one option is chosen next to a development that used the other design option.

### Keys to increased compatibility:

1. New neighborhoods, whether of a suburban nature or TND, must connect to each other via the street and pathway system. Streets, sidewalks and trails must connect from one neighborhood to the next. The first neighborhood built, and each subsequent neighborhood, should stub out the streets intended for connection to adjoining neighborhoods that will be created later.

2. A street pattern created by a TND neighborhood should be followed as closely as possible in subsequent neighborhoods.
3. Compatible land uses should be located adjacent to each other where neighborhoods of different design characteristics adjoin.

### **Industrial/Office/Warehouse/Research Land Uses**

Regardless of which land use option is chosen for development, the employment related land uses should be maintained. They can be developed conventionally under the Development Code or potentially with Special Districts under the Lawrence SmartCode.

Further, structures in these developments should be aesthetically pleasing from all sides and should incorporate quality building materials and other high quality architectural elements. Transitions between uses should be accomplished by buffer yards, landscaping, setbacks, scale and massing, and transition of uses to include low-intensity industrial uses along the perimeter of the areas identified as industrial or office/research. In addition, sites should incorporate a variety of landscaping treatments to alleviate the potential for monotonous perimeter buffering.

Access to major roads from the industrial or office/research development lots shall be limited. However, industrial users on large lots that are significant generators of traffic may directly access arterial roads if the size of the site is such that it allows internal circulation without the necessity of constructing local roads to direct that circulation to the arterial road. Such access shall be based on sound traffic engineering principles and shall be properly controlled with appropriate signalization and turn lanes. Smaller lots shall take access from local roads. Additional local roads that serve the site should be arranged to minimize development lot access to the future major roads.

### **Rural Subdivisions**

Rural subdivisions are developments built under rural standards that often don't meet the requirements of urban development. They may be processing wastewater on-site, have undersized water lines and rural standard roads. Issues arise as urban development moves into the area in which the rural subdivision lies. One issue is that undersized water lines may not be appropriate to provide fire service from the City. Rural subdivisions shall not be accepted for annexation until such time that the appropriate urban infrastructure is in place to serve the subdivision upon annexation.

Additionally, development lots in rural subdivisions are often larger than the typical urban lot. Urban development adjacent to the rural subdivision may be of higher density than the rural subdivision. This plan encourages infill of the rural subdivisions to more urban densities. Dividing large lots to accommodate more than one principal structure will help to more efficiently provide urban services to an area. Existing rural subdivisions are primarily located in the area this Plan covers east of K-10 Highway.

This Plan encourages annexing the rural subdivisions east of K-10 Highway as development occurs in the surrounding or adjacent areas and infrastructure is brought to reasonable proximity. The goal is to help ensure urban services are being provided in a contiguous manner as the city grows westward.

**E. 902 Rd**

E. 902 Rd. is located in the southeast corner of the planning area. Transportation 2030 projects a future collector road built to urban standards that could in the future replace the existing rural E. 902 Rd. Map 4-1 designates future land uses in the area as High Density Residential west of the future road and Medium Density Residential east of the future road. Since the exact alignment of this road has not been determined, the future road will be the separation between High Density and Medium Density Residential land uses.

## **A. Conventional Future Land Use Option**

### **Land Use Categories**

#### **Residential – Very Low Density**

The intent of the very low-density residential use is to allow for large lot, single dwelling type uses.

**Primary Uses:** Detached dwellings, cluster dwellings, manufactured home residential design, zero lot line dwellings, group home, public and civic uses

**Zoning Districts:** RS40 (Single-Dwelling Residential), PD (Planned Development Overlay)

**Density:** 1 unit/acre

#### **Residential – Low Density**

The intent of the low-density residential use is to allow for single-dwelling, duplex, and attached dwellings but emphasis is placed on residential type uses. Development in this area should be compatible with single-family character, which could include such uses as churches, small-scale daycares and institutional uses.

**Primary Uses:** Detached dwellings, attached dwellings, duplex, group home, public and civic uses

**Zoning Districts:** RS10 (Single-Dwelling Residential), RS7 (Single-Dwelling Residential), RS5 (Single-Dwelling Residential), RM12D (Multi-Dwelling Duplex Residential), PD (Planned Development Overlay)

**Density:** 6 or fewer dwelling units/acre

#### **Residential – Medium Density**

The intent of the medium-density residential category is to allow for a variety of residential options for the area at a greater density than the Low Density Residential category. This category can serve as a transition between Low density and higher density uses.

**Primary Uses:** Detached dwellings, attached dwellings, duplex, multi-dwelling structures, group home, civic and public uses

**Zoning Districts:** RS5 (Single-Dwelling Residential), RS3 (Single-Dwelling Residential), RM12 (Multiple-Dwelling Residential), RM12D (Multi-Dwelling Duplex Residential), RM15 (Multi-Dwelling Residential), PD (Planned Development Overlay)

**Density:** 7-15 dwelling units/acre

#### **Residential – High Density**

The intent of the high-density residential category is to allow for compact residential development. These developments are primarily located at the intersection of two major roads or adjacent to commercial or employment uses.

**Primary Uses:** Multi-dwelling structures, group home, civic and public uses

**Zoning Districts:** RM12 (Multiple-Dwelling Residential), RM12D (Multi-Dwelling Duplex Residential), RM15 (Multi-Dwelling Residential), RM24 (Multi-Dwelling

Residential), RM32 (Multi-Dwelling Residential), and PD (Planned Development Overlay)

**Density:** 16+ dwelling units/acre

### **Residential Office**

The intent of the residential/office use is to accommodate mixed use development of administrative and professional offices with varying degrees of residential. This category can serve as a buffer between higher intensity uses and major roads to lower intensity/density land uses.

**Primary Uses:** office, multi-family dwellings

**Zoning Districts:** RSO (Single Dwelling Residential-Office), RMO (Multi-Dwelling Residential-Office), MU (Mixed Use District), and PD (Planned Development Overlay)

**Density/Intensity:** 7-15 dwelling units/acre/medium

### **Office**

~~The intent of the office use is to allow for general office uses that would be minimally invasive to nearby residential uses.~~

~~**Primary Uses:** office, multi-family dwellings~~

~~**Zoning Districts:** CO (Commercial Office), POD (Planned Office District)~~

~~**Intensity:** medium~~

### **Commercial – Neighborhood Center**

The intent of the commercial use is to allow for retail and service uses. A Neighborhood Commercial Center provides for the sale of goods and services at the neighborhood level. This category is applied to the intersection of N 1500 Rd and E 800 Rd and to the intersection of K-10 and Bob Billings Parkway/15<sup>th</sup> Street. Horizon 2020 Chapter 6 – Commercial identifies these corners as future Neighborhood Commercial Centers. See Horizon 2020 Chapter 6 – Commercial for more policy regarding Neighborhood Commercial Centers.

**Primary Uses:** Non-ground floor dwellings, multi-dwelling structures, civic and public uses, medical facilities, eating and drinking establishments, general office, retail sales and services, fuel sales, car wash

**Zoning Districts:** CN1 (Inner Neighborhood Commercial District), CN2 (Neighborhood Commercial Center District), PD (Planned Development Overlay), and MU (Mixed Use District)

**Intensity:** medium-high

### **Commercial – Lake Oriented Community Center**

Community Commercial Center provides goods and services to several different neighborhood areas. This category is applied to the existing commercial development located at K-10 and Clinton Parkway. This lake-oriented commercial development should serve the many visitors to Clinton Lake. Horizon 2020 identifies K-10 and Clinton Parkway as a future Neighborhood Commercial Center. This Plan recommends changing that designation to a Community Commercial Center to reflect the higher intensity of the lake oriented nature of the existing commercial uses. Many of those existing uses serving the lake, such as boat storage, are not appropriate for a Neighborhood Commercial designation.

This designation will be limited to the area of the exiting lake oriented uses adjacent to Clinton Lake and the approved commercial uses on Lake Pointe Drive, just east of the planning area along Clinton Parkway. No additional areas shall be approved for the Community Commercial Center. See Horizon 2020 Chapter 6 – Commercial for more policy regarding Community Commercial Centers.

***Primary Uses:*** lake oriented commercial

***Zoning Districts:*** CC200 (Community Commercial Center), MU (Mixed Use District)

***Intensity:*** medium

### **Commercial Center – CC600**

The intent of the CC600 Commercial District in this Plan is to allow for commercial, office, mixed use residential, and employment uses, as well as up to 600,000 square feet of retail space to be located at the intersection of two state or federally designated highways, which in this case is the intersection of US40 and K-10 Highway. See the K-10/US40 Node discussion below for the allocation of the commercial retail space, along with additional information about the particular land uses on each of the intersection's corners. See Horizon 2020 Chapter 6 – Commercial for further policy guidance regarding CC600 Commercial Centers.

***Primary Uses:*** retail, commercial, office, recreation center

***Zoning Districts:*** CC600 (Community Commercial Center), CC400 (Community Commercial Center), CC200 (Community Commercial Center), CN2 (Neighborhood Commercial Center), CO (Commercial Office), and PD (Planned Development Overlay) Districts

***Intensity:*** medium to heavy

### **K-10/US40 Node**

The following discussion provides additional policy detail regarding the four corners of the K-10/US40 intersection:

#### **Northwest Corner**

The northwest corner of US40/6<sup>th</sup> Street and K-10 Highway is expected to have a mix of uses including retail and other commercial uses. The total allocated retail space for this corner is 155,000 square feet. A green space buffer along the northern edge of the corner will help provide a transition to the residential neighborhood to the north. There are a number of ways to provide transitions to less intense land uses, such as berms with dense landscaping, open space, fences, etc. This green space buffer could accommodate passive uses such as walking trails, etc.

#### **Northeast Corner**

The northeast corner has received approval for a mixture of retail, commercial and residential uses. The retail and commercial uses are located towards the 6<sup>th</sup> Street and George Williams Way frontages, while the residential uses are in the northern portion of the corner. The allocated commercial retail space for this corner is 360,000 square feet. Residential development is limited to the northern

half of the intersection and will be low and high-density neighborhoods. The residential area serves as transition area between the more intensive retail and commercial uses planned within this corner and the planned recreation center and low density residential uses north and east of the study area.

#### Southwest Corner

The southwest corner is meant to ultimately have a mixture of land uses that includes religious, retail and commercial, and employment related uses. The corner currently has a religious use that is designated Public/Institutional. The southern portion of the intersection is designated Office/Industrial/Warehouse. This corner is allocated 25,000 square feet of commercial retail space. A greenspace buffer is located along the southern edge of the intersection and is meant to provide a buffer to future residential uses. There are a number of ways to provide transitions to less intense land uses, such as berms with dense landscaping, open space, fences, etc. This green space buffer could accommodate passive uses such as walking trails, etc.

#### Southeast Corner

Like its northern counterpart, this corner provides opportunity for a variety of residential, commercial, retail, and office activities. The commercial and retail uses will be located along the northern side of the corner along the 6<sup>th</sup> Street frontage and are designated CC600. This corner is allocated 60,000 square feet of retail space. This corner currently has developed and planned low density residential uses along the south portion of the corner. A portion has also been rezoned RM24 (High Density Residential) District and is designated High Density Residential. Further, another portion has been rezoned to RSO (Single-Dwelling Residential – Office) District and is designated Residential Office.

#### **Office/Industrial/Warehouse**

~~The northwest and southwest corners of US 40/6<sup>th</sup> Street and K-10 were designated by the West 6<sup>th</sup> Street/K-10 Nodal Plan for office, research/industrial, and warehouse uses, except for a section designated appropriate for public/institutional activities.~~ A portion of the southwest corner of US 40/6<sup>th</sup> Street and K-10 Highway node is designated Office/Industrial/Warehouse. The intent of the industrial use is to allow for moderate to high-impact uses including large scale or specialized industrial uses. The office and research uses are characterized by businesses involved in technology, research and scientific-related activities and/or office, office research activities that are designed in a campus like setting. A mixing of land uses is appropriate on this corner. See the K-10/US40 Node discussion above for additional information about the particular land uses on each of the intersection's corners.

**Primary Uses:** office, research, industrial and warehouse

**Zoning Districts:** IBP (Industrial/Business Park District), IL (Limited Industrial District), IM (Medium Industrial District) ~~IG (General Industrial District)~~ CO (Commercial Office District), and PD (Planned Development Overlay)

**Intensity:** medium to heavy

#### **Public/Institutional**

This designation recognizes an existing site owned by USD 497 for a future school in the area. It also recognizes an existing church near 6<sup>th</sup> and K-10 and another church at E 902 Rd. and N 1464 Rd.

**Primary Uses:** Cultural center/library, religious assembly, school, utilities, recreational facilities, utility services

**Zoning Districts:** RSO (Single Dwelling Residential-Office), RMO (Multi-Dwelling Residential-Office), and GPI (General Public and Institutional)

**Intensity:** medium

### **Park/Open Space**

The intent of the park/open space use is to provide space for public recreational facilities and natural area preservation.

**Primary Uses:** Park and open space

**Zoning Districts:** GPI (General Public and Institutional District), OS (Open Space), UR (Urban Reserve)

**Intensity:** light

### **Green Space Buffer**

This designation is provided on the northwest and southwest corners of West 6<sup>th</sup> Street and K-10. It is to provide a buffer for lower intensity uses that will be adjacent to the commercial, office, industrial, and warehouse areas. There are a number of ways to provide transitions to less intense land uses, such as berms with dense landscaping, open space, fences, etc. This green space buffer could accommodate passive uses such as walking trails, etc. This is another use category that is carried over from the West 6<sup>th</sup> Street/K-10 Nodal Plan.

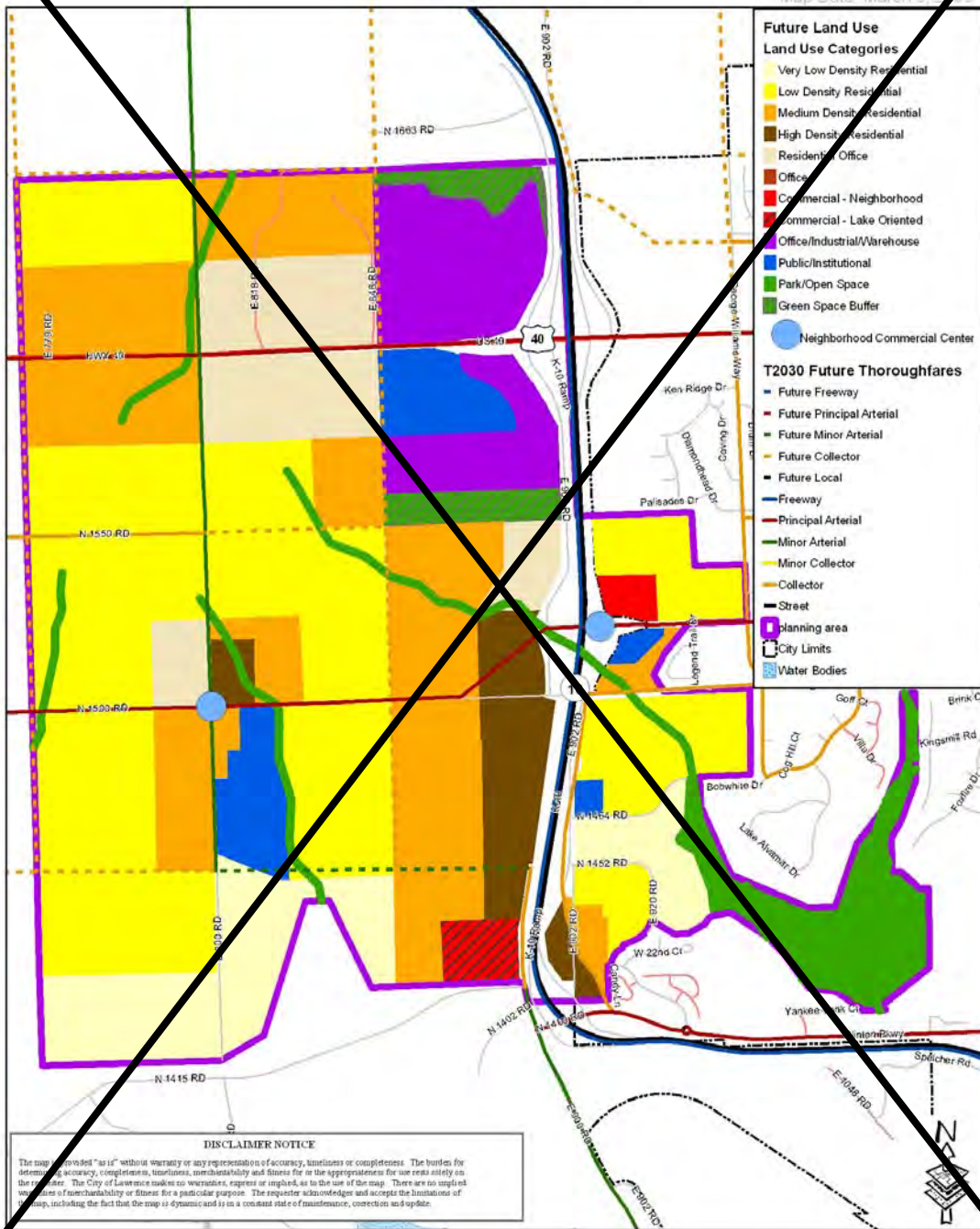
**Primary Uses:** Open Space

**Zoning Districts:** GPI (General Public and Institutional District), OS (Open Space), UR (Urban Reserve)

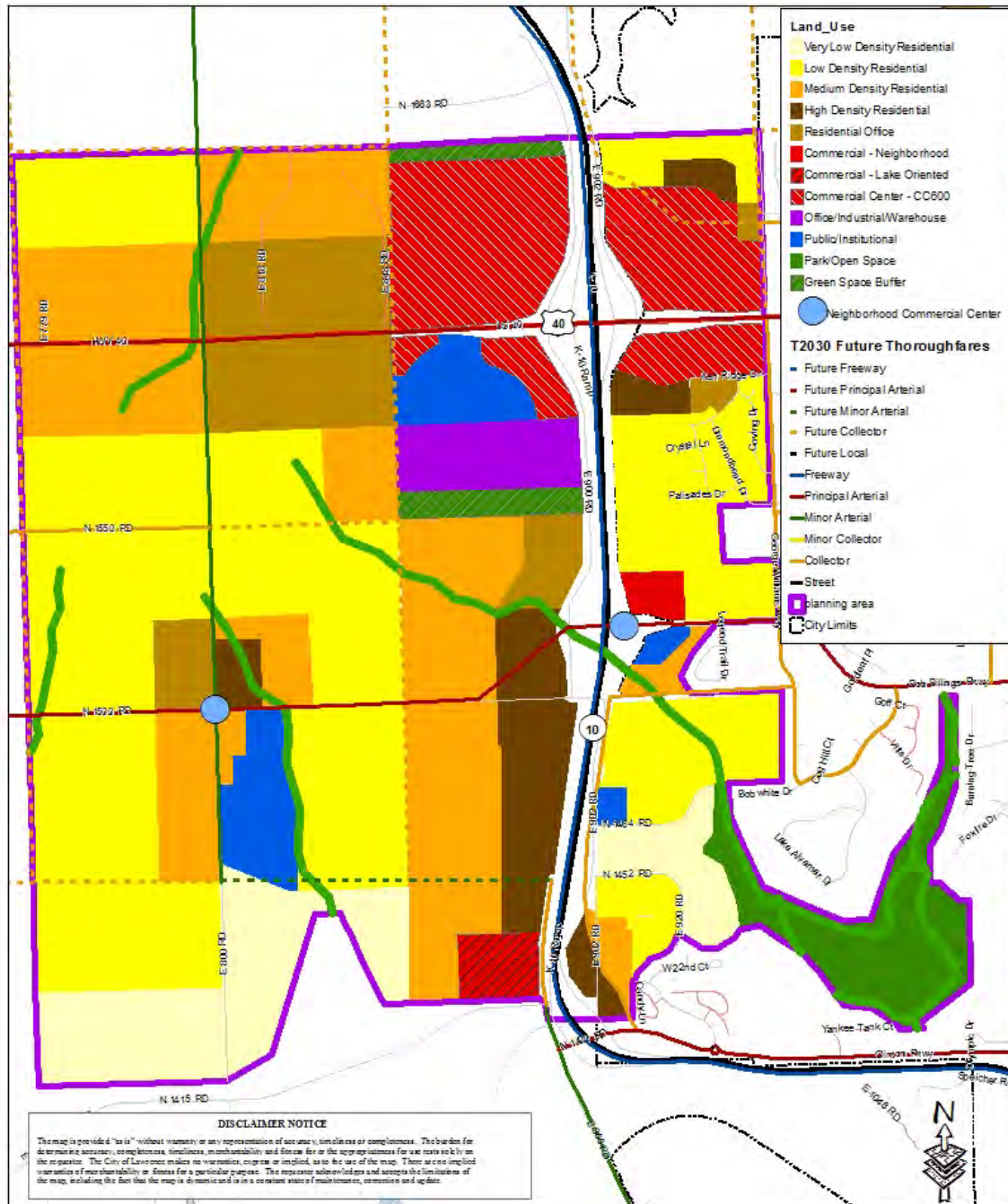
**Intensity:** light

# West of K-10 Plan Map 4-1 Future Land Use

Map Date: March 3, 2013



# West of K-10 Plan Map 4-1 Future Land Use



## **B. TND Future Land Use Model**

Landowners/developers wishing to develop TND neighborhoods in the planning area will have to seek approvals for such development under the *Lawrence SmartCode*. The option for TND development will be available throughout the entire planning area. Map 4-2 provides a visual model of TND neighborhoods organized for the *Lawrence SmartCode*. The regulatory Transect categories of the Lawrence SmartCode are listed below.

### **Lawrence SmartCode Transect Categories**

#### **T5: Urban Center**

This category includes higher intensity with mixed use and significant retail. This zone is what we think of as Main Street.

**Primary Uses:** Retail, office, rowhouses, multi-family.

**Zoning Districts:** T5

**Minimum Base Density:** 24 units/acre

#### **T4: General Urban**

This category is mixed use, but primarily residential urban fabric.

**Primary Uses:** Urban residential.

**Zoning Districts:** T4

**Minimum Base Density:** 12 units/acre

#### **T3: Sub-Urban**

This category is low density, suburban areas that allow home occupations.

**Primary Uses:** Low density suburban residential – allows home occupations.

**Zoning Districts:** T3

**Minimum Base Density:** 4 units/acre

#### **T2: Rural Reserve**

This is land in open or cultivated state or sparsely settled.

**Primary Uses:** very low density residential

**Zoning Districts:** T2

**Minimum Base Density:** 1 unit/20 acre average

#### **T1: Rural Preserve**

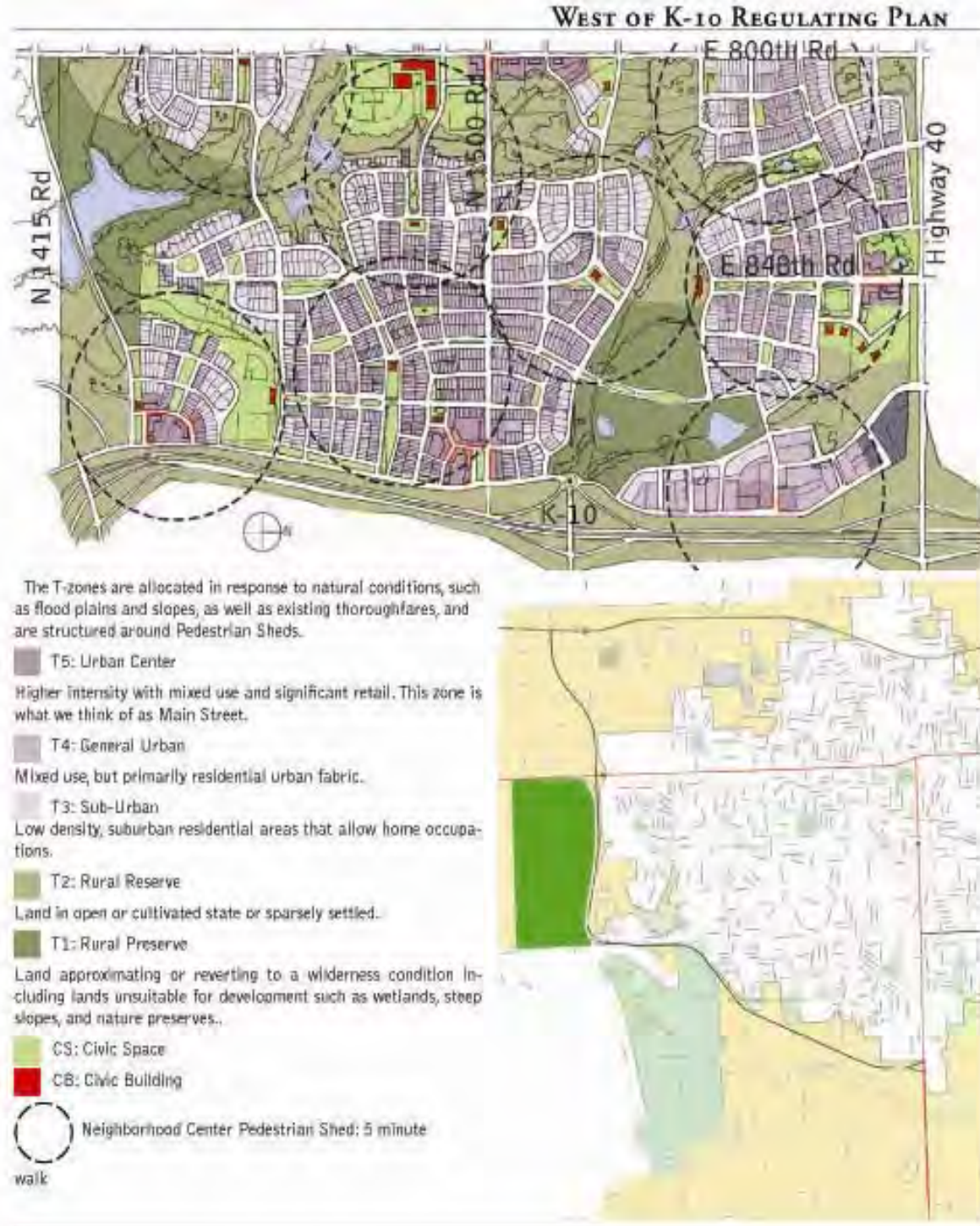
This is land approximating or reverting to a wilderness condition including lands unsuitable for development such as wetlands, steep slopes and nature preserves.

**Primary Uses:** natural area

**Zoning Districts:** T1

**Minimum Base Density:** By Variance Only

**Map 4-2: TND Future Land Use Model**



## **V. Great Neighborhoods**

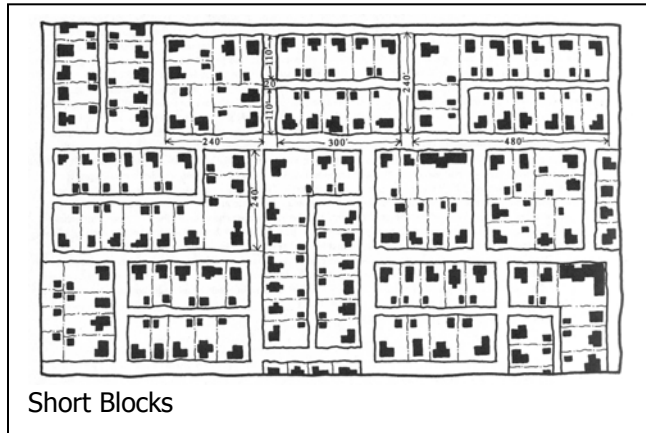
The opportunity to develop unique neighborhoods as Lawrence continues to grow westward is present in the area west of K-10. The key components that will create and knit the neighborhoods together are described below. The following policy language is intended to guide future urban development in a manner that will help create these new neighborhoods to have long lasting value to the community.

### **A. Neighborhood Connectivity**

#### **Streets**

Streets within the various neighborhoods of this area shall be connected to each other. The street pattern within neighborhoods does not have to be a strict grid pattern. Streets can meander if terrain makes it necessary. Cul-de-sacs are discouraged, but are appropriate if terrain makes them necessary. The key is that streets connect to each other within neighborhoods and connect to other neighborhoods. Connected streets provide multiple route options for vehicles which can help eliminate the choke points that are created when cars are forced onto a limited amount of streets that carry traffic in and out of neighborhoods.

A key feature of some vital neighborhoods is short blocks. People utilize short blocks more frequently, and they just feel more alive. Short blocks tend to encourage pedestrian activity, while long blocks can feel unsafe from a lack of pedestrian traffic. Blocks for neighborhoods in the area should be short.



#### **Pedestrians**

Neighborhoods shall also be connected with pedestrian pathways. This includes the most simple of connections of side walks on connected streets. Pathways and trails shall also connect neighborhoods. An extensive system of pedestrian and bike friendly paths could be created by connecting trails in linear parks to the paths on the major roads. Further, where civic uses exist within neighborhoods, all care should be taken to ensure there are safe pedestrian routes and connections to those civic uses. Civic uses include public parks and open space, schools, churches, etc. In addition, commercial development shall be designed to facilitate pedestrian and non-motorized access from abutting areas.

Streets should also be designed to enhance pedestrian safety. Sidewalks shall be placed on both sides of streets. Additionally, parking should be allowed on

one or both sides of the street. This will help to create a slower speed environment for traffic which will help make pedestrian travel safer.

### **Bicycles**

Bicycles are another viable mode of transportation that should be accommodated in the new neighborhoods of this area. Bicycle facilities located on an existing road shall be continued as the road is extended or improved to urban standards. Designated bike routes should be established within this area with attention paid to connecting those routes to the established city system. Bike lanes



Bike Lane

shall be added to the appropriate streets. Further, multi-use paths that accommodate bicycles should be extended into the neighborhoods from the existing city system. Open space areas should be provided and/or acquired along major thoroughfares and along drainage ways for development of pedestrian and bicycle trails. Utility corridors can also be used in conjunction with trails and parks.

### **B. Viewsheds**

There are areas within the planning area that have great views of Lawrence to the east and rural Douglas County to the southeast. These areas deserve protection as they can be assets to future neighborhoods. Effort should be made to prevent these high points from being graded to a lower level. Further, adjacent development should step down or have height limits to protect the views of the higher points.

### **C. Environment**

Care should be taken to design new neighborhoods and developments in this area with the natural layout of the land. Preserving the natural systems already in place prior to development should be a priority for the planning area. Streams should follow their natural paths and should not be rerouted or straightened.

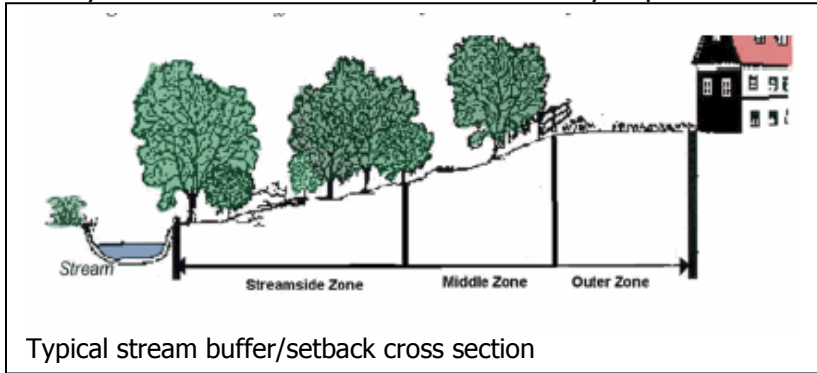


Stream

One way to accomplish the protection of natural systems is with stream buffer or stream setback regulations. The benefits of such regulations include the reduction of erosion and sediment entering the stream,

preserving the base flows of a stream, providing infiltration of stormwater runoff, and stabilizing stream banks.

This Plan encourages the adoption of a city-wide stream buffer or stream setback ordinance by the City of Lawrence. Setback widths will vary dependent upon land use as well as topography. Regional detention should also be encouraged to take advantage of existing natural geographic features when possible.



Clinton Lake is a major provider of water supply to 7 municipalities including Lawrence and 9 Rural Water Districts. Sediment erosion and runoff during urban development in the planning area poses a risk to that water supply. Sediment erosion control during development activities is a priority for the planning area. While the City of Lawrence has controls in place (Section 9-903 of the City Code), this is an important issue that bears extra emphasis in this Plan.

Sensitive lands, as designated by the *Land Development Code* should be preserved and protected per those standards identified in the code. Street rights-of-way, public utility corridors and building sites should be located so as to minimize their impact on environmentally sensitive areas. Where possible, environmentally sensitive areas to be protected should be located within designated public or private open space, either through dedication, a conservation easement, or control by a homeowner's association. If a review indicates that it is not possible or reasonable to protect sensitive features, mitigation should be incorporated.

#### **D. Gateways**

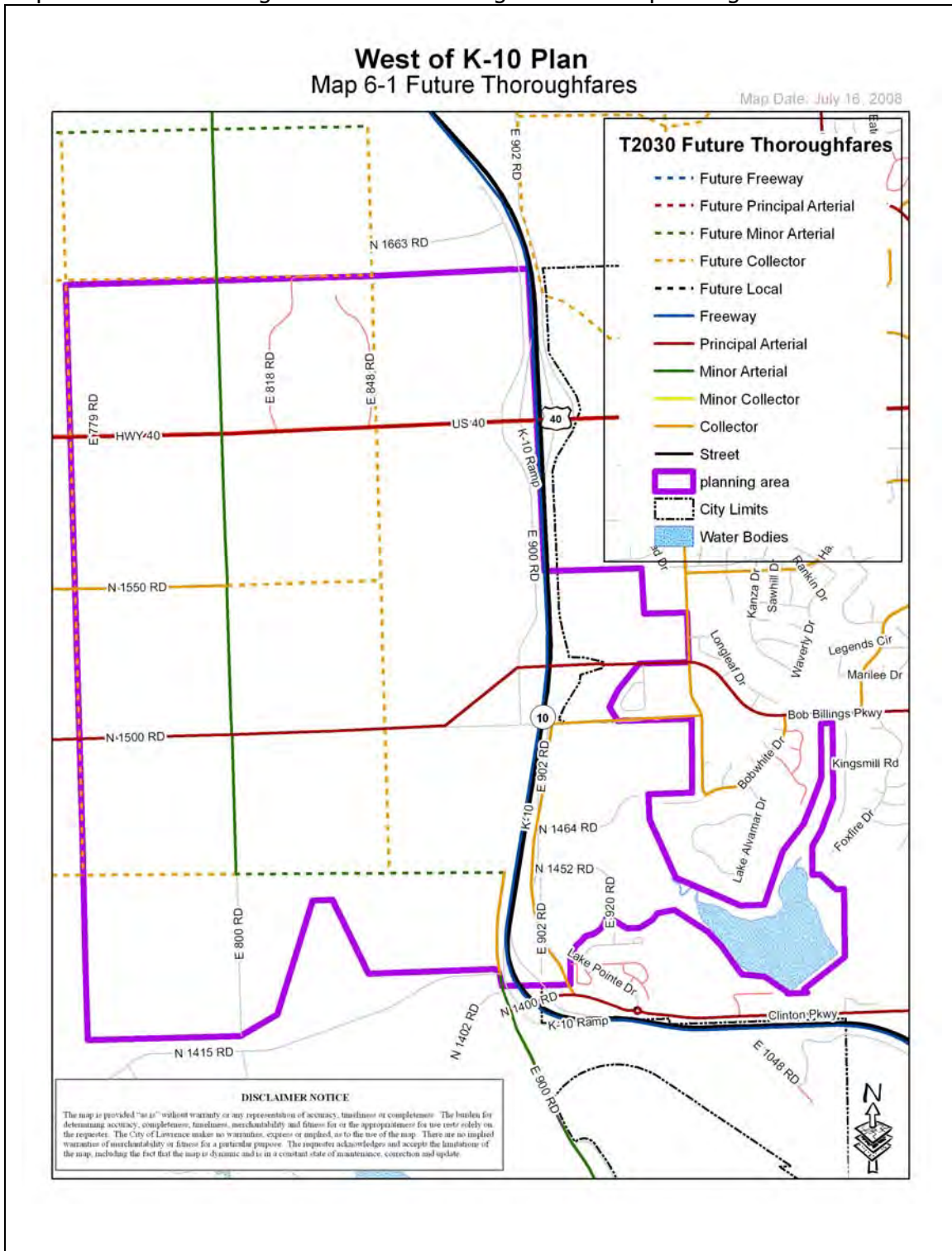
Development shall enhance the identified gateways of the planning area by creating aesthetically pleasing corridors. Aesthetically pleasing landscaped entry ways along gateways should be required. Both public and private property owners are responsible for achieving and maintaining this aesthetically pleasing landscaping.

Further, fencing installations shall incorporate continuous landscaping at the base and edges of the fence to integrate the fence with the site and landscaping. Finally, high quality, aesthetically pleasing building materials should be used.

## VI. Transportation

### A. Future Thoroughfares

Map 6-1 shows the designated Future Thoroughfares in the planning area.



Map 6-1 is derived from Transportation 2030 (T2030), the Long-Range Transportation Plan for Lawrence and Douglas County.

E 900 Rd currently functions as a frontage road to K-10 Highway, although not continuously. E 900 Rd currently extends from the south and stops near the self storage units near Clinton Lake. E 900 Rd also extends from N 1500 Rd north through the planning area. The road does not extend south from N 1500 Rd. This plan deviates from T2030 by recommending that E 900 Rd. connect between N 1500 Rd and where it stops near the self-storage units. This road will serve as future collector road to handle the new urban density in the area and to provide a connection to Clinton Lake.

## **B. US Highway 40/West 6<sup>th</sup> Street**

### **Extraordinary setback**

The 50-foot extraordinary setback, in place for most of W. 6<sup>th</sup> Street between K-10 Highway and Monterey Way, is rooted in the *Western Development Plan*, adopted in 1969. Policy 6 of the *Western Development Plan* states: “A 50 foot easement, in addition to right-of-way required for street and utility purposes, will be required for property being platted adjacent to and on each side of West Sixth Street. This easement will be used as greenspace easement to be landscaped and maintained by the developer or owner of the property”. The 50-foot extraordinary setback rule for West 6<sup>th</sup> Street is located in the joint Lawrence-Douglas County Subdivision Regulations.

This plan recommends establishing an extraordinary setback on US Highway 40 west of K-10 to Stull Road. Establishing the extraordinary setback of 50 feet before urban development begins will help ensure that the cost of right-of-way acquisition for the eventual widening of 6<sup>th</sup> Street will not be increased because of the added cost to acquire buildings that could be constructed before the widening of the roadway. The extraordinary setback should be repealed after 6<sup>th</sup> Street is improved to an urban 5-lane road.

### **Access Management**

US Highway 40/West 6<sup>th</sup> Street is classified as a B Route in a developed area according to the KDOT published *Corridor Management Policy*. According to that policy, B Routes are to be protected by allowing for direct access only when alternative access is infeasible. When direct access is necessary, shared access will be required whenever possible.

The access management standards put in place on West 6<sup>th</sup> Street between K-10 and Wakarusa Drive only allow access to West 6<sup>th</sup> Street every ¼-mile. The access management standards were based on the 1998 West 6<sup>th</sup> Street Access Management Plan. The recommendation of this plan is to continue the access management standards of 6<sup>th</sup> Street east of K-10 as US Highway 40/6<sup>th</sup> Street west of K-10 is improved to an urban principal arterial in the future.

### **Multi-Use Path**

A 10' multi-use path was constructed on one side of 6<sup>th</sup> Street between Wakarusa Drive and K-10 while a 6' sidewalk is on the other side of 6<sup>th</sup> Street. As 6<sup>th</sup> Street is improved west of K-10, it is recommended a 10' multi-use path be constructed on one side of the street and a 6' sidewalk on the other side.



Multi-Use Path on 6<sup>th</sup> Street

### **C. Bob Billings Parkway/15<sup>th</sup> Street**

#### **Bob Billings Parkway Extended**

Bob Billings Parkway currently does not extend to K-10 Highway from the east. Bob Billings Parkway shall be extended to K-10 to provide another connection to K-10 and to provide a direct route to Kansas University from K-10. This connection will help to relieve traffic congestion on 6th Street.

#### **K-10 Highway Intersection**

From the east, E 1500 Road currently intersects K-10 Highway with an at-grade intersection. Bob Billings Parkway does not extend from the east to connect to K-10. Urban development will generate large amounts of traffic for which the existing at-grade intersection is not appropriate.

No urban density development west of K-10 Highway will be approved until the City of Lawrence, Douglas County and/or the Kansas Department of Transportation (KDOT) has approved a financing plan, along with a commitment to construct the improvements within a reasonable timeframe, that will

be implemented to address the K-10/15<sup>th</sup> Street intersection to make it safe to handle urban density traffic. The acceptable solution is a grade separated intersection. Properties north of US Highway 40/6<sup>th</sup> Street and within ½ mile south of US Highway 40/6<sup>th</sup> Street will not have to comply with this policy when they develop to urban densities in the future.



E 1500 Rd & K-10 – looking east toward Lawrence.

Possible financing mechanisms in the approved financing plan could include impact fees. An impact fee is a charge on new development to pay for the construction or expansion of off-site capital improvements that are necessitated

by and benefit the new development. Construction of a new interchange at K-10 Highway and Bob Billings/15<sup>th</sup> Street is a project that would directly benefit the new urban growth west of K-10 Highway.

#### **Multi-Use Path**

A 10' multi-use path should be constructed on one side of an improved Bob Billings/15<sup>th</sup> Street while a 6' sidewalk should be constructed on the other side of the street.

#### **D. E 902 Rd.**

T2030 identifies E 902 Rd. as a future collector street that will access Clinton Parkway. Providing this road and the connection to Clinton Parkway should occur as urban scale development happens in southeast corner of the planning area. This will help accommodate the additional traffic that will be generated with urban development.

T2030 shows this road going north from Clinton Parkway generally parallel to K-10 Highway. As shown in T2030, it turns east at N 1500 Rd and connects to George Williams Way, which will take traffic to Bob Billings Parkway. Providing this connection between Bob Billings Parkway and Clinton Parkway is important as the area urbanizes. The final alignment of the road and how that connection is accommodated will be determined when final design decisions are made. Alternative alignments to connect E 902 Rd directly to Bob Billings Parkway could be considered as well.

#### **E. Transit**

Future transit service for the planning area should be determined to be warranted or not based on the ultimate land use of employment and commercial activity.

## **VII. Community Facilities**

### **A. Fire & Medical**

A new fire and medical station is planned for 6<sup>th</sup> Street and K-10 Highway. The new station will serve some of the existing new growth east of K-10 and a good deal of the new growth west of K-10. It is programmed in the City's CIP budget for 2009.

### **B. Parks, Recreation, and Open Space**

#### **Clinton Lake**

The west of K-10 area is adjacent to Clinton Lake, one of the cornerstone natural areas of the community. The Clinton Lake property contains the Clinton Lake reservoir and park, Sesquicentennial Plaza, Eagle Bend Golf Course, a sports complex and multi-use and nature trails, among other things. Clinton Lake is a regional attraction that is a jewel for the community.

Controlled access to Clinton Lake is vital for its operation and security. Consideration should be given to establishing a controlled vehicular and/or pedestrian connection to the north side of Clinton Lake. Any type of access, pedestrian or vehicular, would need to be planned accordingly and receive all the necessary approvals. Perhaps an opportunity exists to provide a connection by extending E 800 Rd to connect to N 1415 Road just east of the Clinton State Park office. A single point of controlled pedestrian or vehicular access to the lake at this location would benefit the residents in these new neighborhoods and would provide another entrance/exit to the lake.

#### **Co-Located Facilities**

USD 497 and the City of Lawrence co-located facilities when the school district built Free State High School and the City built the Indoor Aquatic Center next door to the school. This model of cooperation and service delivery should be continued west of K-10. USD 497 owns ground west of K-10 for a future school site. Planning for the future school site should happen in conjunction with the City's planning for new park and recreation facilities.



Indoor Aquatic Center

#### **Parks and Open Space**

Connecting parks and open space with pedestrian pathways is encouraged in this area. Each neighborhood must contain parks and open space. Parks and open space should be located on usable land that is easily accessible to the majority of the neighborhood in which it is located. Parks and open space may act as focal

points for neighborhoods and also act as edges for neighborhoods. Additional policy language regarding parks and open space is found in Chapter 9 of *Horizon 2020*.

Lake Alvamar is identified by this plan as open space. The importance of the lake to the planning area is its value as an open space amenity and also as a collection lake for stormwater flowing into it. Maintaining this lake for these purposes is important.

## **VIII. Utilities**

Three master plans prepared for the City – 2003 Water Master Plan, 2003 Wastewater Master Plan, and the Stormwater Management Master Plan – form the policy basis for the necessary infrastructure elements that need to be in place prior to urbanizing the area west of K-10 Highway.

It is important to note from Section II (c) and (g) of this Plan that public utility infrastructure currently in place necessary for urbanizing the planning area west of K-10 Highway is scarce. The following details what infrastructure must be in place prior to urbanizing the area.

### **A. Water**

There is a hydrant and a 16", PVC pipe line southeast of the intersection of US 40 and K-10 which is outside of the Lawrence city limits and another line east of K-10 along Bob Billings Parkway, within the City limits. All other properties obtain water either from private wells or from Rural Water District #1.

The 2003 Water Master Plan (see map 8-1) identifies several improvements designed to serve the area west of K-10 Highway. Due to areas of high ground west of K-10 Highway and an inability to adequately serve the area from the existing West Hills Service Level these improvements include a second water main crossing of K-10 Highway and booster pumping station in the vicinity of N 1500 RD and K-10. For redundancy it would be advisable to have a second water main crossing of K-10 Highway prior to development.

Per the 2003 Water Master Plan the improvements required to extend water service to the west side of K-10 Highway, with the exception of the noted booster pump station and future elevated water storage tank, were to be at the developer's expense.

The water distribution network in this area would be designed and constructed as urban development proceeds.

### **B. Sanitary Sewer**

City sanitary sewer is provided to the majority of the properties east of K-10 that are not within Lawrence city limits. There is one 10" and one 8" PVC City sanitary sewer line that cross K-10 to the north and to the south of N. 1500 Road. A portion of the Yankee Tank Creek No. 3 drainage basin could potentially be served by these existing lines. The capacity of these lines as well as the system downstream of these lines including Pump Station PS09 would need to be evaluated based on proposed development.

Per the 2003 Wastewater Master Plan (see map 8-2) Sanitary Sewer Drainage Basins to the west of Yankee Tank Creek No. 3 will be collected by gravity within each basin and then pumped to the Yankee Tank Creek No. 3 system and conveyed via PS09 for treatment at the Wakarusa Water Reclamation Facility.

These areas will need to be evaluated along with the capacity in the receiving systems downstream to determine any necessary improvements.

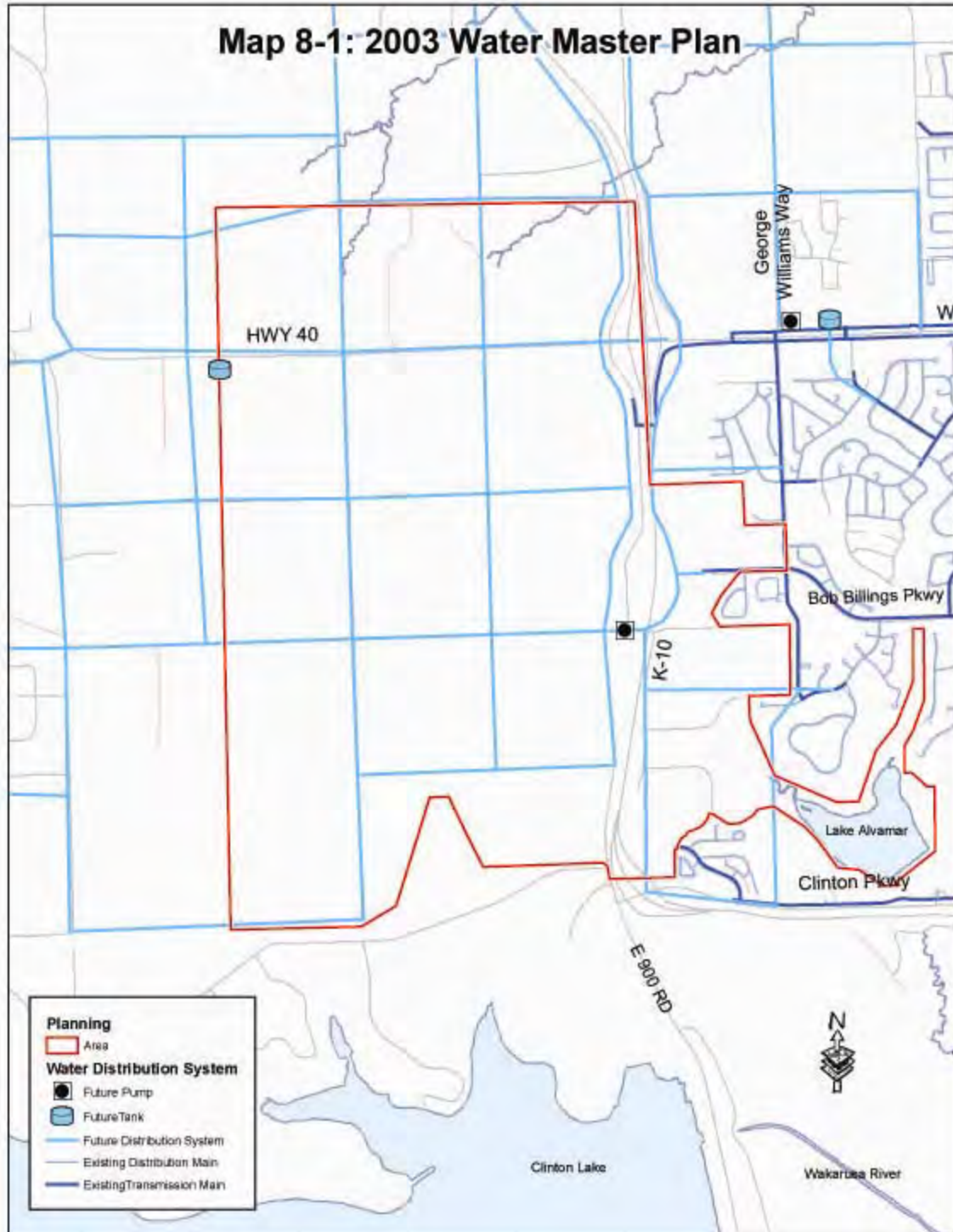
There is a limited area of the Baldwin Creek Drainage Basins immediately south of 6<sup>th</sup> Street. Per the 2003 Wastewater Master Plan these areas are to follow their natural drainage and flow to the north of 6<sup>th</sup> Street for further collection and conveyance.

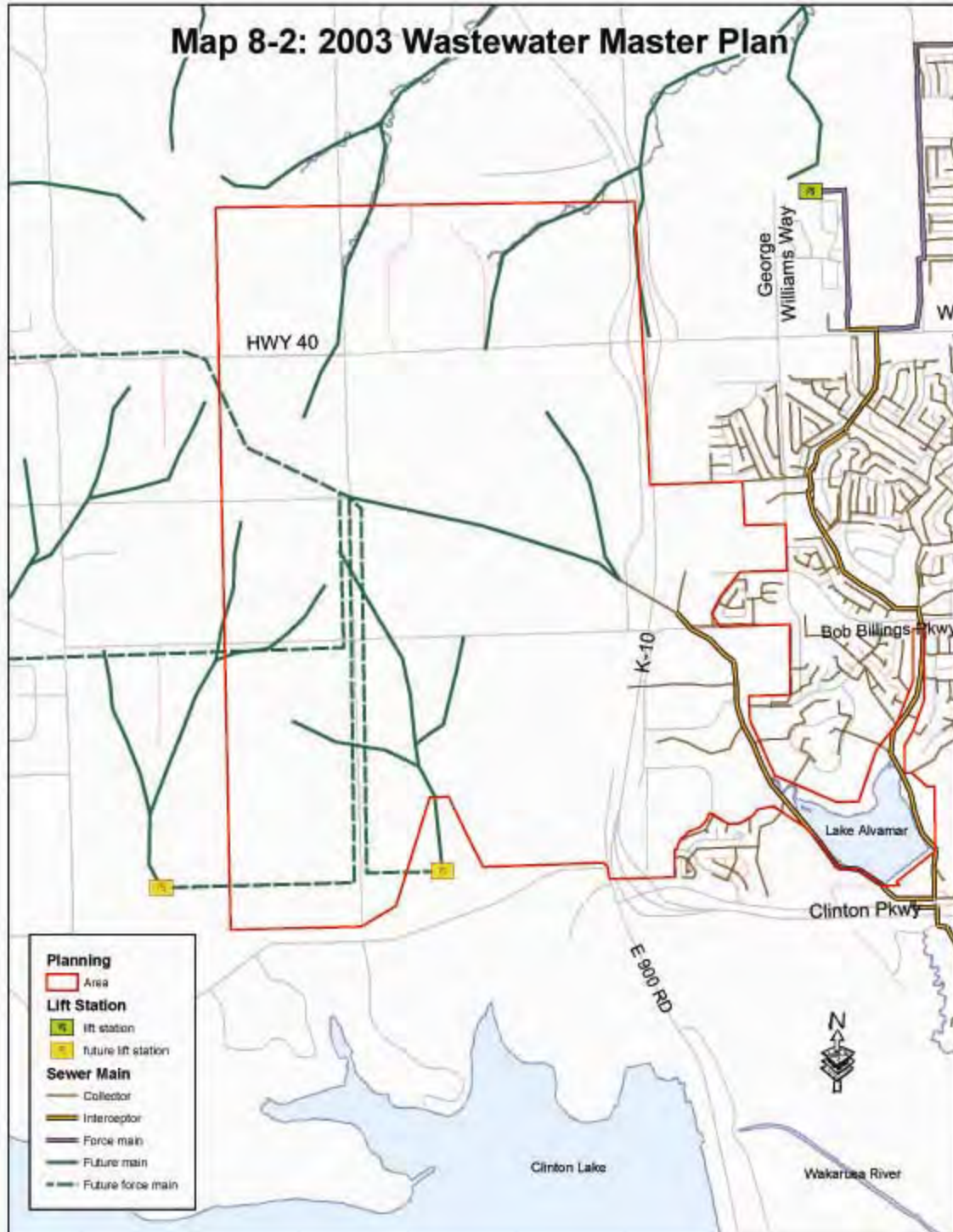
Per the 2003 Wastewater Master Plan the improvements required to extend sanitary sewer service to the west side of K-10, other than those identified as relief improvements to the existing system, were to be at the developer's expense.

### **C. Stormwater**

The City of Lawrence completed its *Stormwater Management Master Plan* in 1996, which generated policy governing storm water management. Basically, the policy requires an engineering study to assure drainage systems are designed for the 10-year return period peak flow with overflow channels sufficient enough to convey the 100-year peak flow. Overflow channels are to be covered by drainage easements with land use restrictions, and natural channels are encouraged to remain in their original location. Detention is required where buildings in the drainage basin downstream from the proposed development are frequently flooded during storm events, or where the required engineering study indicates the proposed development would cause flooding of downstream structures not previously affected.

At the time that the *Stormwater Management Master Plan* was created, the majority of the Baldwin Creek drainage basin was outside of the city limits, but the plan did recommend that it be updated at a point in the future to include the Baldwin Creek drainage basin. The Yankee Tank west drainage basin was identified in the 1996 plan, and was found to have a satisfactory 10-year performance rating on the majority of its systems. The plan did note that the area was still developing at the time and the plan should be updated at some point in the future as development happens. Current City policies regarding stormwater management will affect all incorporated areas.





## IX. Implementation

The purpose of this section is to provide actions that should happen as this Plan is adopted and urban development starts to occur in the planning area. Each implementation action is assigned a group or groups ultimately responsible for completing or approving the action.

- Amend Horizon 2020 Chapter 14, Specific Plans, to include the West of K-10 Sector Plan by reference.

**Who:** Planning Commission, City Commission, County Commission

- Amend Horizon 2020 Chapter 6, Commercial, to change the designation of K-10 and Clinton Parkway from Neighborhood Commercial Center to Community Commercial Center.

**Who:** Planning Commission, City Commission, County Commission

- Adopt the Lawrence SmartCode as a development option for new development and infill in Lawrence.

**Who:** Planning Commission, City Commission

- ~~• Update the *West 6<sup>th</sup> Street/ K-10 Nodal Plan* to reflect adopted Future Land Use designation of the *West of K-10 Plan*.~~

~~**Who:** Planning Commission, City Commission, County Commission~~

- ~~• Amend subdivision regulations to establish a 50' extraordinary setback on US 40/West 6<sup>th</sup> Street west of K-10 Highway.~~

~~**Who:** Planning Commission, City Commission, County Commission~~

- Develop a financing plan to improve the intersection of K-10 Highway and 15<sup>th</sup> Street/Bob Billings Parkway so that it can safely serve urban density development west of K-10.

**Who:** City Commission, County Commission, KDOT

- Amend Horizon 2020 Chapter 3, General Plan Overview, Map 3-1 Lawrence Urban Growth Area Service Areas & Future Land Use, to reflect the adopted future land use.

**Who:** Planning Commission, City Commission, County Commission

- Create and adopt a stream buffer or stream setback ordinance.

**Who:** Planning Commission, City Commission

**Moved by Cromwell, seconded by Dever,** to refer back to the Building Code Board of Appeals the amendments to the International Codes suggested by the Lawrence Homebuilders Association. Motion carried unanimously.

**Moved by Dever, seconded by Amyx** to refer to staff and the appropriate board(s) consideration of permitting requirements for wells within the city limits. Motion carried unanimously.

2. **Reconsider the following items related to the NW quadrant of the intersection of W. 6<sup>th</sup> Street/Hwy 40 and Kansas Hwy 10 (K-10):**

- a) **Reconsider Comprehensive Plan Amendment, CPA-4-2-12, to Chapter 6 of Horizon 2020 to create CC600 District policies and to Chapter 14 Specific Plans, to revise the West of K-10 Plan and A Nodal Plan for the Intersection of West 6th Street & Kansas Highway 10 (K-10) designating the node of 6th Street and K-10 as a CC600. (PC Item 9; approved with modifications 7-0 on 10/24/12)**
- b) **Reconsider Text Amendment, TA-4-3-12, to the City of Lawrence Land Development Code, Articles 1, 2 and 13, to provide for a CC600 (Community Commercial) District. (PC Item 10; on 10/24/12)**
- c) **Reconsider rezoning, Z-4-5-12, approximately 146 acres located in the NW quadrant of the intersection of West 6<sup>th</sup> Street/Hwy 40 and Kansas Hwy 10 (K-10) from County A (Agriculture) District and County B1 (Neighborhood Business) District to the pending district CC600 (Community Commercial) District to accommodate a regional recreation facility. (PC Item 11; on 10/24/12)**

Scott McCullough, Director of Planning and Development Services, presented the staff report.

Schumm said when McCullough mentioned in addition to the retail 600,000 square feet there were other uses allowed, was there was a cap on those other uses?

McCullough said no, just the zoning boundaries itself would cap.

Dever asked about originally allocating the 180,000 square feet of retail on the 146 acre parcel.

McCullough said essentially the policies allowed the maximum of 90 percent and at the time Rock Chalk Park was proposed, it was believed and analyzed by staff that the majority of the commercial use should be adjacent to Rock Chalk Park to support it. It left 600,000 square feet to go to the south parcels as well and reached that maximum 90 percent maximum because of the desire to place the commercial as close to Rock Chalk Park as possible.

Jane Eldredge said at the May Planning Commission meeting, when the Planning Commission initially approved all three requests, staff was asked specifically whether those request would be recommended by staff, if the Recreation Center did not land at this location. Staff was clear that this would be recommended with or without the recreation center. Later, at a Planning Commission meeting it was elaborated on to make it clear that the growth of the City was going to the west and that the need for identifying additional commercial and retail existed at this location and this would be an appropriate time to implement the comp plan, text amendment and zoning. Furthermore, after the City Commission had deferred this request 3 or 4 times and ultimately referred the request without indicating an approval or disapproval to the Planning Commission, the Planning Commission had some significant changes with only 7 members present, 3 of whom were new and did not have the background information. They did make recommendations regarding the appropriateness of the comp plan, text amendments and the zoning issues. Those recommendations were before the City Commission. She said she also wanted to appreciate staff pointing out in their memorandum to the City Commission that the reason the Planning Commission only had 1 night to consider what the effect of the move of the rec center, because it was not in the interest of the applicant or the neighbors to have multiple and long term visits back and forth. Both the applicant and these neighbors had many meetings with the Planning and City Commissions and they believed it was now time for

the City Commission to act. They requested not having a new set of criteria to send back to the Planning Commission and vote this item up or down this evening.

Mayor Schumm called for public comment.

Price Banks said the proposal was a rezoning request, it had nothing to do with City Planning or good urban design, but simply following the recent pattern of replacing good planning principles with "let's make a deal." He said today plans mean nothing. Land use decisions depend on who owned the land and what the developer and landowner were willing to bring to the table. Whenever a proposal was contrary to the plan or frequently contrary to the plan, the plan was amended or a new plan was drafted and in this area was a virtual ping pong game between all the parties. Decision makers no longer consider the plans as part of the process prior to the decision. Plans were considered to be mere necessary encumbrances and obstacles to be dealt with after the decision was made. Our professional planners were charged with not planning, but with creating mechanisms to navigate the maze of obstructions placed by regulation and to do so without embarrassing the Commissioners. Too often land use decisions were accomplished with a wink and a nod outside of the planning process. City planning ought to create stability in the community. Folks should be able to invest in homes and businesses with reasonable expectation of what the future would bring for their investments and what the surrounding environment would be. That would no longer be the case in Lawrence if continuing to eschew planning principles in favor of "let's make a deal." The City was losing the opportunity to create inviting gateways along major transportation routes leading into Lawrence and instead, continuing to create trashy gauntlets of strip commercial development and big box stores that need to be painfully navigated before a visitor arrived at the jewel that was the City of Lawrence. He said he implored the City Commission to bring this concern to a halt and to

again establish good planning principles. In the current situation, that would mean denying the rezoning of this property.

Melinda Henderson, President of the League of Women Voters, said in October they had asked the Planning Commission to consider this location, identified in some of the previous plans for employment related zoning, as part of the gateway to the community. In their cover letter she made the point that they wanted the City Commission to be aware of what they had asked the Planning Commission because this northwest corner could be the ideal future location for employment related land uses. They heard over and over again that there was not enough land designated for primary jobs and commercial/retail did not provide primary jobs. If they lost this area, she asked where would all those jobs go or would they not get those jobs because there was not a good location. One party she had not heard from or seen any comments regarding this particular area and its potential uses or zonings, was either the Joint Economic Development Council, which their mission was to help provide an overall vision of future economic development, or whoever was doing economic development right now. That silence told her that they're not concerned about the possibility of not utilizing this area for primary jobs for the future which told her that the City must be doing okay as far as planning for the future. She asked if it was okay to lose this acreage.

Mary Jo Shaney said she was a lawyer with the White, Goss, Bowers, March, Shulte and Weisenfels, KCMO, on behalf of Steve and Duane Schwada and their connection to the gateway project. She said on behalf of the Schwadas she asked that the City Commission approve the rezoning that had been considered by the City and Planning Commissioners. She said this project could be approved because it was a fit in the Planning Commission sense. The Planning Commission in May 2012 and more recently October and December 2012, had considered, analyzed and looked at whether or not this northwest quadrant was appropriate for a portion of

the CC600 zoning, the approximate 180,000 square feet of retail. The Planning Commission had determined without regard whether the Rec Center appeared at that location, in very much tandem, with the Rock Chalk Project that was approved. Also she said she would identify commitment as part of the reason she asked this body to approve the rezoning. By commitment she meant a couple of things, there was a sense of a bargain that was implicit in what was going on with the gateway project. She said back in October of 2011, when the Schwadas first approached the City Commission and offered to donate property to make a go of things with a recreation center that changed course in February of 2012, KU became involved as well of other parties and the Schwadas with their part of the bargain which was with their property at the northwest quadrant. The Schwadas had faith in the process of this City and went with the City through the annexation and Planning Commission process and had been waiting and committed to this project, property and City as good citizens individually and as good corporate citizens.

Finally, the delay of the project, but could not understate the importance to the property owner and its expectations of certainty as to what was going to happen with this piece of property. She said based on the things she read, it was working and working quite well in tandem with the gateway project. She asked the City Commission to approve the rezoning and the other items on the gateway project.

Michael Kelsoe, resident living north of the proposed CC600 land, said their neighborhood was dubious about that land being taken out of agriculture and put into some commercial retail zoning when it was being annexed. Legal counsel was sought and hired to represent the neighborhood rights so that they would feel comfortable with the final result. He said the residents and legal counsel came to the Planning and City Commission meetings, attended countless neighborhood meetings and also met with the landowner. He said they decided to end their legal counsel and to agree that CC600 would probably be the best fit for

their neighborhood which was approximately 60 acres. He said they had been looking at this issue for over 6 months and it was their belief that CC600 gave them piece of mind knowing what would be at that location and would be a good fit for a gateway into Lawrence from the west and hopefully support the other 3 quadrants in that nodal area. He said they were just 12 lots, but had done a lot of critical thinking and were in total support of CC600.

Schumm asked about the 60 acres and if it was the land to the north

Kelsoe said yes. There were 5 to 7 acres lots.

Schumm asked if Kelsoe was speaking for the entire neighborhood.

Kelsoe said in his discussions with the neighborhood property owners, a majority, if not all of those property owners, were comfortable with CC600. Other neighbors that live elsewhere, he could not speak for. He said this decision had not been arrived at by some quick guess, the neighborhood felt it would be a good fit.

Ron Crawford, Lawrence, said he was active in this town, including being a member of the Chamber of Commerce studying different issues associated with zoning and gateways into this City. He said the Chamber at that time talked about careful planning on the gateway locations coming into the City. He said his encouragement was to make sure they were doing appropriate planning for that area. He said the Planners needed to make sure that was a true fit in light of the development from a gateway and neighborhood prospective. The concern he had was with the primary job location and he did not think this was a good primary job location. He said he wanted to make sure the City Commission understood, as a property owner, he wanted this project to be done well and be carefully planned out and not have amendment after amendment making it come out totally different than what everybody, at first, worked really hard to come up with. He said they thought they were on the right track, but might not be which would be a challenge to the City Commission in taking this extremely

seriously to decide what was the best use as a gateway. He said it might cost more time and delays, but it was an important piece and would be the only time to touch this node.

Schumm asked if Crawford had the pasture to the west.

Crawford said all his land was directly west on 40 Highway.

Dever said in looking over items for Regular Agenda Item No. 2, A, B and C, he did not see any specific language that specified the amount of retail square footage that was being discussed for allocation with the zoning 146 acre parcel located at the northwest quadrant.

McCullough said the recommendation was changed at the November Planning Commission meeting, but the original proposal contained language in Horizon 2020 that created the overarching policies that established the location at 2 State Highways as a minimum and no greater than 90% be allocated to two corners. Staff took those policies, applied those policies to the 6<sup>th</sup> and K-10 Node and in the west of K-10 Plan which was also up for revision, created language that assigned the 360,000 square feet to Mercato and 180,000 square feet to the northwest area and that was implemented further in the rezoning request that was conditioned and capped at 180,000 square feet.

Carter said on the residential component, he asked McCullough to clarify what type of residential.

McCullough said in the CC600 District there were only a few residential uses. In a CC600 District, by the way the code was drafted, the CC District can't become a primarily apartment district and wanted it to be commercial in nature, but it did permit certain limits of apartment units and were capped as a mixed use structure at 50% residential/50% non-residential. Apartments could have absorption rates that go rather quickly. Staff did not want a CC node to be developed primarily as an apartment complex and that was why there was some use standards associated with those housing types.

Carter said where it stated 50% on both non-ground floor structure and the multi-dwelling structure, he asked if it meant 50% of any given structure which could be apartments versus retail or the actual development.

McCullough said he had to review the use standard more specifically, but the idea was that it was per-structure or project and that it was no greater than 50%

Carter said he was trying to get a handle on how many apartments they would be opening themselves up to, in this development, with those being allowed.

McCullough said it could be quite a few. It was a product type that they didn't see a lot of in the community, but it did exist. Therefore, the benefit was trying to get some mixed use in commercial areas as well.

Amyx asked McCullough to go over the actions that the City Commission could take.

McCullough said one of the issues to review was what the Planning Commission recommended to the City Commission in October 2012. Essentially there were items before the City Commission, if breaking down the parts were language in Horizon 2020, Chapter 6, which created the policies and tool for CC600. As part of the Comprehensive Plan Amendment, they applied that CC600 to the node itself, to the West of K-10 Plan, a sector plan. The Planning Commission originally approved that package of applications and in November and October when the Planning Commission reconsidered it, they divorced those two items. They recommended to the City Commission to approve placing the tool in Horizon 2020, but not employing it on the node itself. It would be put into Horizon 2020, but none of their nodes would be designated as a CC600. They would have the ability to use that in the future, even at this site, but the Planning Commission recommended not using it at this site in October. He said there was the development code application which essentially created the district in the City's zoning code and the Planning Commission recommended approval in May and October and then

the rezoning application on 146 acres, a specific site, that the Planning Commission initially approved and recommended approval and then in October, based on the process frustration, recommended denial by a split vote on that issue. The memo laid out all of the different options available to the City Commission which essentially the City Commission could approve the original recommendation as presented by the Planning Commission which was the entire set of applications; approve it as the Planning Commission recommended in October giving the City the tool of CC600, but not employ it at this node and don't rezone the property; and, return one or more of the applications to the Planning Commission which was their last request to the City Commission in November. Also, the City Commission could deny any or all the request, or withdraw the request. The rezoning did require a 4-1 vote because of the valid protest petition.

Amyx said in the memo, one of staff's recommendations was that the City Commission supported the CC600 and send it back asking the Planning Commission to make a recommendation to this body on that split of what that use should be on those four corners.

McCullough said yes, that was one option.

Dever said he kept harping on this square foot allocation because he tried to analyze how the City Commission could go about moving forward with the creation of the CC600 district, applying this district to this important gateway to this community. Also, trying to create a way or place for appropriate development to occur that would coincide with its tremendous investment that the University of Kansas planned on making within 500 feet of this site. He said he was initially in favor of moving forward and appreciated the decision to withdraw and reconsider this matter. He said he wanted to do the math since he looked at land and try to figure out a good way to plan it based on the best of his abilities. He said if the City Commission were going to send this matter back, McCullough mentioned that the City Commission could agree to two of the items and send it back to the Planning Commission for

their assessment on how to properly allocate the remaining 240,000 square feet of retail. He said basically there was 600,000 square feet total, 360,000 square feet spoken for, and 240,000 square feet to divvy up and asked how that should be done. He said he added up the total acreage of that quadrant that was available for development and come up with a completely random and mathematical way of distributing the square footage based on the acreage of land. He said he wanted to point out a couple of issues. One issue was that Henderson spoke about the City Commission making choices and the City Commission had to make choices about moving forward, but he didn't think the City Commission was compromising their ability to have any jobs at this location. The total square footage of land, at this location, was over 8 ½ million square feet of land. They were talking about designating 240,000 square feet of that land for retail which equated to roughly 2.5% of the land being designated for retail. He said for him, that was not a huge commitment because that was less than 10% and what they were talking about was not going to discourage other types of land use or development at that location and would not hinder additional office job creating opportunities. By agreeing to this district and assigning this square footage of land for retail purpose, for him it was a drop in the bucket and would be a good start. He said there was 8 ½ million square feet of land and divide 240,000 square foot by that 8 ½ million square feet, he came up with the number of .028 square feet. The bottom line was that the math added up to about each acre would receive about 1,227 square feet of retail. He said when he did the math backwards, he came up with 179,142 square foot of retail based strictly on acreage on the land that was available, for the northwest quadrant 22,822 square feet, southwest quadrant 38,000 square feet. He said it was a little off because it was a tiny parcel to the west. He said if he was going to ask the Planning Commission to consider how to allocate that land, he wanted to try and do the math to see where they stood. It seemed like the 180,000 square foot allocation, he wondered how they got

there, but it was strictly based on 90% of the retail being in two quadrants and that number added up to 180,000 square feet, but based on the 146 acres of land on that corner, he thought the number supported at least 178,000 or 179,000 square feet of retail, if just assessing based on square foot or based on total acreage of each parcel. He said he wanted to try and do this in a way that would make sense to him and how to distribute fairly among the landowners and stay true to some of the original recommendations which was to allocate a lion's share to two quadrants and the remaining square footage to the remaining acreage. He said he did not know how the Planning Commission could sit down and divvy up this land any differently than this, not to mention he believed that would be a reasonable allocation based on the support from the neighbors, based on the size of the piece of land, and the access available on that side of the property once KDOT was done with the intersection. He said what he anticipated the Planning Commission would do, he did not know, but he wanted to be fair with the landowners and allocate this in a fair basis and numbers added up to what the Planning Department came up with to begin with. He said he was fairly convinced this was a reasonable application and planning that would be necessary to create the kind of development this City needed to support this over \$50 million dollar investment in this community by Kansas Athletics. He said he was open to ideas, but wanted to share how he analyzed this issue and whether they should give this back to planning and start over again, or whether or not the City Commission would ultimately make that decision.

Schumm asked if 8 ½ million equaled the three intersections

Dever said yes.

Schumm said the Schwada property looked like it had 5 ½ million square feet.

Dever said he came up with 6,359,000.

Schumm said he had not changed from where he started out at. He listened to people comment, the City Commission voted to withdraw it, voted to rescind the withdrawal, and sent it back to the Planning Commission. He said he was still of the opinion, based on commentary made tonight that this should be planned and the Planning Commission should be the Commission that stated this was the way it should be. The Planning Commission did say it should be a certain way when the regional recreation center was on that side of K-10, but that had changed and with that change, he thought it was important to include them in the mix in terms of what they felt it should be. He appreciated Dever's analysis on the ratio and proportion of zoned land and retail versus total acreage, but he did not know that meant that was the best placement for each tract of land in terms of its total amount. There might be geographical features that alter that analysis and it might be the access that was available. He said sometimes there could be a parcel of land too small to where it didn't effectively do much and there was 60,000 square feet left over for 2 intersections that were small in terms of the regional type center and the types of businesses that might go in at that location. He said it might effectively preclude much of anything on the south side of that intersection based on just the small amount of land that was available to not go over the 600,000 square foot that was allowed at that intersection. He said his opinion had not changed and he wanted to see the Planning Commission do their work. He said he didn't see that anyone would get hurt in the mean time because there wasn't exactly a land rush going on right now. He said he would feel better if the Planning Commission had a chance to look at this issue in light of the change from the west side to the east side of the regional recreation center.

Carter said the point made by the Mayor, as far as the change of location, in that May meeting when the Planning Commission voted 9-0, they had a recap of that at the last Planning Commission meeting and had 5 discussion points for the Commission to consider and item no.

5. The Planning Commission with a 9-0 vote indicated that CC600 was a valid land use pattern versus industrial warehouse, regardless of whether the rec center was to be placed at that location. He said he felt bad for those Planning Commissioners because they were caught off guard and some of that group wasn't present for the last discussion. There were only 3 or 4 of the original Planning Commissioners that spent the time on this issue that were at that last meeting. He said the rec center was not at that location, but adjacent and felt they had a good recommendation and didn't think it would hurt to go back if that was the City Commission's desire. He said in the latest Planning Commission meeting, the Commission struggled and were caught off guard, but the process said they had to make a decision quickly. He appreciated that the Planning Commission grappled with that issue and wanted to take more time for review. One of the things that contributed to their concerns was that the City Commission asked the Planning Commission to revisit the May decision and look at appropriateness of whether it was an appropriate land use, based on where the rec center had moved to. He said within those same discussion points, the Commission asked that they provide an innovative idea that set this area apart from other nodes. He said he saw in the Planning Commission minutes that a lot of them struggled and were saying they were sent back not just to look to see if this was an appropriate language, but to come up with an innovation idea.

He said he heard from one or two Commissioners that they needed to come up with something that limited the number of vehicle trips and while that was noble, it was not necessarily what they were looking for, but appropriate land use. He said he was not sure they needed to go back and start from scratch, but he was not necessarily opposed to that idea. He said he was comfortable moving forward. He said it was a very significant change with the Rock Chalk Park having moved and there were varying opinions on how significant that change was. It was virtually an adjacent property and was very close in proximity. When looking at the

Mercato site, it had 360,000 square feet, but that would be mostly used up with a couple of big box stores. He said Bauer Farm would be a beneficiary of this and hoped that would drive some infill at that location, but there were very appropriate uses closer to Rock Chalk Park at that intersection that would make sense. Losing the island zoning was a bit of a concern, but as he thought about it, administrative and professional positions and offices were certainly allowed in this designation and thought there was great opportunity for primary jobs. He said to Mr. Banks points, he said that area plans, like the northwest sector plan, were not zoning but long-term plans. He said for any community good planning was to maintain flexibility as conditions change whether it was the economy or something as significant that was just done adjacent to this property. He said Lawrence values neighborhood input as part as good planning and in this case, they had so many months of the stakeholders being at the table and the neighborhood input. What they came up with was this zoning. He said further, when looking at the effect of this change versus having an IL District at that location, for instance, if they left it at IL zoning, this was protecting the gateway and improved the gateway. He said approved uses for IL included cemeteries, shelters, community meal programs, mobile homes, a jail - which were uses that were stricken per agreements with neighbors and stakeholders involved. He said the Schwadas had done quality work and were innovative. They sparked this whole discussion with the Rec Center by coming up with a very out-of-the-box idea. He said he wasn't sure what would go in at that location, but of the approved uses, he had confidence that it would add value to the community, add value and supplement the Rec Center, and would be a gateway. He said this area might not develop for quite some time, but what was said at the last Planning Commission meeting was that development did not happen all at once or overnight, but they needed to get somewhere ahead of the market and ensure the commercial areas were available when the market needs it. He said what they had just done with Rock Chalk Park was

extremely exciting and there was no question it would spur some demand, but might be many years down the road, but the truth was that zoning could always be changed. He said for those reasons, he would be comfortable moving forward with all three of the agenda items at this time. The 180,000 square feet of retail was on 146 acres and left an awful lot of room for other great things to happen, including jobs.

Cromwell said there was a major change as far as planning and then they had that regional recreation center that wasn't conceived as a possibility back when they were drafting this planning document. He said he didn't think it was a "wink and a nod" and resented the tone that implied a backroom deal. He said the City Commission was working with what they had along with the changing scenario, trying to do the best they could and would hope to have that much respect for what they were trying to accomplish. He said it could be that the CC600 was an appropriate potential use at that site and he respected the Planning Commission's desire to take a look at the allocation of the retail. He said he would support sending it back to planning indicating that the CC600 designation was probably a good use.

Amyx asked about the Mayor's comment regarding the Planning Commission review with the City Commission's support of the proposed CC600.

Schumm said he felt that they should look toward the CC600 as being established at that intersection, based on what the City Commission presumed would happen in that area which was the Regional Recreation Center that would be finalized in February. However, if they sent it back with those ideas and it did not materialize, then they would have time to make an adjustment again if it came back from the Planning Commission. He said he firmly believed that the Recreational Center was driving the additional 200 square foot of retail that they were contemplating.

Amyx said he appreciated Commissioner Dever's work on the ratios for those properties. He said he had concern about sending this item back directly with the support of the City Commission in saying that CC600 should be at this location because he did not want to preclude a better place in this community. If they were allowing the Planning Commission to review this site and would come back as a strong CC600 recommendation, it would be hard not to support it. He said his main concern was the effect on other parts of the community, specifically downtown. He said planning staff had done a great job, but it was a lot of square footage. He said he appreciated Commissioner Carter's comments about preparing for the future and what that would look like, but there had been a lot of investment made for public improvements and infrastructure in the area, realizing they were waiting on that building permit to be pulled. He said he was willing to send this item back to the Planning Commission, but had a concern about City Commission support for the CC600 at this time.

Carter said Commissioner Amyx brought up a good point about infrastructure. He said they looked at the Rec Center being at that location before, thus participating significantly in getting the infrastructure at that location. He said he assumed that was all off the table and to be determined. As far as that goes, if it was retail that was for another Commission to decide and did not see them wanting to do a lot with infrastructure, which fell on the developer. He said residential was his one concern about that use and with being a 50% ratio that equated to a lot of apartments. As far as the highest and best use, they did a good job in excluding certain uses for the City's gateway into this community. If an owner wanted residential and the neighbors approved, he was not one that was big on stepping into the free market and saying they didn't need more apartments. He said he was not excited about residential being part of that plan.

McCullough said that issue didn't receive a lot of discussion at the Planning Commission meeting. They reviewed a list of uses, recommended uses and what was being struck, but that particular category of uses didn't get the kind of discussion that Commissioner Carter brought to the table.

Schumm said staff's memo indicated that they believed the Planning Commission could look at this in the context of the legal requirements of one meeting and possibly come up with the allocation of this square footage across the node.

McCullough said if this item was returned to the Planning Commission with that specific comment, then it could be accomplished in what they believed was state law limitations on how many meetings they could have to review the City Commission's comments and come up with a recommendation.

Schumm asked if the scenario would be presenting the Commissioners with a variety of different options in terms of allocations.

McCullough said they would look at analyzing it along the lines that Commissioner Dever pointed out and other ways to look at the allocation of use, taking into account other principles such as how much land was available on those different corners, what the going home routes would be on traffic patterns because that sometimes affected retail use, and provide other options for the Planning Commission to consider.

Schumm said by returning this item to the Planning Commission this allowed the applicant and application to stay alive at this point.

McCullough said correct. He said if the application were denied or withdrawn there would be a 12 month waiting period unless there was a significant change to the rezoning application.

Schumm said the only difference was that it would make the applicant sit out for a year unless there was substantial change before they could ask for rezoning.

McCullough said if it was denied and the Planning Commission was tasked with spending this year to completely review this item on a clean slate, then they would essentially have the opportunity to implement whatever new plan came from that exercise, ask for rezonings compliant with that plan which they would assume would be different than the CC600 which was significantly different and they would be able to come in before that 12 month window.

Amyx said they had a one-time chance of developing this area or making a recommendation of what that area would look like, and he asked if the Planning Commission had to accomplish a recommendation in one meeting.

McCullough said they shouldn't lose sight of the effort that had gone into this item. Even with any adoption that was done today, it was only as solid as you understand comprehensive planning and zoning to be because any owner had the ability to come in and request a new planning designation. He said they talked to the Planning Commission as sector plans were developed, that was what they considered at that time under those circumstances, the best land use pattern. It was not the only land use pattern, but the best one given those circumstances. Several years ago when the West of K-10 Plan was developed, they made a very good decision about what the land use was going to be at that node. Since then, they did things with industrial development and the Rock Chalk Park that changed circumstances. He said when they had discussions about this proposal, they talked about the current plan being valid, but also agreed that this plan also served the community and the gateway well. He said they would always be faced with changing circumstances and the ability to be flexible in planning to meet those demands.

Schumm said it sounded as though this item would be sent back to the Planning Commission and the City Commission needed to decide if it was in the best interest of the City to keep this application viable or to withdraw this application and let the process start over.

McCullough said those were two options. If the City Commission withdraws the application and initiated a new plan amendment, the Planning Commission would not be bound by one night to get it done.

Schumm said they had conversation at the staff meeting about there being a lot of conversation and neighbors with input. There was a lot of agreement already then it was not like starting new.

Dever asked if a simple majority was needed in order to approve the Comprehensive Plan amendment or was the zoning the only thing that required a super majority.

McCullough said yes.

Dever said the City Commission could vote on items A and B which only require a simple majority as to whether or not the City Commission believed that there was merit to the CC600 zoning district in the City's policy and whether or not this was an appropriate location. He said the Planning Commission needed some guidance from the City Commission as to whether or not they believed that the City was in need of a CC600 zoning district.

McCullough said there was some language that that option would impact. If the City Commission chose to defer the rezoning or the allocation of uses, in particular, his recommendation was to go ahead and return all those items back, even though they seemed to have an apparent agreement in the Horizon 2020 policies and the Development Code Text Amendment language. He said it was more efficient for the ordinance language and the language in West of K-10 Plan that they send it back and look at those items all together again.

Dever said the correspondence that was given to the City Commission didn't say that and was more specific to that one item.

McCullough said the recommendation was to return the entire set of land use applications back to the Planning Commission.

Dever said he understood.

Schumm asked if Commissioner Amyx was still up in the air about whether they should have the Planning Commission come back with a decision on if the CC600 zoning district would be a good decision.

Amyx said he would like the Planning Commission decision on whether this was the right place for a CC600 zoning district. If the Planning Commission determines this is the area for the CC600 zoning district then they could continue with the allocation of the 240,000 square feet.

Schumm asked if Amyx wanted the Planning Commission to address the CC600 question and if it was appropriate at 6<sup>th</sup> and K-10. If so, then the Planning Commission could spread the excess square footage across the remaining 3 intersections

Amyx said correct. He asked if that was an appropriate consideration.

McCullough said yes. He said they would establish the tools in the comprehensive plan for other nodes to make that request to be analyzed. There were no other nodes before the City Commission at this time to undergo that analysis.

Carter said they would not be withdrawing, but sending it back to the Planning Commission. He said they had already gone through a change in the Planning Commission and the minutes reflected that this was the appropriate zoning. He said they had a new Planning Commission, but would hate to see a new City Commission start over with this item as well.

He said he did not know what kind of timeline there was for this item to come back to the City Commission.

Schumm said this item would be back in March.

Carter said he thought they were saying something about one meeting not being adequate.

Schumm said if they kept the application in play, the Planning Commission had one meeting. If they withdraw or deny the application, then the Planning Commission could take six months.

Carter said he wanted to make sure the Planning Commission looked at the allocation of the retail and also reconfirm it this was the intersection for a CC600 District versus somewhere else. He said he wanted to see if the Commission would support revisiting residential

Schumm said that was a valid point and there should be discussion about the amount of permissible residential dwellings at that intersection.

Carter said he wanted to be clear about what the City Commission was asking.

Schumm said the motion would be to return items 2 (a-c) to the Planning Commission recognizing that the City Commission requested a determination as to the appropriateness to have a designation of CC600 district at 6<sup>th</sup> and K-10 and to discuss the allocation of the 240,000 sq. ft. of retail to be allocated across the other 3 intersections, plus the question on the residential units.

**Moved by Cromwell, seconded by Carter,** to return item 2 (a through c) to the Planning Commission directing the Planning Commission to consider the appropriateness of designating this node as a CC600 node as it relates to other possible nodes that could support a CC600 designation, discuss the appropriate allocation of the 240,000 square feet of retail use that is not currently allocated to the Mercato Development if it is determined that the node

should be designated as a CC600 node, and discuss the appropriateness of allowing residential uses for the specific CC600 district on the property that is the subject of the rezoning application. Motion carried 4-1 with Dever opposed.

The City Commission recessed for a short break at 8:32 p.m.

The City Commission resumed the regular session at 8:40 p.m.

**3. Consider approving the 2013 Comprehensive Street Maintenance Program.**

Mark Thiel, Assistant Director of Public Works, presented the staff report.

Corliss said he wanted to make sure the Commission knew that he had asked Chuck Soules, Public Works Director, to work on design work for 6<sup>th</sup> and George Williams Way. Staff hasn't identified the funding source yet and we'll come back with a recommendation. With Rock Chalk Park proceeding staff thought that was appropriate to signalize this year.

Schumm asked if the program included striping of roads.

Thiel said yes.

Schumm said it was important to catch up on that striping.

Corliss said the Commission increased resources for that last year and were stepping up on it.

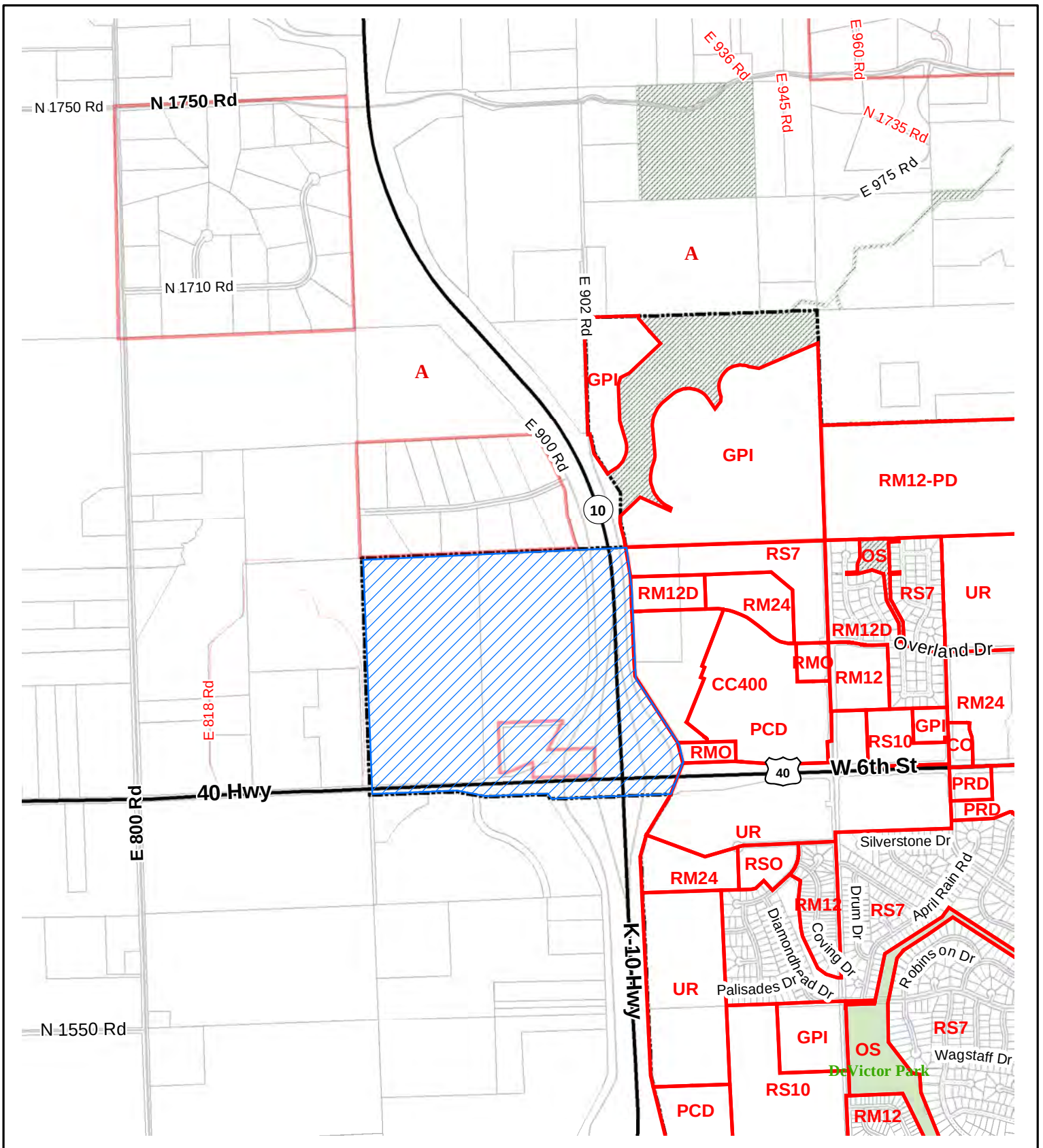
Amyx said on the 2013 projects, he noticed the projects around 9<sup>th</sup> and Pennsylvania, and asked if they were the same streets related to the next agenda item?

Thiel said yes.

Amyx asked if they were bonded.

Corliss said no.

Dever said they were talking about 2, 4 or 5 million dollars of City money. He asked how much money was actually being spent based on the roads and KDOT's federal participation. He asked how much money would be spent on our roads this year.



**Z-04-05-12: Rezone 146 acres from A & B1 to CC600 for a regional recreation facility  
NW Quadrant of W. 6th St. & Hwy 10**

Lawrence-Douglas County Planning Office  
February 2013



 Area Requested

Scale: 1 Inch = 1500 Feet

LAW OFFICES  
**BARBER EMERSON, L.C.**

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RICHARD A. BARBER  
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GLEE S. SMITH, JR.  
OF COUNSEL

\*ADMITTED IN KANSAS AND MISSOURI

February 22, 2013

**Via E-Mail**

Matthew S. Gough  
Email: mgough@barberemerson.com

Dr. Bruce Liese, Chair  
Lawrence Douglas County Metropolitan Planning Commission  
City Hall  
6 East Sixth Street  
Lawrence, Kansas 66044  
bruce@kansascitysailing.com

*Re: February 25, 2013 Planning Commission  
Item No. 1 CPA-4-2-12 (comprehensive plan amendment)  
Item No. 2 TA-4-3-12 (text amendment)  
Item No. 3 Z-4-5-12 (rezone 146 acres to CC 600)*

Dear Dr. Liese:

The Planning Staff recommends approval of the above-described agenda items, related to the designation of a CC600 district at the 6<sup>th</sup> and K-10 Interchange and the zoning of the northwest corner to CC600, but has recommended a reduction in the allocation of retail square feet at the northwest corner from 180,000 to 155,000. For the following reasons, we request that the Planning Commission approve the above-referenced agenda items with the original allocation of 180,000 retail square feet:

- The original request for 180,000 square feet was based upon the assumption that 50-60 acres of the northwest corner would be used as a recreation center, stadiums and related facilities. The allocation of retail square footage at the northwest corner has already been diluted because such facilities will be located on the east side of the Interchange, and a reduction to 155,000 square feet would further reduce the ratio of allocated retail square feet per acre.
- The permitted uses on the northwest corner are more restrictive than the permitted uses in the CC600 district, as summarized in the Staff Reports. These restrictions, coupled with the size of the tract and a reduction of allocated retail, may cause the northwest node to be underutilized.

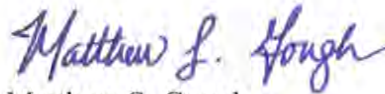
Liese, Dr. Bruce  
February 22, 2013  
Page 2

- The Planning Staff's use of "going home" routes is overly influenced by assumed departing recreation center traffic, and does not adequately take into consideration inbound recreation center traffic and the large number of Lawrence commuters that already travel K-10 southbound to West 6<sup>th</sup> Street each day. Traffic at that intersection will only increase upon completion of the eastern SLT connection, and as our City expands westward. Local and inbound traffic patterns weigh favorably towards the original allocation of retail space at the northwest corner.

We request that the Planning Commission recommend approval of CPA-4-2-12, TA-4-3-12 and Z-4-15-12 with the original allocation of retail square footage (i.e., 180,000 square feet to the northwest, and the remaining 60,000 square feet to be determined among the southerly nodes at a later time).

Sincerely,

BARBER EMERSON, L.C.



Matthew S. Gough

MSG:plh  
Attachments  
cc: Planning Commissioners  
Planning Staff



LEAGUE OF WOMEN VOTERS®  
OF LAWRENCE/DOUGLAS COUNTY

February 24, 2013

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**Ruth Lichtwardt**

**Marlene Merrill**

Mr. Bruce Liese, Chairman

Members

Lawrence-Douglas County Metropolitan Planning Commission

City Hall

Lawrence, KS 66044

RE: ITEM NO. 1 W OF K-10 PLAN & NODAL PLAN FOR W 6TH ST & K-10; CC600  
ITEM NO. 2 TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE; CC600  
ITEM NO. 3 A & B1 TO CC600; 146 ACRES; W 6TH ST & K-10

Dear Chairman Liese and Planning Commissioners:

The League has sent you several letters on the issue of changing *Horizon 2020* text for the West of K-10 intersection Sector Plan and the Nodal Plan for the W 6<sup>th</sup> St. that includes this quadrant portion of the four corners. Included in one of the Staff Reports was the required Market Analysis of this 146 acres on the potential effect of adding more retail zoning to the city. The analysis (from the Staff Report of the May 2012 Planning Commission Agenda) acknowledges that currently there is more retail zoning in Lawrence than the current demand will absorb based on the commercial land already zoned, vacancy rate and population. The justification for more retail zoning is based on the anticipation that developers will not build unless there are committed users or tenants. The purpose of the analysis was to determine whether the additional commercial area would be detrimental to the existing Lawrence businesses.

Our League position supports the Central Business District as our primary retail center and views any land use action that would tend to harm the viability of our Downtown as unwise and undesirable. Furthermore, we view this specific location of W 6th St. and K-10 as very special because of its unique access to local and regional transportation. We believe it would be a very beneficial parcel that

would have much more potential as a **planned** employment park. It could be a "techni-village," for example, a combination of technical school-apprentice-system-high tech manufacturing-research center, as one example. However, accomplishing it would take the same approach and support as the retirement village that some citizens are proposing. Therefore, we question whether adding the recommended amount of commercial zoning would be beneficial to the City, because it would orient the market for this land in one narrow direction.

As an alternative to designating the entire 146-acre tract for commercial use and then rezoning it to that, we suggest the following:

1. Create a new designation for employment-related land use in the Comprehensive Plan that is not as inclusive as manufacturing, in order to open more uses to that area.
2. Apply it to the remainder of this 146-acre tract that would not be utilized for retail use.
3. Rezone this portion of the tract as Urban Reserve.
4. Suggest to the City that it seek this type of mixed use and methods to encourage it at this location, such as cooperation with the University and the Chamber of Commerce in seeking possible sponsors.

One of the situations that has not been considered here is how to make actually binding the restrictions that are recommend by staff to be included in the conditioning of the CC600 zoning. The two provisions in the Land Development Code that specifically allow conditioning zoning are the Special Use Permit and the Planned Development Overlay District. The other alternative is to write the conditions into the language that adopts the specific zoning ordinance on this property.

The second situation that has not been considered is the proposal that has been **initiated as a Text Amendment** of the Land Development Code that would eliminate the requirement to adhere to the Comprehensive Plan and, instead, treat it as an optional guide. If you adopted that text amendment, then all of the recommended restrictions on the commercial zoning and CC600 for this area in the Comprehensive Plan would have no effect.

We ask that you carefully consider our suggestions before rezoning this 146-acre tract.

Sincerely yours,

James Dunn  
League of Women Voters  
of Lawrence/Douglas County

Alan Black, Chairman  
Land Use Committee

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

PC Staff Report  
March 25, 2013

**ITEM NO. 6: TEXT AMENDMENT TO THE ZONING REGULATIONS; NANOBREWERY (MKM)**

**TA-13-00035:** Consider a Text Amendment to Section 12-319-1 of the Zoning Regulations of the Unincorporated Territory of Douglas County to include 'Nanobrewery' in the list of uses permitted as Conditional Uses and to establish any necessary standards for the use. *Initiated by Planning Commission on 1/30/13.*

**STAFF RECOMMENDATION**

Staff recommends that the Planning Commission forward a recommendation for approval of TA-13-00035 to the *Zoning Regulations for the Unincorporated Territory of Douglas County* to the Board of County Commissioners.

**Reason for Request:** To include 'nanobrewery' in the list of uses permitted through approval of a Conditional Use Permit.

**RELEVANT GOLDEN FACTOR:**

- Conformance with the Comprehensive Plan

**PUBLIC COMMENT**

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

**ATTACHMENTS**

1. Initiation memo to the Planning Commission dated January 30, 2013.

**OVERVIEW OF PROPOSED AMENDMENT**

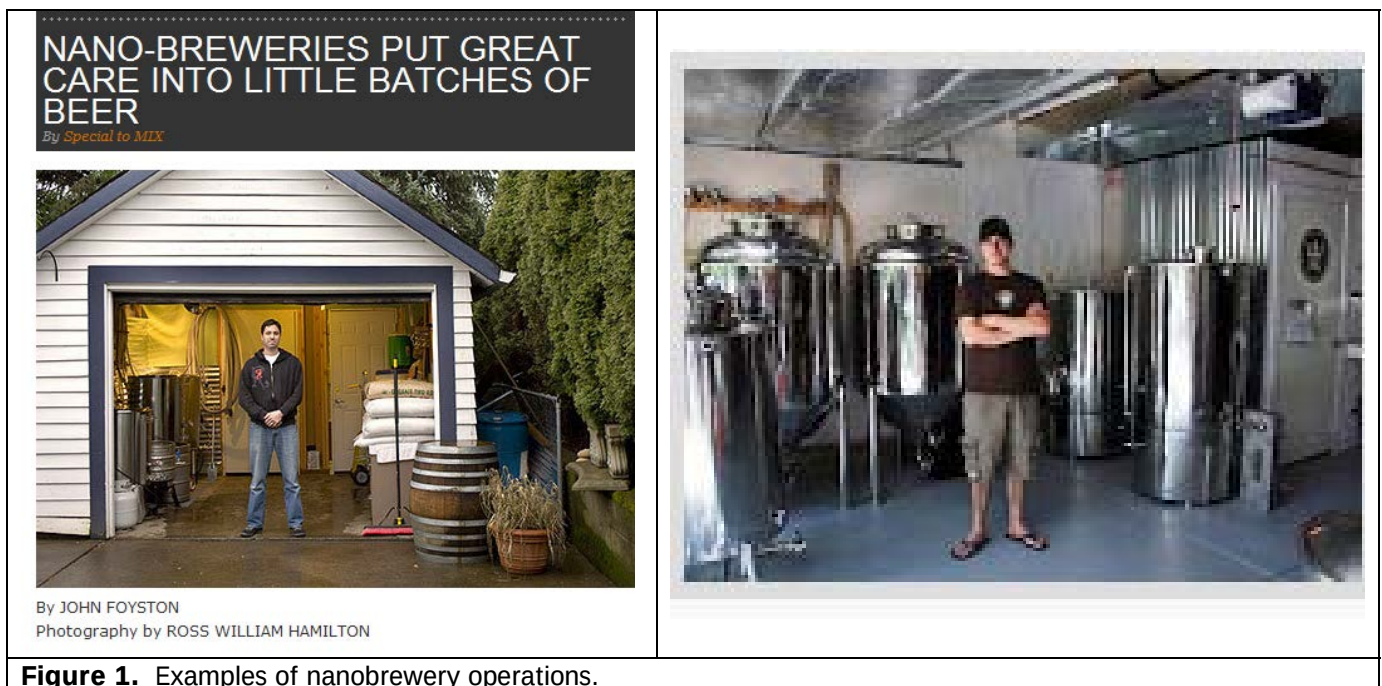
The term 'nanobrewery' is used to describe a small microbrewery. While a microbrewery may brew up to 15,000 barrels a year, Nanobreweries tend to be unique, small level production facilities. Nanobreweries typically provide a tasting room and offer the chance for visitors to tour the brewery, meet the staff, and sample some of the product. The pictures in Figure 1 illustrate the typical scale of a nanobrewery operation.

As defined in this report, a nanobrewery is very similar to a *Value-added Agricultural Business* that requires a CUP in that it utilizes some commodities that are not raised on site in addition to commodities such as grain, hops, berries, etc, that are produced on the site. A nanobrewery is also similar to a winery in that it includes a tasting room and retail sales of liquor for off-site consumption. A winery and winery tasting room are considered agricultural uses by the State and do not require a CUP to operate.

A brewery does not have the same agricultural designation as a winery and it doesn't fit the definition of a *Value-added Agricultural Business*, given the fact that the nanobrewery would include retail sales to customers for off-site consumption. This amendment is establishing *Nanobrewery* as a new use which will require approval as a Conditional Use. The use is defined and standards are established with this amendment. Given the very small scale of the use, consideration has been given to allowing the use on properties which are accessed by existing private roads. Location on properties which are

accessed by existing private roads would require the submittal of traffic information and approval of the County Engineer based on the amount of traffic anticipated and the configuration and condition of the private road.

A nanobrewery is a manufacturing use with some retail components, such as the sale of ancillary related products such as glasses, t- shirts, and other items; and the sale of beer for off-site consumption. When commodities produced on-site are used in the preparation of the beer, a nanobrewery may be permitted with approval of a CUP. (Off-site commodities may be used, but it must be established that the site will be producing some of the commodities.) This restriction is intended to maintain the rural and agricultural nature of the area.



**Figure 1.** Examples of nanobrewery operations.

Nanobreweries usually don't brew more than one batch of domestic beer at a time and distribute to a limited area. The working definition of a nanobrewery is that they make 3 barrels of beer or less in one session. (One barrel equals about 31 gallons which equates to approximately 2 kegs or 14 cases of beer). A Nanobrewery is a microbrewery by law and the same federal and state regulations apply. For the purpose of these Regulations, a Nanobrewery is defined as a brewery that produces no more than 1250 barrels of beer a calendar year.

Staff discussed the merits of including a requirement for the amount of commodities that need to be raised on-site in order to qualify as a *Nanobrewery* permitted through the conditional use process. The principal ingredients, barley and hops, can be raised in Kansas but are often not successful due to weather conditions. Applicants will likely grow some of their own hops, barley, fruit and wheat on-site. The CUP application should indicate the ingredients the applicant intends to grow but it would not be reasonable to require a set percentage to be raised on-site.

#### STATE REGULATIONS ON MICROBREWERIES

A microbrewery license from the State of Kansas Alcoholic Beverage Control (ABC), a division of the Department of Revenue, permits the manufacture and storage of not less than 100 and not more than 15,000 barrels of domestic beer per year. The state license permits the sale of beer manufactured by

the licensee in the original unopened container to be consumed off the licensed premise. Free samples are permitted on the licensed premise and at special events monitored and regulated by the ABC. The state license is valid for 2 years and must be renewed bi-annually. A brewery is not permitted to distribute their products themselves but must contract with a local distributor.

### **CONFORMANCE WITH THE COMPREHENSIVE PLAN**

*Horizon 2020* promotes agricultural land uses as the predominant land uses within the rural areas of the county. The comprehensive plan encourages uses which allow the farmer to sell directly to a consumer to provide flexibility to farmers and an incentive to retain agricultural land in production. The proposed amendment would allow farmers to utilize their agricultural products, in addition to agricultural products not raised on-site, in the production of a value-added agricultural product which could be sold directly to consumers. Limits are placed on the size and intensity of the proposed use to insure that the *Nanobrewery* use is compatible with agricultural uses and the rural character of the area. The proposed text amendment is in conformance with recommendations in the Comprehensive Plan.

### **PROPOSED LANGUAGE**

Section 12-319-4, Conditional Uses Enumerated, of the Zoning Regulations for the Unincorporated Territory of Douglas County is proposed to be amended to include a new subsection, 12-303-1.94, for the definition of Nanobrewery and a new subsection, 12-303-19-4.36 to include Nanobrewery, with standards, in the enumerated list of uses permitted with a CUP.

- No language is proposed to be deleted. The new language proposed to be added is below:

### **12-303 DEFINITIONS**

#### ***12-303-1.94 Nanobrewery***

A Nanobrewery is a small microbrewery that typically makes 3 barrels of beer or less in one session. (One barrel equals about 31 gallons which is approximately 2 kegs or 14 cases of beer). A Nanobrewery is a microbrewery by law and the same federal and state regulations apply. For the purpose of these Regulations, a Nanobrewery is defined as a brewery that produces no more than 1250 barrels of beer in a calendar year. Nanobreweries usually include the sale of beer manufactured by the licensee in the original unopened container to be consumed off the licensed premise and free samples.

### **12-319 SUPPLEMENTAL USE REGULATIONS – CONDITIONAL USES – TEMPORARY USES**

#### **12-319-4.36 Nanobreweries**

The following standards apply:

1. Commodities grown on site shall be used to the greatest extent possible, with production utilizing crops grown on the same property or in combination with crops grown off-site. A nanobrewery that uses commodities produced on-site may be permitted with a CUP. A nanobrewery that does not utilize commodities produced on-site is considered a manufacturing activity and requires appropriate zoning.
2. Production is limited to no more than 1,250 barrels of beer per year.
3. All State and Federal licenses which are required for the use shall be provided prior to the release of the permit for the Conditional Use.
4. The nanobrewery may employ up to 3 full-time employees.

5. Commercial vehicles for delivery and pick-up of product are limited to light or medium duty trucks; which are defined as trucks with a Gross Vehicle Weight Rating (GVWR) of 16,000 lbs or less.
6. Commercial pick-up and deliveries by trucks heavier than 14,000 lbs GVWR shall be limited to three trips (to and from the site) per week.
7. Beer sales for on-site consumption are prohibited.
8. A tap room is permitted for the tasting of beers produced on-site.
9. Beer sales for off-site consumption are permitted as well as ancillary retail sales of related items. T-shirts and glasses are examples of items which would be permitted as ancillary retail sales.
10. New buildings used in the brewery operation, production, and storage of materials shall be designed and located to maintain the rural character of the area. Existing buildings shall maintain their rural character from the outside.
11. No part of the production may result in dispersal of smoke or particulate matter emissions that exceeds federal EPA standards.
12. All equipment used in the production shall be located wholly within a building or structure. Any associated noise, light or vibrations from the production operation shall not be perceptible at the site boundary/property lines.
13. All products shall be stored within a building or structure.
14. All buildings, whether new or existing, which are used for the operation and production of the nanobrewery, warehousing of products, and any areas which will be open to the public such as the tap room and area for ancillary associated retail sales must meet the adopted construction codes (Chapter 13 of the County Code).
15. Traffic data related to the project shall be provided with the CUP application. This information will be used by the County Engineer to make a determination regarding the intensity of use which is suitable based on the road network and will include, at a minimum:
  - a. The number of trips anticipated with the nanobrewery use. This information should be provided for passenger vehicles as well as delivery trucks.
  - b. The size of the delivery/distribution trucks should be noted as well as the frequency of the trips.
  - c. The typical route the delivery/distribution vehicles will use to access the property.
16. The property shall have direct access to a full-maintenance public road unless access to an existing private road is approved as follows:

- a. The County Engineer has made a determination based on the traffic data provided that as to the intensity of use which is suitable based on the configuration and condition of the private road.
- b. Written approval of other land owners using the private road must be provided.
- c. A maintenance agreement for the private road must be executed and recorded.

# Memorandum

## City of Lawrence

### Planning & Development Services

**TO:** Lawrence-Douglas County Metropolitan Planning Commission

**FROM:** Mary Miller, Planner

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

**Date:** For January 30, ~~2012~~ <sup>2013</sup> meeting

**RE:** ITEM NO. 11 INITIATE TEXT AMENDMENT; ZONING  
REGULATIONS; NANOBREWERY (MKM)

Initiate a text amendment to Section 12-319-1 of the Zoning Regulations of the Unincorporated Territory of Douglas County to include *Nanobrewery* in the list of uses permitted as Conditional Uses and to establish any necessary standards for the use.

A nanobrewery is a small brewery operation, often culturally defined by a less than 4 US beer barrels (470 L) brew system. It is often referred to as a 'craft brewery'. While smaller in scale, a nanobrewery is considered a microbrewery by law and is subject to the same licensing requirements and regulations as a microbrewery.

Neil Hull, a property owner in Douglas County and president of Flint Hills Brewery, LLC,, contacted the Planning Office to discuss the possibility of operating a nanobrewery in Douglas County. As this use is not specifically identified in the Zoning Regulations, the use would fall into the most similar use classification available: the manufacturing of food and beverage product. This use is permitted in the industrial districts; therefore, it would be permitted if the property were rezoned to an industrial district. It would not be appropriate to rezone the property in question industrial, as its principal uses would remain residential and agriculture.

A nanobrewery could fit the definition of a value-added agricultural business. The *Value-added Agricultural Business* use is permitted with a CUP if standards are met. However, given the low-intensity nature of a nanobrewery, property which does not meet the standards for a *Value-added Agricultural Business* may be appropriate for the nanobrewery.

The property owner requested the initiation of a text amendment to establish *Nanobrewery* as a use which is permitted in the A District with a Conditional Use Permit. A definition and standards for the use would be included in the amended regulations.

**ACTION REQUESTED:** Initiate a text amendment for future public hearings to establish *Nanobrewery* as a use which is permitted in the A District with a CUP and to establish a definition and standards for the use.

PC Minutes 1/30/13

ITEM NO. 11      INITIATE TEXT AMENDMENT; ZONING REGULATIONS; NANOBREWERY  
(MKM)

Initiate a text amendment to Section 12-319-1 of the Zoning Regulations of the Unincorporated Territory of Douglas County to include *Nanobrewery* in the list of uses permitted with as Conditional Uses and to establish any necessary standards for the use.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Hird asked why this wouldn't fit into agritourism.

Ms. Miller said the actual brewing part did not fit into agritourism but that tours would.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Blaser, seconded by Commissioner Hird, to initiate a text amendment for future public hearings to establish Nanobrewery as a use which is permitted in the A District with a CUP and to establish a definition and standards for the use.

Unanimously approved 9-0.

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

**TA-13-00035:** Consider a Text Amendment to Section 12-319-1 of the Zoning Regulations of the Unincorporated Territory of Douglas County to include Nanobrewery in the list of uses permitted with Conditional Uses and to establish any necessary standards for the use. *Initiated by Planning Commission on 1/30/13.*

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

**PUBLIC HEARING**

Mr. Leslie Neil Hull, 1620 E 652 Road, said he initiated the text amendment and that a nanobrewery was basically a glorified home brewery. He said he currently grows his own hops and barley and that his neighbors are okay with it. He said he wanted to create a unique beer and educate people about the process of brewing.

**COMMISSION DISCUSSION**

Commissioner von Achen asked if a session was the same as a batch and how long it takes.

Mr. Hull said yes, about 4-5 hours.

Commissioner von Achen asked staff why this was not considered an agricultural use.

Ms. Miller said staff looked into whether it could be considered a value added ag business because it was already permitted with the CUP but this had a retail component that the value added ag businesses do not have. She also said it was much smaller in scope. She said the reason was because this was much smaller with a retail component.

Commissioner Hird asked why this would not be considered an agritourism use.

Ms. Miller said if the nanobrewery provided tours at the property it could be considered agritourism. She said the actual making of the beer was not agritourism. She said it was similar to a winery without tours. She said the county counselor said the state designation of agricultural use to a winery does not extend to a nanobrewery. She stated a winery would be able to produce wine as an agricultural use without a Conditional Use Permit but producing beer would need a Conditional Use Permit because it's not agriculturally exempt. She said people visiting and touring could be considered agritourism.

Commissioner Hird asked why it would be different than someone growing lavender and producing goods from the lavender on site.

Ms. Miller said growing lavender would be an agricultural activity. She said growing hops and barley would not need a Conditional Use Permit but when it's processed and other product are brought in it then would become a value added business.

Commissioner Hird asked if in order to qualify as an agritourism business it had to be agriculturally exempt.

Ms. Miller said the agritourism had to do with the tourism aspect and many tourism things were not allowed as agricultural uses but did fall under agritourism. She said if what was being done was not agricultural than a Conditional Use Permit would probably be needed.

Commissioner Hird asked if growing beans and canning them was not an agricultural activity.

Ms. Miller said it would be unless products were imported.

Commissioner Britton said with an agritourism use the underlying use did not necessarily have to be agricultural.

Ms. Miller said tours of the nanobrewery were included in the Conditional Use Permit and did not have to register as agritourism. She said if he wanted people to tour the barley and hop fields and wasn't producing anything in the nanobrewery it could be considered agritourism.

Commissioner Britton asked if the reason a Conditional Use Permit was necessary was because the actual conduct would not qualify as agricultural.

Ms. Miller said agritourism could be something such as having a picnic surrounded by agricultural. It did not need to be tied to the agricultural activity. She said the the nanobrewery itself was not an exempt agricultural activity by the State of Kansas.

Mr. McCullough said staff put this issue to the test of the Code and processes and this was the process that staff had to create to accommodate requests like this. He said with the definitions and intent of agritourism staff felt like they needed this process to accommodate it.

Commissioner Hird asked if anybody had determined whether the limitations imposed in the 16 conditions would allow someone to actually make 1250 barrels of beer a year.

Mr. Hull said he contacted several beverage distributors and if he actually met the 1250 barrel limit it would equal 54 pony kegs per month and a distributor could pick that up in a regular 18' liquor truck.

Commissioner Hird asked why there was a limit of 3 employees.

Ms. Miller said Type B Home Occupations in the Code allow 3 full-time employees. She said the value added business also allowed that many. She said when she did online research of nanobreweries most people thought 2 employees were adequate.

Commissioner Liese asked if Mr. Hull was comfortable with 3 employees.

Mr. Hull said he would prefer 4 employees but was satisfied with 3 employees.

Commissioner Hird felt that arbitrarily limiting the number of employees for a successful business was perplexing. He said limiting it to 3 full-time employees seemed like a standard the City was famous for as being less business friendly. He said he would prefer to see 4 employees to allow the greatest flexibility for someone starting a business.

Mr. McCullough said it was a proposed Text Amendment for County Commission consideration.

Mr. Hull said 4 employees would be better. He said he was comfortable with the other conditions.

## **ACTION TAKEN**

Motioned by Commissioner Hird, seconded by Commissioner Blaser, to forward a recommendation for approval of TA-13-00035 to the Zoning Regulations for the unincorporated Territory of Douglas County to the Board of County Commissioners, with the modification that the nanobrewery may employ up to 4 full-time employees.

Unanimously approved 8-0.

## **MEMORANDUM**

To : Board of County Commissioners

From : Keith A. Browning, P.E., Director of Public Works/County Engineer

Date : March 29, 2013

Re : Agreement with Penny's Aggregates for pre-dredging study cost reimbursement  
Penny's Sand Facility CUP

The attached agreement between Penny's Aggregates, Inc., Penny's Concrete, Inc., and Van, LLC (collectively "Penny's") and Douglas County stipulates Penny's will reimburse Douglas County for the full cost of a pre-dredging study and report regarding any potential adverse effects of the proposed sand pit on groundwater quality and quantity. The pre-dredging report will, among other things, determine the potential zone of influence of the dredging operation on ground water, provide an initial environmental site assessment of existing water and/or soil quality, establish baseline water quality and quantity conditions within the potential zone of influence, and determine the location and number of groundwater monitoring wells to be installed by the CUP applicant.

The attached agreement stipulates Penny's will reimburse Douglas County for the full cost of the pre-dredging study regardless of the study's results. It also stipulates Douglas County may add or revise the CUP conditions, including changes in the size and location of the permitted sand pit, or to entirely withdraw the contingent approval of the Conditional Use Permit, based upon results of the pre-dredging report.

The agreement also stipulates Penny's will cooperate with Douglas County and our consultant, and provide access to Penny's property in order to perform the pre-dredging study and ongoing groundwater monitoring.

Action Required: Consider approval of the attached agreement with Penny's Aggregates, Inc., Penny's Concrete, Inc., and Van, LLC for cost reimbursement of a pre-dredging study associated with Penny's CUP application to operate a sand pit facility northwest of the intersection of N 1500 and E 1900 Roads.

## **AGREEMENT**

THIS AGREEMENT (hereinafter this "**Agreement**") is made and entered into by and between THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS (hereinafter, the "Board") and the PENNY'S AGGREGATES, INC., PENNY'S CONCRETE, INC., and VAN, LLC (hereinafter collectively "**Applicant**"), effective as of \_\_\_\_\_, 2013 (the "**Effective Date**").

## **RECITALS**

WHEREAS, Applicant has filed an application for a Conditional Use Permit ("**CUP Application**") to operate a sand pit on approximately 434 acres of real estate located northwest of the intersection of N 1500 and E 1900 Roads.

WHEREAS, the Board has contingently granted approval the CUP Application, subject to an extensive list of conditions and requirements (collectively, the "**Conditions**"), one such condition being that the Board contract with an independent third-party consultant of the Board's choosing (hereinafter, the "**Consultant**"), to prepare a pre-dredging report which, among other things, will determine the potential zone of influence of the dredging operation on ground water, provide an initial environmental site assessment of existing water and/or soil quality, establish baseline water quality and quantity conditions within the potential zone of influence, and determine the location and number of groundwater monitoring wells to be installed by the Applicant (the "**Pre-Dredging Report**").

WHEREAS, in contingently granting approval of the CUP Application, the Board reserved the right to add or revise the Conditions, including changes in the size and location of the permitted sand pit, or to entirely withdraw the contingent approval of the Conditional Use Permit based upon results of the Pre-Dredging Report.

WHEREAS, the parties enter into this Agreement to document the Board's requirement that the Consultant have access to Applicant's property for purposes of preparing the Pre-Dredging Report and Applicant's agreement that Applicant pay all costs and expenses that the Consultant charges the Board for preparing the Pre-Dredging Report.

## **TERMS OF AGREEMENT**

NOW THEREFORE, in consideration of the mutual promises and covenants hereinafter contained, the parties agree as follows:

1. Purpose. The parties enter into this Agreement to document the Board's requirement that the Consultant have access to Applicant's property for purposes of preparing the Pre-Dredging Report and Applicant's agreement that Applicant pay all costs and expenses that the Consultant charges the Board for preparing the Pre-Dredging Report.

2. Obligations of Douglas County. Douglas County shall do the following:

a. Enter into a contract with Consultant to prepare and provide a Pre-Dredging Report (the "**Consultant Contract**"). The Board, in the Board's sole discretion, shall determine the terms, conditions, and contract price of such contract.

b. Review the results and recommendations provided for in the Pre-Dredging Report and, in the Board's reasonable discretion, consider additional or revised Conditions, including changes in the size and location of the permitted sand pit, or to withdraw this contingent approval of the Conditional Use Permit

c. Review and pay all appropriate periodic pay applications submitted by the Consultant in accordance with the Consultant Contract and provide copies of supporting documents and evidence of payment to Applicant.

3. Obligations of Applicant. Applicant shall do the following:

a. Cooperate with the Board and the Consultant and provide the Board and Consultant with the access to all property within the control of Applicant, all in connection with conducting studies, drilling, and other tests that the Board or Consultant determines necessary or advisable to prepare a comprehensive Pre-Dredging Report that fully details any risks or potential adverse affects that dredging pursuant to the Conditional Use Permit may cause to groundwater.

b. Reimburse the Board for 100% of the costs of the Pre-Dredging Report within 30 days of invoice from the Board. The fact that Applicant disagrees with the amount Consultant's charges or disagrees with any conclusions or recommendations contained in the Pre-Dredging Report shall not be grounds for Applicant to refuse to make such reimbursement.

c. Applicant understands that the Board has reserved the right to add or revise the Conditions, including changes in the size and location of the permitted sand pit, or to entirely withdraw the contingent approval of the Conditional Use Permit, based upon results of the Pre-Dredging Report

4. Waiver. Applicant waives and releases the Board and Douglas County, Kansas and its Consultants (including but not limited to Conestoga-Rovers & Associates, Inc.) from and against any and all claims, actions, liabilities, damages, costs, expenses, and judgments, including attorney's fees, which relate to or arise from the Pre-Dredging Report, except those claims which result from or are caused by the gross negligence or willful acts of Douglas County or its Consultants, as the case may be, or their respective employees acting in the scope and course of their employment.

5. Approval and Authorization. Each of the persons signing this Agreement warrants and represents that the execution, delivery and performance of this Agreement by such party has been authorized by action duly adopted by its governing body, and that this Agreement constitutes a legal, valid and binding obligation of such party enforceable in accordance with its terms. Each party further warrants and represents that the expenditures anticipated pursuant to this Agreement have been appropriated and will not violate the Kansas cash basis laws, K.S.A. 10-1101, *et. seq.*

6. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original.

7. Applicable Law. This Agreement shall be governed and interpreted in accordance with the laws of the State of Kansas.

8. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this Agreement should be determined by a court of competent jurisdiction to be invalid for any reason whatsoever, such decision shall not affect the remaining provisions of this Agreement, which shall remain in full force and effect; and to this end the provisions of this Agreement are hereby declared to be severable and shall be presumed to have been agreed upon knowing that the various provisions of this Agreement are severable.

9. Effective Date. This Agreement shall take effect upon the date fully executed by both parties.

[remainder of page intentionally blank; signature page to follow]

**IN WITNESS WHEREOF**, the Board and the Applicant have each caused this Agreement to be executed by their duly authorized officers on the dates stated below, the latest of such dates being the Effective Date of this Agreement and being inserted above.

**THE BOARD OF COUNTY COMMISSIONERS  
OF DOUGLAS COUNTY, KANSAS**

By \_\_\_\_\_  
Mike Gaughan, Chairperson

Date \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Jameson D. Shew, County Clerk

**PENNY'S AGGREGATES, INC.**

By \_\_\_\_\_

Its \_\_\_\_\_

Date \_\_\_\_\_

**PENNY'S CONCRETE, INC.**

By \_\_\_\_\_

Its \_\_\_\_\_

Date \_\_\_\_\_

**VAN, LLC**

By \_\_\_\_\_

Its \_\_\_\_\_

Date \_\_\_\_\_

## **MEMORANDUM**

To : Board of County Commissioners

From : Keith A. Browning, P.E., Director of Public Works/County Engineer

Date : March 29, 2013

Re : Professional services agreement with Conestoga-Rovers & Associates  
Pre-Dredging Study associated with Penny's sand facility CUP  
Douglas County Project No. 2013-19

The attached professional services agreement stipulates Conestoga-Rovers & Associates, Inc. (CRA) will conduct a pre-dredging study of hydrogeologic considerations associated with the Penny's sand facility CUP application. The not-to-exceed cost of these professional services is \$59,392.00. It is anticipated the BOCC will execute another agreement with Penny's Aggregates stipulating Penny's will reimburse Douglas County the full cost of the pre-dredging study.

The specific Scope of Services is attached to the agreement as Exhibit A. Exhibit B provides a cost breakdown of the services, while Exhibit D stipulates the pre-dredging study and report will be completed by July 19, 2013.

Action Required: Consider approval of a professional services agreement with Conestoga-Rovers & Associates, Inc. to provide a pre-dredging study of hydrogeologic considerations associated with the Penny's Sand facility CUP application.

## **PROFESSIONAL SERVICES AGREEMENT**

THIS Professional Services Agreement is entered into by and between Douglas County, Kansas ("County") and Conestoga-Rovers & Associates, Inc. ("CRA"), as of the \_\_\_\_\_ day of April 2013 (the "Effective Date").

### **RECITALS**

WHEREAS, County desires to employ CRA to provide Professional Services (as defined herein) to conduct a Pre-Dredging Study of hydrogeologic considerations associated with a proposed Penny's Sand Facility in Section 35, T 12 S, R 20 E, Douglas County, Kansas, in connection with Douglas County Project No. 2013-19 (the "Project"); and

WHEREAS, CRA agrees to provide such Professional Services.

### **TERMS OF AGREEMENT**

NOW THEREFORE, in consideration of the promises contained in this Agreement, County employs CRA and CRA agrees to provide Professional Services as follows:

#### **I. DEFINITIONS**

In addition to other terms defined in the body of this Agreement, the following terms shall have the meanings ascribed herein unless otherwise stated or reasonably required by this Agreement, and other forms of any defined words shall have a consistent meaning:

"Additional Services" means any services requested by County which are not covered by Exhibit A.

"Agreement" means this contract and includes change orders issued in writing.

"County Engineer" means the person employed by County with the title of County Engineer, who is licensed to practice engineering in the State of Kansas.

"CRA" means the company or individual identified in the preamble of this Agreement. CRA shall employ for the Services to be rendered engineers, geologists, surveyors, and other technicians and professionals, licensed, as applicable, by the Kansas State Board of Technical Professions.

"Contract Documents" means those documents identified in this Agreement, including Professional Services Documents.

"Project Documents" means all plans, specifications, reports, drawings, tracings, designs, calculations, computer models, sketches, notes, memorandums and correspondence related to the Professional Services.

"Professional Services" and "Services" mean the professional services and other acts or duties required of CRA under this Agreement, including those specified in Exhibit A, together with Additional Services as County may request and as evidenced by a supplemental agreement pursuant to the terms of this Agreement.

"Project" means the Douglas County project identified above in the Recitals.

"Subsurface Borings and Testing" means borings, probings and subsurface explorations, laboratory tests and inspections of samples, materials and equipment, and appropriate professional interpretations of all of the foregoing.

## **II. COMPENSATION**

CRA's compensation and related matters are as follows:

### **A. MAXIMUM TOTAL FEE AND EXPENSE**

CRA's fee shall be based on the actual hours expended on the Project at the rates indicated in the attached Fee Schedule (attached hereto as Exhibit B and incorporated herein by reference) and the actual reimbursable expenses permitted under this Agreement and incurred on this Project, with the fee and reimbursable expenses not to exceed \$ 59,392.00 ("Total Maximum Fee"). The Total Maximum Fee is based on the scope of Services outlined in Exhibit A, attached hereto and incorporated herein by reference, which Services shall be completed on or before July 19, 2013. Additional or alternative methods of compensation shall be paid only with written approval of the County Engineer.

### **B. HOURLY RATE**

Any Additional Services which are not set forth in this Agreement will be charged on the basis of the hourly rate schedule in Exhibit B and reimbursable expenses not contemplated in this Agreement will be charged at actual cost. No Additional Services or costs shall be incurred without written approval by County.

### **C. REIMBURSABLE EXPENSES**

Reimbursable expenses shall be included in the Total Maximum Fee and shall be reimbursed at CRA's actual cost, without mark-up. Reimbursable expenses must be authorized by County and include expenses of transportation in connection with the Project, expenses in connection with authorized out-of-town travel, long-distance communications, expenses of printing and reproductions, postage and facsimile transmissions, expenses of renderings and models requested by County, and other costs as authorized by County. Reimbursable expenses will not include overhead costs or additional insurance premiums, which are included in the hourly rate structure. Unit rates for reimbursable expenses are included in Exhibit B. Records documenting reimbursable expenses shall be made available to County if requested in writing. Production of these documents shall be made available to County within a reasonable time of request, at a date and time mutually convenient to both parties.

### **D. SALES TAX EXCLUDED**

Compensation as provided for herein is exclusive of any sales, use or similar tax imposed by taxing jurisdictions on the amount of compensation, fees or services. Should such taxes be legally imposed, County shall reimburse CRA for such taxes in addition to the contractual amounts provided. CRA, however, shall use County's sales tax exemption

where applicable, and County need not reimburse CRA for sales or use taxes CRA pays in transactions legally exempt from such tax.

**E. BILLING**

CRA shall bill County monthly for all its fees and reimbursable expenses. Monthly pay requests must generally be received by the 5th day of the month. The bill submitted by CRA shall itemize the Services and reimbursable expenses for which payment is requested, and shall be deemed to include a representation by CRA to County that the Services have proceeded to the point stated in the bill and that amounts requested in the bill are due and owing pursuant to this Agreement. County agrees to pay CRA within 10 days after approval by the governing body or 30 days after the invoice is received, whichever is later.

**F. COUNTY'S RIGHT TO WITHHOLD PAYMENT**

In the event County becomes credibly informed that any material representations of CRA provided in its monthly billing are wholly or partially inaccurate, County may withhold payment of disputed sums then, or in the future, otherwise due CRA until the inaccuracy and the cause thereof is corrected to County's reasonable satisfaction. In the event County questions some element of an invoice, that fact shall be made known to CRA as soon as reasonably possible. CRA will assist in resolution of the matter and transmit a revised invoice if necessary. County shall pay the undisputed portion of any invoice as provided in Paragraph E above.

**G. PROGRESS REPORTS WITH PAY APPLICATIONS**

A written progress report, as set out in Exhibit C (attached hereto and incorporated herein by reference) must be submitted with each monthly bill, indicating the percentage completion of each specific study task and those tasks that will be performed the following month. This report will serve as support for payment to CRA.

**H. CHANGES IN SCOPE**

For substantial modifications in authorized Project scope and/or substantial modifications of drawings and/or specifications previously accepted by County, when requested by County and through no fault of CRA, CRA shall be compensated for the time required to incorporate such modifications at CRA's standard hourly rates per Exhibit B. An increase in Total Maximum Fee or contract time, however, must be requested by CRA and must be approved through a written supplemental agreement prior to performing such Services. CRA shall correct or revise any errors or deficiencies in its designs, drawings or specifications without additional compensation when due to CRA's negligence, error, or omission.

**I. ADDITIONAL SERVICES**

CRA shall provide services in addition to those described in this Agreement, including Exhibit A, when such services are requested in writing by County. Prior to providing any such Additional Services, CRA shall submit a proposal outlining the Additional Services and an estimation of total hours and a maximum fee, based upon the Fee Schedule in Exhibit B. Payment to CRA, as compensation for these Additional Services, shall be in accordance

with the Fee Schedule in Exhibit B. Reimbursable expenses incurred in conjunction with Additional Services shall be paid at actual cost. Reimbursable expenses will not include overhead costs or additional insurance premiums, which are included in the hourly rate structure. Unit rates for reimbursable expenses are included in Exhibit B. Records of reimbursable expenses pertaining to Additional Services shall be made available to County if requested in writing. Production of these documents shall be made at CRA's office during normal business hours within a reasonable time of request, at a date and time mutually convenient to both parties.

### **III. RESPONSIBILITIES OF CRA**

CRA shall furnish and perform the Services in all phases of the Project, as specifically provided in Exhibit A and which are required for the completion of the Project, according to the Project Schedule set forth in Exhibit D, attached hereto and incorporated herein.

#### **E. GENERAL DUTIES AND RESPONSIBILITIES**

CRA shall have the following general duties and responsibilities:

1. Personnel: CRA shall assign only qualified personnel to perform the Services. At the time of execution of this Agreement, the parties anticipate that the following individual will perform as the principal on this Project: Peter Oram ("Project Principal").  
The Project Principal shall be the primary contact with County and shall have authority to bind CRA. So long as the Project Principal remains actively employed or retained by CRA, this individual shall continue to serve as the Project Principal.
2. Independent Contractor: CRA is an independent contractor and as such is not an employee of County.
3. Special Services: CRA may be called upon to serve as a witness in any litigation, arbitration, legal or administrative proceeding arising out of the Project. If CRA is requested in writing by County to appear as a witness, CRA will be paid its hourly fee as reflected on the Fee Schedule in Exhibit B; provided, however, that CRA shall not be paid its hourly fee if the appearance is to defend CRA's Services.
4. Subsurface Borings and Testing: If County requests subsurface boring or other tests for design, in addition to those described in Exhibit A, CRA shall prepare specifications for the taking of the additional testing. Such testing may be provided by CRA through other contractors. Payment to CRA will be negotiated in writing.
5. Service by and Payment to Others: Any work authorized in writing by County and performed by a party other than CRA or its approved subcontractors shall be contracted for and paid for by County directly to the third party. Fees for such work shall be subject to negotiation between County and the third party and shall be approved by County prior to the performance of any such work.

6. Subcontracting or Assignment of Services: CRA shall not subcontract or assign any of the Services to be performed under this Agreement without first obtaining the written consent of County regarding the Services to be subcontracted or assigned and the firm or person proposed to perform the Services. Unless otherwise stated in County's written consent to a subcontract or assignment, no subcontract or assignment will release or discharge CRA from any obligation under this Agreement.
7. Endorsement: CRA shall sign and seal all reports, final plans, specifications, estimates, recommendations, and data furnished by CRA. Any review or approval by County of any documents prepared by CRA, including, but not limited to, the recommendations, plans and specifications, shall be solely for the purpose of determining whether such documents are consistent with County's intent contracting for the Project. No review of such documents shall relieve CRA of its responsibility for their accuracy.
8. Professional Responsibility: CRA will exercise reasonable skill, care and diligence in the performance of the Services as is ordinarily possessed and exercised by a licensed professional performing the same services under similar circumstances. CRA represents to County that CRA is professionally qualified to provide such services and is licensed to practice the appropriate discipline by all public entities having jurisdiction over CRA and the Project.
9. Inspection of Documents: CRA shall maintain all Project records for inspection by County during the term of this Agreement and for 3 years following the completion of the Project.

#### **IV. RESPONSIBILITIES OF COUNTY**

##### **A. GENERAL DUTIES AND RESPONSIBILITIES**

County shall have the following general duties and responsibilities:

1. Communication: County shall provide to CRA information and criteria regarding County's requirements for the Project, examine and timely respond to CRA's submissions, and give notice to CRA whenever County observes or otherwise becomes aware of any defect in the Professional Services.
2. Property Ownership Information: County shall provide property ownership information to CRA for those properties requested by CRA.
3. Other Engineers: County may contract with "specialty" engineers when such services are requested by CRA.
4. Bond Forms: County shall furnish all bond forms required for the Project.
5. Project Representative: County Engineer, or County Engineer's designee, shall represent County in coordinating the Project with CRA, with authority to transmit instructions and define policies and decisions of County.

6. Payment: Pay CRA its fees and reimbursable expenses in accordance with this Agreement.
7. Access: County shall contact property owners and obtain access agreements for CRA to enter public and private property when necessary.

## **V. PROJECT SCHEDULE**

The Project Schedule is set forth in Exhibit D, attached hereto and incorporated by reference. CRA shall perform the Services in a timely manner; provided, however, if, during its performance, for reasons beyond the control of CRA, protracted delays occur, CRA shall promptly provide written notice to County describing the circumstances preventing continued performance and CRA's efforts to resume performance.

## **VI. SUSPENSION OR TERMINATION OF THE CONTRACT**

### **A. SUSPENSION BY CRA**

CRA may suspend performance of the Services under this Agreement if County consistently fails to fulfill County's material obligations under this Agreement, including County's failure to pay CRA its fees and costs, within 15 days of CRA's delivery to County of written notice of such default; provided, however, that CRA may not suspend performance of Services based upon non-payment of fees or costs that is subject to a bona fide dispute, for which this Agreement authorizes County to withhold payment. Any such suspension shall serve to extend the contract time on a day for day basis.

### **B. TERMINATION BY CRA**

CRA may terminate this Agreement upon 15 days written notice to County if (i) County suspends performance of the Services for its convenience for a period of 60 consecutive days through no act or fault of CRA or a subcontractor or their agents or employees or any other persons or entities performing portions of the Professional Services under direct or indirect contract with CRA, or (ii) CRA has suspended the performance of its Services for a period of 60 consecutive days pursuant to Section VI.A. above; and, during said 15 day written notice period, County has failed to cure its default. If CRA terminates this Agreement, County shall pay CRA such amounts as if County terminated this Agreement for its convenience pursuant to Section VI.E.

### **C. TERMINATION BY COUNTY FOR CAUSE**

County may terminate this Agreement for cause upon 7 days written notice to CRA: (i) persistently or repeatedly refuses or fails to supply enough qualified workers or proper materials; (ii) assigns or subcontracts any part of the Services without County's prior written consent; or (iii) otherwise is guilty of substantial breach of this Agreement; and, during said 7 day written notice period, CRA fails to cure its default.

If County terminates this Agreement for cause, CRA shall immediately transfer to County digital and hard copies of all Project Documents completed or partially completed at the date of termination. In addition, County may without prejudice to any other rights or remedies of County, finish the Services for the Project by whatever reasonable method County may deem expedient, including through contract with an alternate professional, and

bill CRA for the sum of the amounts County pays CRA pursuant to this Agreement, plus the costs County incurs in completing the Services, reduced by the Total Maximum Fee. Upon request of CRA, County shall furnish CRA a detailed accounting of the costs incurred by County in completing the Services. If County terminates this Agreement for cause CRA shall not be entitled to receive further payment until the Professional Services are completed.

If CRA for any reason is not allowed to complete all the Services called for by this Agreement, CRA shall not be held responsible for the accuracy of documents prepared by CRA if changed or completed by the County or by another party. Accordingly, the County agrees, to the fullest extent permitted by the law, to waive and release CRA, its officers, directors, employees, and subconsultants from any damages, liabilities or costs, including reasonable attorney's fees and defense costs arising from such change or completion by any other party of any documents prepared by CRA.

#### **D. SUSPENSION BY COUNTY FOR CONVENIENCE**

County may, without cause, order CRA in writing to suspend, delay or interrupt the Services in whole or in part for such period of time as County may determine.

The Total Maximum Fee and contract time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption.

#### **E. TERMINATION BY COUNTY FOR CONVENIENCE**

County may, at any time, terminate this Agreement for County's convenience and without cause. Upon receipt of written notice from County of such termination for County's convenience, CRA shall: (i) except for Services directed to be performed prior to the effective date of termination as stated in the notice, cease operations under this Agreement; and (ii) take actions necessary or that County may direct, for the protection and preservation of the Professional Services and Project Documents.

If County terminates this Agreement for its convenience, CRA shall immediately transfer to County digital and hard copies of all Project Documents completed or partially completed at the date of termination. County shall compensate CRA for all Services completed prior to receipt of the termination notice or performed pursuant to the termination notice. County need not pay, and CRA waives, compensation for Professional Services not actually provided, anticipatory profit or consequential damages.

### **VII. GENERAL PROVISIONS**

#### **A. DISPUTE RESOLUTION**

County and CRA agree that disputes relative to the Project should first be addressed by direct negotiations between the parties. If direct negotiations fail to resolve the dispute, the party initiating the claim that is the basis for the dispute shall be free to take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute and assuming County has not terminated this Agreement, CRA shall proceed with the Services in accordance with this Agreement as if no dispute existed. Any litigation arising under or related to this Agreement shall be conducted exclusively in the Kansas

State District Court located in Douglas County, Kansas or in the United States Court for the District of Kansas.

## **B. OWNERSHIP OF PROJECT DOCUMENTS**

After final payment is received by CRA of all monies due, documents, drawings, and specifications prepared by CRA as part of the Services shall be a work for hire and become the sole property of County; provided any use other than with respect to the Project shall be at County's sole risk and without liability to CRA. In the event County is adjudged to have failed hereunder to pay CRA for such documents, drawings, and specifications, ownership thereof, and all rights therein, shall revert to CRA to the extent not paid; provided, however, that CRA shall have an unrestricted right to their use.

## **C. INSURANCE**

CRA shall maintain throughout the term of this Agreement the following insurance coverage:

1. Professional Liability: Professional Liability Insurance in an amount not less than \$1,000,000 per claim and in the annual aggregate, which insurance shall be maintained not only during the term of this Agreement, but also for a period of 3 years after completion of the Project.
2. Commercial General Liability: Commercial General Liability Insurance in an amount not less than \$1,000,000 per occurrence and \$2,000,000 in the general aggregate. The policy shall include personal injury, products/completed operations, and contractual liability,
3. Worker's Compensation: Worker's Compensation Insurance in accordance with statutory requirements.
4. Employer's Liability: Employer's Liability Insurance in amounts not less than the following:

|                           |           |                 |
|---------------------------|-----------|-----------------|
| Bodily Injury by Accident | \$100,000 | (each accident) |
| Bodily Injury by Disease  | \$500,000 | (policy limit)  |
| Bodily Injury by Disease  | \$100,000 | (each employee) |
5. Automobile Insurance: Automobile Liability Insurance in an amount not less than \$1,000,000 per accident to protect against claims for bodily injury and/or property damage arising out of the ownership or use of any owned, hired and/or non-owned vehicle.
6. Subcontractor's Insurance: If a part of this Agreement is subcontracted, CRA shall either:
  - a) Cover all subconsultants in its insurance policies; or
  - b) Require each subconsultants not so covered to secure insurance which will protect against all applicable hazards or risks of loss in the amounts applicable to CRA.

7. Valuable Papers Insurance. Valuable papers insurance to assure the restoration of any plats, drawings, notes or other similar data relating to the Professional Services in the event of their loss or destruction.
8. Industry Ratings: Unless mutually agreed upon by County and CRA to vary the requirements, CRA shall provide County with evidence to substantiate that any insurance carrier providing insurance required under this Agreement satisfies the following requirements:
  - a) Is licensed to do business in the State of Kansas;
  - b) Carries a Best's Policyholder rating of A or better; and
  - c) Carries at least a Class X financial rating.

All general and automobile liability insurance shall be written on an occurrence basis. County shall be shown as an additional insured on all required insurance policies except professional liability, automobile, and worker's compensation. Each required insurance policy shall contain a provision by which County must be given 30 days notice prior to any insurance policy cancellation. CRA shall provide County with acceptable certificates of such insurance evidencing the required insurance coverage before County issues its Notice to Proceed, at County's reasonable request, from time to time during the term of this Agreement.

#### **D. INDEMNITY**

CRA hereby agrees to indemnify and hold harmless County and its departments, divisions, officers, employees and elected officials from all loss, damage, cost and expenses, including reasonable attorneys' fees and expenses using attorneys CRA selects, incurred by or on behalf of any of the foregoing arising out of or related to personal or bodily injury or property damage, that to the extent arise from or related to the wrongful acts or negligent acts, errors or omissions of CRA or its employees, agents or subconsultants. The provisions of this section shall survive the termination of this Agreement.

County hereby agrees to indemnify and hold harmless CRA and its directors, officers, and employees from all loss, damage, cost and expenses, including reasonable attorneys' fees and expenses using attorneys County selects, incurred by or on behalf of any of the foregoing arising out of or related to personal or bodily injury or property damage, that to the extent arise from or related to the wrongful acts or negligent acts, errors or omissions of County or its employees. The provisions of this section shall survive the termination of this Agreement.

Notwithstanding anything to the contrary herein, neither party shall be liable to the other party for punitive or consequential damages, including but not limited to loss of use, loss of revenues or loss of profits.

#### **E. ENTIRE AGREEMENT; NO VERBAL AMENDMENTS**

This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement, including the Total Maximum Fee and contract time and other terms and conditions, may be amended only by a written supplemental agreement signed by County and CRA, except in the case of an emergency situation, in which case County Engineer

may give verbal and facsimile approval to be followed by a written and signed supplemental agreement. If notice of any change affecting the general scope of the Professional Services or provisions of this Agreement, including, but not limited to, Total Maximum Fee and contract time, is a requirement of any insurance policy held by CRA as a requirement of this Agreement, the provision of such notice shall be CRA's responsibility.

**F. APPLICABLE LAW**

This Agreement shall be governed by, and is to be construed and enforceable in accordance with, the laws of the State of Kansas and the codes and established policies of County.

**G. ASSIGNMENT OF AGREEMENT**

This Agreement shall not be assigned or transferred by either party without the written consent of the other party.

**H. NO THIRD PARTY BENEFICIARIES**

Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.

**I. FEDERAL LOBBYING ACTIVITIES (Only applies to projects receiving federal funds via County)**

31 U.S.C. Section 1352 requires all subgrantees, contractors, and engineers who receive federal funds via County to certify that they will not use federal funds to pay any person for influencing or attempting to influence a federal agency or Congress in connection with the awarding of any federal contract, grant, loan or cooperative agreement. In addition, contract applicants, recipients and subrecipients must file a form disclosing any expenditures they make for lobbying out of non-federal funds during the contract period. CRA shall obtain the necessary forms from County, execute such forms, and return such forms to County. CRA shall also obtain executed forms from any of its subcontractors who fall within the provisions of the statute and provide such forms to County.

**J. COVENANT AGAINST CONTINGENT FEES**

CRA warrants that it has not employed or retained any company or person, other than a bona fide employee working for CRA, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, County may terminate this Agreement without liability or may, in its discretion, deduct from the contract price or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

**K. COMPLIANCE WITH LAWS**

CRA shall abide by applicable federal, state and local laws, ordinances and regulations applicable to this Project that are in effect as of the date of Services rendered until the Professional Services required by this Agreement are complete. CRA shall secure all

occupational and professional licenses, permits, etc. from public and private sources necessary for the fulfillment of its obligations under this Agreement.

#### **L. NOTICES**

Any notice or other communication required or permitted by this Agreement shall be made in writing to the address specified below:

CRA: Peter Oram  
1502 SW 41<sup>st</sup> Street  
Topeka, KS 66609

County: Keith A. Browning, P.E.  
Douglas County, Kansas  
1242 Massachusetts  
Lawrence, KS 66044

Nothing contained in this Section, however, shall be construed to restrict the transmission of routine communications between CRA and County.

#### **M. TITLES AND SUBHEADINGS**

Titles and subheadings as used herein are provided only as a matter of convenience and shall have no legal bearing on the interpretation of any provision of the Agreement.

#### **N. SEVERABILITY CLAUSE**

Should any provision of this Agreement be determined to be void, invalid, unenforceable or illegal for any reason, such provision shall be null and void; provided, however, that the remaining provisions of this Agreement shall be unaffected thereby and shall continue to be valid and enforceable.

#### **O. NON-DISCRIMINATION**

CRA agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if CRA is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by County; and (f) if it is determined that CRA has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by County.

**P. WAIVER**

A waiver by either County or CRA of any breach of this Agreement shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

**Q. SUCCESSORS AND ASSIGNS**

This Agreement shall be binding upon the directors, officers, partners, successors, executors, administrators, assigns, and legal representatives of the parties.

**R. RELATIONSHIP OF PARTIES**

Nothing contained herein shall be construed to make County a partner, joint venturer, or associate of CRA, nor shall either party be deemed the agent of the other.

**S. AUTHORITY TO SIGN**

The individual signing this Agreement on behalf of CRA represents that such person is duly authorized by CRA to execute this Agreement on behalf of CRA and, in doing so, that CRA becomes bound by the provisions hereof.

[remainder of page blank, signature page to follow]

**IN WITNESS WHEREOF**, the parties have executed this Agreement, effective as of the Effective Date.

**CRA:**

CONESTOGA-ROVERS & ASSOCIATES, INC.

By: \_\_\_\_\_  
CRA's Authorized Signatory

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

**COUNTY:**

DOUGLAS COUNTY, KANSAS by the BOARD OF  
DOUGLAS COUNTY, KANSAS COMMISSIONERS

By: \_\_\_\_\_  
Mike Gaughan, Chair

**ATTEST:**

\_\_\_\_\_  
Douglas County, Clerk

**Exhibits:**

- A. Scope of Services
- B. Fee Schedule
- C. Form of Progress Reports
- D. Project Schedule
- E. CAD Requirements (if referenced in Exhibit A)



**CONESTOGA-ROVERS  
& ASSOCIATES**

1502 SW 41<sup>st</sup> Street  
Topeka, KS 66609-1200  
Telephone: (785) 783-8982 Fax: (785) 783-8859  
[www.CRAworld.com](http://www.CRAworld.com)

## **EXHIBIT A**

March 21, 2013

Reference No. 080649

Mr. Keith A. Browning, P.E.  
Director of Public Works  
Douglas County Public Works  
1242 Massachusetts Street

Re: Proposal for Professional Services (Proposal)  
Implementation of Recommendations per CRA's Letter Report Dated December 20,  
2012, for Open Pit Mining Application Penny's Concrete and Sand LLC, Douglas  
County, Kansas

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Mr. Browning:

Conestoga-Rovers & Associates, Inc. (CRA) is pleased to submit this preliminary proposal to implement CRA's recommendations proposed under Section 1.1 of its letter report dated December 20, 2012, regarding the proposed conditional use permit (CUP) for Penny's Concrete and Sand LLC, (Penny's) Douglas County, Kansas. We have developed the following Scope of Work and associated costs.

### **1.0 PROPOSED SCOPE OF WORK**

The following recommendations, if implemented, will provide additional information and assist Douglas County's evaluation of the proposed conditional use permit for Penny's Concrete and Sand LLC site name (Site) in Douglas County, Kansas:

1. Determination of the current groundwater table and flow direction based by field measurements.
2. Determination of anticipated maximum dewatering influence from maximum rate of sand (and water) extraction, evaporation, and any other water consumption. This would include clarification on the proposed rate of sand and water extraction or taking from the pond (recognizing the recycling of water).
3. Confirmation of existing groundwater or soil quality to ensure there is no significant contamination from existing Site area and operations, including a screening assessment of potential sources and existence of contamination and installation and sampling of groundwater wells in downgradient area. Assessment should include suitability of soils

for placement below water in support of site rehabilitation plans. If any problems are indicated, they should be further investigated and evaluated as to whether any remedial actions are necessary.

4. Private water well survey to establish baseline water quantity and water quality conditions within potential zone of influence (#1 and #2, above). Such survey would be subject to landowner access permission and include areas up-gradient as well as downgradient from the site.

Information regarding specific work tasks involved with each of the above recommendations is detailed in the following sections.

## **2.0 DEVELOPMENT OF SITE SPECIFIC WORK PLAN**

Prior to implementation of any work tasks, a detailed Site specific work plan will be developed. This will require coordination meeting(s) between Douglas County and Penny's.

## **3.0 FIELD INVESTIGATION - RECOMMENDATION #1**

In order to adequately determine a groundwater flow direction, a total of five monitoring wells are proposed for installation around the vicinity of the planned open pit mining area . CRA understands that Penny's will provide written permission for CRA to access the monitoring well locations.

During well installation, borings will be continuously sampled to the bottom of each boring. Unsaturated soil samples will be collected and divided for field headspace analysis. Soils will be described and logged according to the Unified Soil Classification System (USCS), and four to six samples from the Site will be submitted for grain size analysis.

## **3.1 PREPARATION OF A SITE-SPECIFIC HASP**

Prior to the initiation of monitoring well installation or other Site activities, a Site-specific Health and Safety Plan (HASP) will be developed. The HASP will address the tasks to be performed and establish the methods and procedures to be implemented to safely conduct each task.

## **3.2 UTILITY CLEARANCE**

A utility clearance will provide a thorough review and summary of utilities present in the vicinity of the Site. Field activities that penetrate the ground surface, such as monitoring well

installations, will have a utility clearance performed in advance of any subsurface work. CRA will contact Kansas One-Call (811) to clear public utilities to ensure specific monitoring well locations are clear of subsurface utilities.

### **3.3 MONITORING WELL CONSTRUCTION**

The monitoring wells will be constructed of two-inch diameter PVC completed to a maximum depth of 40 feet below ground surface (bgs) in four of the wells and to bedrock, which is estimated at 70 ft bgs, in the fifth well. Installation of one deep (bedrock) monitoring well will provide additional lithologic information and ensure the formation consists of one hydrostratigraphic unit/aquifer. Actual well completion depths will be determined in the field based on the depth of encountered groundwater. The monitoring wells will consist of 20 feet of 0.01-slot Schedule 40 PVC well screen threaded to PVC casing. All monitoring wells will be installed according to Kansas Article 30 Water Well Contractor's License, Water Well Construction and Abandonment.

### **3.4 WELL SURVEYING, WATER LEVEL MEASUREMENTS AND SLUG TESTING**

All of the monitoring wells will be surveyed for location and top of casing elevation by a Kansas licensed surveyor following their installation. After proper development, the wells will be allowed to settle for a minimum of 24 hours prior to obtaining measurements of the wells static water level for determination of the groundwater flow direction. Slug tests will be performed on each monitoring well to obtain hydraulic conductivity values and assist with calculation of groundwater flow velocity.

Water levels in the Kansas River will be measured within 24 hours of collecting static water level measurements in the groundwater monitoring wells. This will require installation of two river staff gauges with one staff located up-gradient and the other downgradient of the Site. These staffs will be installed to a permanent structure if available, or protected to allow future river stage gauging.

### **3.5 MONITORING WELL SAMPLING**

CRA will collect groundwater samples from each of the monitoring wells using dedicated disposable bailers or low flow pumps with dedicated tubing. Collected groundwater samples will be placed in laboratory-supplied containers, placed on ice, and shipped under standard chain of custody (COC) protocol to an analytical laboratory for the following laboratory analyses:

- Presence/Absence of Bacteria

- Metals including: lead, iron, arsenic, barium, cadmium, and mercury
- Geochemical parameters including: sulfate, sulfite, nitrate/nitrite, ammonia, total dissolved solids, alkalinity, and chloride
- Select pesticides and herbicides will also be analyzed from one down-gradient well

In addition to the above laboratory parameters, field parameters such as temperature, pH, dissolved oxygen, turbidity and oxidation reduction potential will also be measured during sampling activities. Laboratory analyses will be completed on a standard 10 day turn-around-time (TAT).

The assessment of this data will assist in the development of an appropriate groundwater monitoring program.

#### **4.0 HYDROGEOLOGIC EVALUATION AND DEWATERING INFLUENCE - RECOMMENATION #2**

In order to evaluate the effect the proposed open pit aggregate mine will have on water quantity, a determination of the anticipated maximum dewatering influence must be determined. This rate can be calculated from the maximum rate of sand (and water) extraction, evaporation, and any other water consumption, and would include clarification on the proposed rate of sand and water extraction or taking from the pond (recognizing the recycling of water).

The hydrogeologic evaluation will establish the existing groundwater flow conditions and directions and assess the potential dewatering influence. The evaluation will use the available background and site information as well as additional information derived from this work program. This evaluation will include analytical and/or simple groundwater modeling techniques to predict the potential dewatering influence on groundwater flow.

#### **5.0 SITE EVALUATION - RECOMMENDATION #3**

Recommendation #3 has a stated objective of confirming soil quality to ensure there is no significant contamination from the existing Site area and operations, prior to beginning mining operations. CRA proposes two work items for meeting this objective; the first will be non-intrusive and consist of conducting a Phase I ESA, which will include a title search, review of historical information and search of applicable databases for evidence of historical land use and potential sources of contamination. Should potential contaminant sources be identified during the Phase I ESA, the second would be employed consisting of soil testing through installation of test pits to outline soil quality.

## **5.1 INSTALLATION OF TEST PITS**

Should test pits be required, an excavator will be used to install shallow (estimated depth less than 5 feet) test pits across the Site to provide information regarding soil type, fill material, and potential contaminant sources. A representative soil sample will be collected from one of the test pits. Soil sampling, as part of this proposal, will focus on parameters associated with potential contaminants identified in the Phase I ESA, and at a minimum the soil sample will be analyzed for the same constituents as proposed for analysis of groundwater samples.

## **6.0 PRIVATE WATER WELL SURVEY - RECOMMENDATION #4**

In order to establish baseline water quality and quantity conditions within potential zones of influence of the mining operation, CRA proposes a private water well survey be conducted. A total of 12 wells registered as "Domestic" were identified during a review of the Kansas Geologic Survey's WWC-5 water well record database within ½ mile of the Site; however, it should be noted that wells are often registered as "Domestic" on WWC-5 forms, but are instead used for non-domestic purposes. CRA proposes a survey be conducted of all twelve registered domestic wells to confirm usage for domestic purposes. This survey is subject to landowner access permission.

## **6.1 DOMESTIC WELL SAMPLING**

Based on the results of the hydrologic evaluation and results of the well survey, CRA will collect groundwater samples from select domestic wells (estimated at seven for this proposal and subject to access). Samples will be collected from the kitchen faucet if the well is truly used for domestic purposes or from the outdoor spigot if used as a lawn and garden well. If the residence is equipped with a water softener or filtration system, the sample will be collected prior to treatment. The sample will be collected after running the water for a minimum of 10 minutes to allow for a representative sample. Collected water samples will be placed in laboratory-supplied containers, placed on ice, and shipped under standard chain of custody (COC) protocol to an analytical laboratory for the following laboratory analyses:

- Presence/Absence of Bacteria
- Metals including: lead, iron, arsenic, barium, cadmium, and mercury
- Geochemical parameters including: sulfate, sulfide, nitrate/nitrite, ammonia, total dissolved solids, alkalinity, and chloride
- Pesticides and herbicides, if identified in on-Site monitoring wells (not included in costs for this proposal)

Laboratory analyses will be completed on a standard 10 day turn-around-time (TAT).

## 7.0 COST ESTIMATE

CRA estimates that the cost to implement the above recommendation is \$59,392.00. Specific cost items are included in the following table.

| Cost Item Description                                                                                                                    | Total Hours | Cost per Hour | Amount      |
|------------------------------------------------------------------------------------------------------------------------------------------|-------------|---------------|-------------|
| Health & Safety Plan/Utility Locates                                                                                                     | 5           | \$122.00      | \$610.00    |
| Drilling Subcontractor (competitive bidding will be conducted prior to final contractor selection) - estimate based on previous projects |             |               | \$12,000.00 |
| Well Development Activities                                                                                                              | 10          | \$100.00      | \$1,000.00  |
| Slug Testing of Wells                                                                                                                    | 10          | \$100.00      | \$1,000.00  |
| Grain Size Analysis Testing (Costs by Others)                                                                                            | NA          | NA            | \$1,000.00  |
| Survey of Well Locations and Elevation (Costs by Others)                                                                                 | NA          | NA            | \$1,000.00  |
| Laboratory Analysis - (5 monitoring wells, one soil sample and 7 domestic wells for one event)                                           | NA          | NA            | \$4,900.00  |
| Well logging/Well Construction Oversight                                                                                                 | 32          | \$122.00      | \$3,904.00  |
| Phase I ESA                                                                                                                              | 30          | \$100.00      | \$3,000.00  |
| Test Pit Installation and Soil Sampling                                                                                                  | 15          | \$100.00      | \$1,500.00  |
| Dewatering Evaluation/Hydrologic Evaluation                                                                                              | 96          | \$156.00      | \$14,976.00 |
| Survey of Private Water Wells (access, verification of well locations)                                                                   | 10          | \$100.00      | \$1,000.00  |
| Vehicle Mileage and Equipment Costs                                                                                                      | NA          | NA            | \$1000.00   |
| Work Plan Development                                                                                                                    | 41          | \$122.00      | \$5,002.00  |
| Report Preparation & Distribution                                                                                                        | 50          | \$150.00      | \$7,500.00  |

Total Personnel Hours = Total Expenses = 299      Total Expenses = \$19,900.00  
 Program Total = \$59,392.00

We appreciate the opportunity to submit this proposal to implement CRA's recommendations proposed under Section 1.1 of its letter report dated December 20, 2012, and look forward to working with you on this important project. Please contact the undersigned at (785) 783-8982 if you require further information or any clarifications.

Yours truly,

CONESTOGA-ROVERS & ASSOCIATES



Travis Kogl, P.G.



Kirk Hoeffner, P.G.

c.c.: Mike Staffileno - CRA, Dallas, Texas

# EXHIBIT B

Page 1 of 2

| Cost Item Description                                                                                                                    | Total Hours | Cost per Hour | Amount      |
|------------------------------------------------------------------------------------------------------------------------------------------|-------------|---------------|-------------|
| Health & Safety Plan/Utility Locates                                                                                                     | 5           | \$122.00      | \$610.00    |
| Drilling Subcontractor (competitive bidding will be conducted prior to final contractor selection) - estimate based on previous projects |             |               | \$12,000.00 |
| Well Development Activities                                                                                                              | 10          | \$100.00      | \$1,000.00  |
| Slug Testing of Wells                                                                                                                    | 10          | \$100.00      | \$1,000.00  |
| Grain Size Analysis Testing (Costs by Others)                                                                                            | NA          | NA            | \$1,000.00  |
| Survey of Well Locations and Elevation (Costs by Others)                                                                                 | NA          | NA            | \$1,000.00  |
| Laboratory Analysis - (5 monitoring wells, one soil sample and 7 domestic wells for one event)                                           | NA          | NA            | \$4,900.00  |
| Well logging/Well Construction Oversight                                                                                                 | 32          | \$122.00      | \$3,904.00  |
| Phase I ESA                                                                                                                              | 30          | \$100.00      | \$3,000.00  |
| Test Pit Installation and Soil Sampling                                                                                                  | 15          | \$100.00      | \$1,500.00  |
| Dewatering Evaluation/Hydrologic Evaluation                                                                                              | 96          | \$156.00      | \$14,976.00 |
| Survey of Private Water Wells (access, verification of well locations)                                                                   | 10          | \$100.00      | \$1,000.00  |
| Vehicle Mileage and Equipment Costs                                                                                                      | NA          | NA            | \$1000.00   |
| Work Plan Development                                                                                                                    | 41          | \$122.00      | \$5,002.00  |
| Report Preparation & Distribution                                                                                                        | 50          | \$150.00      | \$7,500.00  |

Total Personnel Hours = 299

Total Reimbursable Expenses = \$19,900.00

Total Personnel Costs = \$39,492.00

**Program Total = \$59,392.00**



## 2013 Fee Schedule

**Principals:** \$171.00 - \$196.00

**Associates:** \$151.00 - \$177.00

**Specialist:** \$156.00 - \$196.00

**Engineers:**

- ◆ Level A \$100.00
- ◆ Level B \$112.00
- ◆ Level C \$122.00 - \$143.00
- ◆ Level D \$150.00 - \$160.00
- ◆ Level E \$165.00 - \$175.00

**Geologists/Hydrogeologists:**

- ◆ Level A \$100.00
- ◆ Level B \$112.00
- ◆ Level C \$122.00 - \$143.00
- ◆ Level D \$150.00 - \$160.00
- ◆ Level E \$165.00 - \$175.00

**Environmental Chemists/Scientists/Planners:**

- ◆ Level A \$95.00
- ◆ Level B \$105.00
- ◆ Level C \$118.00 - \$128.00
- ◆ Level D \$134.00 - \$144.00
- ◆ Level E \$163.00 - \$173.00

**Industrial Hygienists/Safety Professionals:**

- ◆ Level A \$95.00
- ◆ Level B \$105.00
- ◆ Level C \$118.00 - \$128.00
- ◆ Level D \$134.00 - \$144.00
- ◆ Level E \$163.00 - \$173.00

**Information Technologists:**

- ◆ Level A \$95.00
- ◆ Level B \$105.00
- ◆ Level C \$118.00 - \$128.00
- ◆ Level D \$134.00 - \$144.00
- ◆ Level E \$163.00 - \$173.00

**Database Analysts:**

- ◆ Level A \$81.00
- ◆ Level B \$91.00
- ◆ Level C \$106.00 - \$126.00
- ◆ Level D \$140.00 - \$160.00
- ◆ Level E \$165.00 - \$175.00

**Technicians/Technologists:**

- ◆ Level A \$74.00
- ◆ Level B \$85.00
- ◆ Level C \$100.00
- ◆ Level D \$111.00 - \$131.00
- ◆ Level E \$142.00 - \$152.00

**Draft/CADD:**

- ◆ Level A \$67.00
- ◆ Level B \$78.00
- ◆ Level C \$90.00
- ◆ Level D \$100.00
- ◆ Level E \$110.00

**Technical Apprentices:** \$74.00 - \$85.00

**Administrative Support:** \$58.00

## **EXHIBIT C PROGRESS REPORTS**

Progress reports shall include the following:

1. Status of study: List each principal task and the percentage complete.
2. Tasks to be performed in the next month: List each principal task which is anticipated to be started or completed in the next month.
3. Issues which need direction from County: List all items where further direction from County is needed by Engineer in order to complete the Project within the Project Schedule detailed in this Agreement.
4. Issues which may present a problem for meeting the Project Schedule: List all issues and problems which may prevent a timely completion of the plans or which may create a problem during construction.

**EXHIBIT D**  
**PROJECT SCHEDULE**

Study shall be completed and report submitted to County by July 19, 2013.

**EXHIBIT E**  
**CAD REQUIREMENTS**  
**(If referenced in Exhibit A)**

1. Project drawings shall be developed by Consultant through the use of a Computer-Aided Drafting (CAD) System and made available to County on digital media (see #3 below). However, due to the potential that the information set forth on the digital media can be modified by County, unintentionally or otherwise, Consultant shall remove all indices of its ownership, professional corporation name, seal, and/or involvement from each digital display. For documentation purposes, two sets of an original digital media and two (11" x 17" size or larger) duplicate mylar sets will be prepared. One set will be given to County and one set will be retained by Consultant.
2. Software requirement: AutoCAD (Version 2006 preferred) DWG or DXF file format.  
**\*NOTE: A LAYER LIST FOR EACH PROJECT SHALL ACCOMPANY THE DIGITAL MEDIA.**
3. Acceptable Digital Media: Compact Disk or DVD. \*Note: Media will be returned to Engineer.
4. Compression Utilities: If a compression utility is used, save file(s) as "self-extracting" file(s).
5. Ensure that all objects are on their proper layers.

# **Memorandum**

Lawrence-Douglas County  
Fire Medical

To: The Board of County Commissioners  
Craig Weinaug, County Administrator

From: Mark Bradford, Fire Chief

Date: March 27, 2013

Re: Purchase of Ambulances

## **Background:**

The Fire Medical Department maintains six primary ambulances and five secondary ambulances for response in Douglas County. Secondary vehicles are ambulances staffed with off-duty members when all primary ambulances are committed to medical calls throughout the county. They are also used for events such as high school football games, KU events and a variety of other events, as well as replacing primary vehicles that are down for maintenance issues.

## **Replacement Program:**

Our present ambulance replacement program is based on an operating life of approximately 8-10 years. The replacement process includes an evaluation criterion that takes into account mileage, engine hours, age, maintenance costs and other operating factors. This approach is more objective than simply looking at years of service and is intended to retire vehicles prior to extensive maintenance cost and potential breakdowns during emergency incidents. The current consequence of this program provides a near zero residual value of the vehicles at the end of their operating life.

The department currently uses ambulances constructed by American Emergency Vehicles (AEV). The Body is fabricated by AEV and assembled on various chassis selected by the purchaser. Historically these vehicles have proven reliable and have handled the demands of urban and rural operations.

Chassis types have been an on-going issue for the ambulance service. The heavy duty chassis simply provides too great a gross vehicle weight (GVW) resulting in increased maintenance costs, low miles per gallon rating and a rough patient ride. We selected a GMC 4500 chassis for our last three purchases with very favorable results. However, that style of chassis is no longer manufactured. In addition, the cost of the chassis is approximately \$50,000 – 65,000 more than the medium duty chassis.

We have identified the medium duty Chevrolet G4500 that is being used by a number of ambulance services as an alternative. Kansas City, Missouri currently has 35 vehicles in their fleet; Leavenworth County, Kansas has three and Montreal, Canada has 55. They all report favorable outcomes related to comfort of ride, maintenance and operating costs.

**Operations Life and Residual Value:**

The Fire Medical Department produced maintenance / operating cost matrix utilized by vehicle maintenance facilities across the country to determine the life of a vehicle. We are recommending that the Chevrolet G4500 Series chassis be retired after 6 years of life. (see attached replacement plan). This will maximize our efficiency regarding maintenance and operation costs and provide the best resale residual values possible. Currently our operating life of the heavy duty chassis is 10 – 13 years with a residual value of less than \$3,000. Research indicates the medium duty chassis with the same use and maintenance characteristics that we are experiencing with our heavy duty units would potentially result in a \$15,000-20,000 residual.

**Funding:**

Funding for this purchase is from the Equipment Reserve. FY2013 transfers are included and are sufficient for this request.

**Recommendation for Ambulance New Replacement Plan:**

We recommend that we begin this fleet purchase rotation plan by procuring three ambulances in 2013 (one budgeted from FY2012 and one from FY2013, and one additional request in FY2013), then plan for two ambulances per year for the foreseeable future. All future purchase requests will be brought to the commission for approval.

**Action Request:**

Fire Medical Department staff requests approval from the County Commission to:

1. Waive formal bidding process and authorize staff to utilize the Houston-Galveston Council Agreement for purchase;
2. Purchase three (3) ambulances from American Emergency Vehicles (AEV) for a purchase price of \$630,874.00 (\$209,958.00 each, plus \$1,000 H-GAC).

**Attachments:**

Vehicle Replacement Guide  
Replacement Spreadsheet

**Lawrence-Douglas County Fire Medical  
Medic Unit Replacement Guide  
Mileage and Actual Engine Hours as of March 1, 2013**

| <b>Radio ID<br/>Unit Number<br/>Year</b>               | <b>Mileage<br/>Engine Actual Engine Hours</b>                                                                                         |
|--------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
| Medic 40<br>Unit 687<br>1998                           | Actual Mileage 164,396<br>Actual Engine Hours 11,796<br>Estimated mileage @ 20 MPH = 235,920<br>Repairs Cost 2006-to-date = \$ 37,252 |
| Medic 20<br>Unit 684<br>2000                           | Actual Mileage 154,702<br>Actual Engine Hours 12,233<br>Estimated mileage @ 20 MPH = 244,660<br>Repairs Cost 2006-to-date = \$ 44,721 |
| Medic 10<br>Unit 685<br>2003                           | Actual Mileage 128,358<br>Actual Engine Hours 5866<br>Estimated mileage @ 20 MPH = 117,320<br>Repairs Cost 2006-to-date = \$ 40,333   |
| Medic 4<br>(Medic 30 as of 3-6-13)<br>Unit 679<br>2005 | Actual Mileage 170,008<br>Actual Engine Hours 9116<br>Estimated mileage @ 20 MPH = 182,320<br>Repairs Cost 2006-to-date = \$ 68,576   |
| Medic 50<br>Unit 677<br>2005                           | Actual Mileage 142,698<br>Actual Engine Hours 8084<br>Estimated mileage @ 20 MPH = 161,680<br>Repairs Cost 2006-to-date = \$ 67,689   |
| Medic 30<br>(Medic 4 as of 3-6-13)<br>Unit 678<br>2005 | Actual Mileage 114,640<br>Actual Engine Hours 7663<br>Estimated mileage @ 20 MPH = 153,260<br>Repairs Cost 2006-to-date = \$ 48,221   |
| Medic 5<br>Unit 691<br>2007                            | Actual Mileage 127,435<br>Actual Engine Hours 7739<br>Estimated mileage @ 20 MPH = 154,780<br>Repairs Cost 2006-to-date = \$ 67,399   |
| Medic 1<br>Unit 690<br>2007                            | Actual Mileage 90,640<br>Actual Engine Hours 6559<br>Estimated mileage @ 20 MPH = 131,180<br>Repairs Cost 2006-to-date = \$ 51,418    |

**Lawrence-Douglas County Fire Medical  
Medic Unit Replacement Guide  
Mileage and Actual Engine Hours as of March 1, 2013**

| <b>Radio ID<br/>Unit Number<br/>Year</b> | <b>Mileage<br/>Engine Actual Engine Hours</b>                                                                                     |
|------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| Medic 3<br><br>Unit 693<br><br>2009      | Actual Mileage 55,441<br>Actual Engine Hours 2965<br>Estimated mileage @ 20 MPH = 59,300<br>Repairs Cost 2006-to-date = \$ 16,684 |
| Medic 11<br><br>Unit 681<br><br>2009     | Actual Mileage 52,571<br>Actual Engine Hours 2112<br>Estimated mileage @ 20 MPH = 42,240<br>Repairs Cost 2006-to-date = \$ 11,202 |
| New Medic 2<br><br>680<br><br>2011       | Actual Mileage 40,775<br>Actual Engine Hours 1967<br>Estimated mileage @ 20 MPH = 39,340<br>Repairs Cost 2006-to-date = \$ 11,868 |

Estimated Mileage is based on actual engine hours with the assumption that the average travel speed was 20 mile per hour. This calculation allows equal comparisons based on engine hours between units. Our current replacement program assigns 1 point for every 10,000 miles or 500 engine hours.

## Lawrence-Douglas County

## Fire Medical

## Medic Unit Replacement Plan

| Year                    | 1998       | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012      | 2013      | 2014      | 2015      | 2016      | 2017      | 2018      | 2019      | 2020      | 2021      | 2022      | 2023      |      |
|-------------------------|------------|------|------|------|------|------|------|------|------|------|------|------|------|------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|------|
| Unit Price              |            |      |      |      |      |      |      |      |      |      |      |      |      |      | \$210,000 | \$214,200 | \$218,484 | \$222,854 | \$227,311 | \$231,857 | \$236,494 | \$241,224 | \$246,048 | \$250,969 | \$255,989 | \$261,109 |      |
| New Units/Year          |            |      |      |      |      |      |      |      |      |      |      |      |      |      | 0         | 3         | 2         | 2         | 2         | 2         | 2         | 2         | 2         | 2         | 2         | 2         |      |
| Extended Cost           |            |      |      |      |      |      |      |      |      |      |      |      |      |      | \$0       | \$642,600 | \$436,968 | \$445,707 | \$454,622 | \$463,714 | \$472,988 | \$482,448 | \$492,097 | \$501,939 | \$511,978 | \$522,217 |      |
| Residual Value Estimate |            |      |      |      |      |      |      |      |      |      |      |      |      |      |           | \$41,769  | \$28,403  | \$28,971  | \$29,550  | \$30,141  | \$30,744  | \$31,359  | \$31,986  | \$32,626  | \$33,279  | \$33,944  |      |
| Unit                    | Assignment |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           |           |           |           |           |           |           |           |           |           |      |
| 687                     | M40        | NEW  |      |      |      |      |      |      |      |      |      |      |      |      |           |           | E-15      |           |           |           |           |           |           |           |           |           |      |
| 684                     | M50        |      |      | NEW  |      |      |      |      |      |      |      |      |      |      |           |           | E-13      |           |           |           |           |           |           |           |           |           |      |
| 685                     | M10        |      |      |      |      | NEW  |      |      |      |      |      |      |      |      |           |           | E-10      |           |           |           |           |           |           |           |           |           |      |
| 677                     | M20        |      |      |      |      |      |      | NEW  |      |      |      |      |      |      |           |           | E-9       |           |           |           |           |           |           |           |           |           |      |
| 678                     | M30        |      |      |      |      |      |      | NEW  |      |      |      |      |      |      |           |           | E-9       |           |           |           |           |           |           |           |           |           |      |
| 679                     | M4         |      |      |      |      |      |      | NEW  |      |      |      |      |      |      |           |           |           | E-10      |           |           |           |           |           |           |           |           |      |
| 690                     | M1         |      |      |      |      |      |      |      |      | NEW  |      |      |      |      |           |           |           | E-8       |           |           |           |           |           |           |           |           |      |
| 691                     | M5         |      |      |      |      |      |      |      |      | NEW  |      |      |      |      |           |           |           |           | E-9       |           |           |           |           |           |           |           |      |
| 681                     | M11        |      |      |      |      |      |      |      |      |      |      |      | NEW  |      |           |           |           |           | E-6       |           |           |           |           |           |           |           |      |
| 693                     | M3         |      |      |      |      |      |      |      |      |      |      |      | NEW  |      |           |           |           |           |           | E-7       |           |           |           |           |           |           |      |
| 680                     | M2         |      |      |      |      |      |      |      |      |      |      |      |      | NEW  |           |           |           |           |           | E-6       |           |           |           |           |           |           |      |
|                         | Medic A    |      |      |      |      |      |      |      |      |      |      |      |      |      |           | NEW       |           |           |           |           |           | E-5       |           |           |           |           |      |
|                         | Medic B    |      |      |      |      |      |      |      |      |      |      |      |      |      |           | NEW       |           |           |           |           | E-5       |           |           |           |           |           |      |
|                         | Medic C    |      |      |      |      |      |      |      |      |      |      |      |      |      |           | NEW       |           |           |           |           |           | E-6       |           |           |           |           |      |
|                         | Medic D    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           | NEW       |           |           |           |           | E-5       |           |           |           |           |      |
|                         | Medic E    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           | NEW       |           |           |           |           |           | E-6       |           |           |           |      |
|                         | Medic F    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           | NEW       |           |           |           |           | E-6       |           |           |           |      |
|                         | Medic G    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           | NEW       |           |           |           |           |           | E-6       |           |           |      |
|                         | Medic H    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           |           | NEW       |           |           |           |           | E-6       |           |           |      |
|                         | Medic I    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           |           | NEW       |           |           |           |           |           | E-6       |           |      |
|                         | Medic J    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           |           |           | NEW       |           |           |           |           | E-6       |           |      |
|                         | Medic K    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           |           |           | NEW       |           |           |           |           |           | E-6       |      |
|                         | Medic L    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           |           |           |           | NEW       |           |           |           |           | E-6       |      |
|                         | Medic M    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           |           |           |           | NEW       |           |           |           |           |           |      |
|                         | Medic N    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           |           |           |           |           | NEW       |           |           |           |           |      |
|                         | Medic O    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           |           |           |           |           | NEW       |           |           |           |           |      |
|                         | Medic P    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           |           |           |           |           |           | NEW       |           |           |           |      |
|                         | Medic Q    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           |           |           |           |           |           | NEW       |           |           |           |      |
|                         | Medic R    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           |           |           |           |           |           |           | NEW       |           |           |      |
|                         | Medic S    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           |           |           |           |           |           |           | NEW       |           |           |      |
|                         | Medic T    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           |           |           |           |           |           |           |           | NEW       |           |      |
|                         | Medic U    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           |           |           |           |           |           |           |           | NEW       |           |      |
|                         | Medic V    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           |           |           |           |           |           |           |           |           | NEW       |      |
|                         | Medic W    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           |           |           |           |           |           |           |           |           | NEW       |      |
|                         | Medic X    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           |           |           |           |           |           |           |           |           |           |      |
|                         | Medic Y    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           |           |           |           |           |           |           |           |           |           |      |
|                         | Medic Z    |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           |           |           |           |           |           |           |           |           |           |      |
|                         | Medic AA   |      |      |      |      |      |      |      |      |      |      |      |      |      |           |           |           |           |           |           |           |           |           |           |           |           |      |
| Unit                    | Assignment | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011      | 2012      | 2013      | 2014      | 2015      | 2016      | 2017      | 2018      | 2019      | 2020      | 2021      | 2022      | 2023 |

|  |                     |
|--|---------------------|
|  | Purchase Year - NEW |
|  | Primary Status      |
|  | Secondary Status    |
|  | Retire Year - END   |

## Assumptions Entry Area

|                                                          |           |
|----------------------------------------------------------|-----------|
| % +/- Annual Manufacturing Cost                          | 2         |
| Medic Cost (2012)                                        | \$210,000 |
| % Residual Value<br>(based on current<br>purchase price) | 6.5       |