

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

WEDNESDAY, MAY 17, 2017

4:00 p.m.

-Consider approval of the minutes for [February 22](#), [March 1](#), [March 8](#), [March 15](#), [April 12](#), [April 26](#) and [May 3](#), 2017

CONSENT AGENDA

- (1) (a) Consider approval of Commission Orders;
- (b) [Review and Approve the Juvenile Justice Comprehensive Plan State Block Grant Conditions of Grant Agreement between Douglas County Kansas and Kansas Department of Corrections-Juvenile Services. \(Pam Weigand\); and](#)
- (c) [Review and Approve 7th Judicial District Kansas department of Corrections – Juvenile Services Juvenile Justice Grant Application for SFY 2018. \(Pam Weigand\)](#)

REGULAR AGENDA

- (2) [TA-16-00511: Consider a Text Amendment to Chapter 12 of the County Code, *Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas* to revise Section 12-319-4.31, *Radio, television, telecommunication, and microwave towers*, to bring the standards and definitions into compliance with State law. *Initiated by County Commission on 11/30/16.* Mary Miller is the Planner.](#)
- (3) [CUP-17-00092: Consider a Conditional Use Permit for a mini-storage facility, located on approximately 11.63 acres in the 1700 Block of E 902 Rd. Submitted by BG Consultants, for Garber Enterprises, Inc., property owner of record. Mary Miller is the Planner.](#)
- (4) Consider approval of Accounts Payable (if necessary)
 - (b) Appointments
 - MPO Bicycle Advisory Committee (1) position**
 - Board of Zoning Appeals (1) position 10/16**
 - Lawrence-Douglas County Housing Authority Board (1) position 06/17**
 - Metropolitan Planning Commission – Positions (2) 05/17**
 - (c) Public Comment
 - (d) Miscellaneous
- (5) Adjourn

WEDNESDAY, MAY 24, 2017

WEDNESDAY, MAY 31, 2017

WEDNESDAY, JUNE 7, 2017

-Relay for life proclamation (Caroline Wrocznski)

WEDNESDAY, JUNE 14, 2017

-Consider adoption of Douglas County Food System Plan (Helen Schnoes)

WEDNESDAY, JUNE 21, 2017- canceled

***Note:** The Douglas County Commission meets regularly on Wednesdays at 4:00 P.M. for administrative items and/or 6:00 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.*

February 22, 2017

Gaughan called the regular meeting to order at 4:00 p.m. on Wednesday, February 22, 2017 with all members present.

CONSENT AGENDA 02-22-17

Gaughan moved approval of the following Consent Agenda:

- ▶ Commission Order No. 17-010 (on file in the office the County Clerk);
- ▶ Acquisition of easements for Drainage Structure Replacement Project No. 2015-51; Structure No. 15.00N-16.24E: Joann Bowman Duncan, Trustee of the Restated Joann Baldwin Declaration of Trust dated May 3, 1988, Tract No. 1; Lawrence E Sinks, Tract No. 2; and Dorothy J. Schaake, Trustee of the Dorothy J. Schaake Trust, UTD March 21, 1994, Tract No. 3;
- ▶ Affirm the actions of the County Administrator to approve an agreement with Mail Communications Group for processing the Appraiser's Change of Value Notice mailing in an amount not to exceed \$26,775;
- ▶ Access the State/NASPO contracts for cellular/data services with the following providers: Countywide (minus Sheriff devices)-AT&T; Sheriff's Office-Verizon;
- ▶ Solicit bids for Project No. 2015-70, multi-layer polymer concrete overlays for Bridge No. s 21.30N-06.15E, 07-25N-06.50E, 18-00N-11.24E and 00-64N-05.50E; and
- ▶ Agreement with Shawnee County laying out duties and responsibilities for each county in a project to replace Structure No. 09.39N-00.00E.

Motion was seconded by Thellman and carried 3-0.

ADMINISTRATION/EMPLOYEE BENEFITS 02-22-17

The Board considered moving to the Cigna PPO provider network for the 2017-2018 Health Insurance Plan Year. Sarah Plinsky, Assistant County Administrator, presented the item.

Plinsky said earlier this year, Douglas County's benefits consultant Willis Towers Watson and Third Party Administrator, approached staff about switching provider networks for the upcoming year recommending Aetna Signature or Cigna PPO. In the past these networks were not available to self insured health plans. However, Aetna and Cigna have expanded their networks providing greater discounts to members; provide coverage to

employees traveling outside of the region and dependants away at college. A network discount comparison chart is listed below:

Network	Network Discount	Total Network Access Fee (per employee per month)	Percent of Current Claims – In Network
Freedom Select	43.1%	\$18.45	95%
Aetna Signature	46.9%	\$19.00	98%
Cigna PPO	47.3%	\$15.77	98%

Plinsky stated we are currently getting a 43.1% discount with Freedom Network. Moving to Cigna with a 47.3% discount will save the County \$250-300K annually on total spending.

Gaughan said he supports doing everything we can to improve coverage and hold down cost increases for employees. It's unclear to him what is affecting the cost increases.

Plinsky responded Willis is predicting a 12% increase in premium for the next plan year. Moving to Cigna would absorb some of the impact; making the increase closer to 8%. She gets recommendations from our consultant for the upcoming year based on our past year's claim experience and what they see as trends. The Board will decide all plan design changes.

Gaughan asked if Bert Nash is considered in the Cigna network. Plinsky stated even if they are not, we do a separate plan rider to include Bert Nash and the Visiting Nurses Association (VNA).

Plinsky said she plans to have meetings in late March with department heads discuss total compensation and come back to the Board in late April with more information on plan design, deductibles and costs.

Gaughan opened the item for public comment. No comment was received.

Gaughan moved to approve moving to the Cigna PPO provider network for the 2017-2018 Health Insurance Plan Year. Motion was seconded by Derusseau and carried 3-0.

ACCOUNTS PAYABLE 02-22-17

Gaughan moved to approve accounts payable in the amount of \$790,181.55 paid on 02/23/17; and payroll in the amounts of \$967,605.85 paid on 01/06/17, \$1,004,199.93 paid on 01/20/17, \$168.50 and \$3,086.79 paid on 01/23/17, \$986,261.36 paid on 02/03/17 and \$937,464.96 paid on 02/17/17. Motion was seconded by Derusseau and carried 3-0.

APPOINTMENT 02-22-17

Thellman moved to reappoint Shannon Oury to a second term on the Lawrence-Douglas County Health Board. Motion was seconded by Gaughan and carried 3-0.

Gaughan moved to adjourn the meeting. Motion was seconded by Derusseau and carried 3-0.

Mike Gaughan, Chair

Nancy Thellman, Vice-Chair

ATTEST:

Jamie Shew, County Clerk

Michelle Derusseau, Member

March 1, 2017

Gaughan called the regular meeting to order at 4:00 p.m. on Wednesday, March 1, 2017 with all members present.

STUDY SESSION ON FISCAL YEAR 2018 BUDGET 03-01-17

Staff led a preliminary planning discussion on the fiscal year 2018 Budget. No action was taken.

RECESS

At 5:15 p.m. the Board recessed until 6:00 p.m.

RECONVENE

At 6:00 p.m. the Board returned to regular session.

MINUTES 03-01-17

Gaughan moved approval of the minutes for January 25, February 1, February 8 and February 15, 2017. Motion was seconded by Thellman and carried 3-0.

CONSENT AGENDA 03-01-17

Gaughan moved approval of the following Consent Agenda:

- ▶ Commission Order No. 17-011 (on file in the office the County Clerk);
- ▶ Agreement with Johnson County laying out duties and responsibilities for each county in a project to replace Structure No. 03.28N-24.00E; and
- ▶ Solicit bids for Project No. 2015-70, multi-layer polymer concrete overlays for Bridge Nos. 21.30N-06.15E, 07.25N-06.50E, 18.00N-11.24E and 00.64N-05.50E;

Motion was seconded by Thellman and carried 3-0.

Pulled from the agenda:

TOW SERVICE AGREEMENT 03-01-17

The Board considered the 2017 Tow Services Provider Agreement and Resolution establishing maximum charges for authorized tow service. Jill Jolicoeur, Assistant to the County Administrator, presented the item.

Jolicoeur stated she met with local tow operators for their annual meeting and received feedback regarding changes to some of the tow rates.

Derusseau stated she doesn't feel comfortable raising rates after comparing the current Douglas County rates to other surrounding cities and counties, Shawnee, Lenexa and Overland Park, and Johnson County. She proposed leaving the rates as is and continuing the current Resolution 16-04.

Gaughan said he felt comfortable with that recommendation.

Gaughan opened the item for public comment. No comment was received.

No action was taken.

CRISIS CENTER/MENTAL HEALTH SERVICES 03-01-17

Sarah Plinsky, Assistant County Administrator, updated the County Commissioners on the status of the Crisis Center and Mental Health Services with collaborative partners: Bert Nash, LMH, DCCCA, Heartland Health, Healthcare Access, Lawrence-Douglas County Health Department, City and County staff, Lawrence-Douglas County Housing Authority, Bob Tryanski, and Dr. John Whipple.

Plinsky said at the last update, staff was asked to examine population data by service area in need for the crisis center and for mental health program in the community. This is the first step in evaluating a staffing plan for a facility. Earlier this month, the BOCC approved a request to hire a Director of Behavioral Health Projects who will be essential in collecting data, managing the process and working with stake holders to see the project as a whole. Staff has had numerous conversations with the collaborative partners, consumers and private providers and visited several crisis centers and a crisis center summit. What we know so far is an effective solution is an integrated solution. No single organization can solve these challenges. There are some immediate service area needs and gaps. There are more immediate and benefit from proximity to other services already being provided in this community. There are some service areas being met quite effectively outside out community. An expansion of outpatient services and case management services and providers for those service both medical providers and therapeutic providers will be needed in any solution to provide a full continuum of care in the community after a crisis. These are things we know regardless of how the solutions approached.

Russ Johnson, CEO of Lawrence Memorial Hospital, briefed the Commission on a development of a new Crisis Center located in LMH to be used in lieu of the emergency room for someone in need of mental health treatment. Johnson said he feels it can be done relatively quickly and use Bert Nash to help think through how it will work with Crisis Intervention. We feel the clinical proximity to the ER is vital. The people they work with also have medical concerns as well as need mental health treatment. Johnson stated as recently as this morning, after meeting with Bert Nash, we are looking at: 1) expanding facility options within existing footprint, 2) clinical and operational aspects, 3) more effective discharge and a warm hand-off process, which is key to the process, and 4) the area of addiction to make sure it's included in

the model. This will be a better clinical opportunity and a chance to work with the Bert Nash team. It is important to understand this is an extension to what the hospital is doing now.

David Johnson, CEO of Bert Nash, said the location at LMH will be a calmer environment right from the start with a separate entrance other than the emergency room. This is a great step forward in collaboration with community partners.

Karen Shumate, Lawrence Police Department, discussed how the LMH crisis center would affect officers dropping off patients and who it affects them.

Gaughan asked how the crisis unit would be reimbursed. Shumate said the health care reimbursement is never good. Some services are reimbursable. Most have no insurance. We have people to figure out the bill and help the County figure out what can be reimbursed. Gaughan asked if care at the new clinic would be as costly as the ER. Shumate said at this point she can't answer that, though she feels the overhead will be lower. She is hoping the clinic will eventually decrease the amount of transfers to Osawatomie.

Plinsky stated there are clearly additional steps that need to be done while we continue to implement the policies, procedures and work plan for the crisis stabilization services provided inside LMH. We hope to integrate the work for that effort with the rest of the work we are doing on the continuum of crisis services and mental health programming in the community. We will continue to work with our providers to identify gaps in care, monitor the data from the crisis stabilization center at LMH, evaluate service expansion and level of care, the people we are serving, and determine the variety of needs we can provide there. We also need to continue to do more work to quantify our data on detox services and variety of addiction related services needed in this community, determine spaces needs and proximity to services, and what will be effective for medical and social detox from a social sobering perspective. We will continue to look at existing outpatients needs and how that will integrate with what we are planning with the crisis center.

Gaughan opened the item for public comment.

John Stewart, Heartland Community Health Services, spoke in support of the crisis center. Heartlands role in this adventure is an exciting one. Stewart sees this beyond a warm hand off, but an opportunity to stand and look collectively at what we can do for the patient together.

Beth Llewellyn, Healthcare Access, said she is in support of the collaboration amongst the programs in the community. Healthcare Access and Heartland are looking at collaborative grants to better serve and leverage funds through a collaborative spirit.

Shannon Oury, Executive Director Douglas County Housing Authority, said LDCHA is on board to move forward with Bert Nash to provide housing for those released from the crisis center.

Thellman said she envisions a campus that provides medical and mental health treatment as transportation is an issue with many residents. She asked if a campus would be valuable.

Johnson said it's not just the nearness that makes the difference, but also the collaboration with services that makes the difference. What we are talking about doing is changing the experience of people coming into the program. The hospital has found itself providing service they never thought to do. This goes beyond the Osawatomie experience.

Bob Tryanski, consumer and mental health advocate, stated we have an opportunity as a community to build a model for other communities. Recovery is possible and treatment works. He asked that we keep the consumer and those that have lived the experience involved. Tryanski said he is moved by the officials in the room willing to get this right.

Chris Hagel, National Alliance of Mental Illness, said he is thankful to all those helping to make the mental health improvements to our community. He feels there are those that could benefit from services now rather than later.

Thellman said wanted to extend the County's appreciation for everyone's presence here tonight and the countless hours of hardworking staff, our new collaborative partners Lawrence Memorial Hospital, the beautiful relationship coming about with LMH, Bert Nash, Heartland and HCA and the public health department. It's a privilege to be a part of something clearly going in a direction that is good for the entire community. Thellman clarified there is still a lot left to do. We hope to have more frequent updates.

Derusseau added through all the meetings she sat through in 2016 visiting with our partners, one of the common words she heard was "collaboration." She is glad to have the opportunity to see this all come together.

No action taken.

APPOINTMENT 03-01-17

Gaughan moved to appoint Dr. Ellen Paulson to the Lawrence-Douglas County Health Board for to fill the unexpired term of William Fleming ending 06/30/18. Motion was seconded by Gaughan and carried 3-0.

ACCOUNTS PAYABLE 03-01-17

Gaughan moved to approve accounts payable in the amounts of \$2,800.00 paid on 02/24/17 and \$2,858,034.32 to be paid on 03/02/17. Motion was seconded by Derusseau and carried 3-0.

Gaughan moved to adjourn the meeting. Motion was seconded by Derusseau and carried 3-0.

Mike Gaughan, Chair

Nancy Thellman, Vice-Chair

ATTEST:

Jamie Shew, County Clerk

Michelle Derusseau, Member

March 8, 2017

Gaughan called the regular meeting to order at 4:00 p.m. on Wednesday, March 8, 2017 with all members present.

CONSENT AGENDA 03-08-17

Gaughan moved approval of the following Consent Agenda:

- ▶ Commission Order No. 17-012 (on file in the office the County Clerk);
- ▶ Authorized staff to access the National Joint Powers Alliance (NJPA) and National Purchasing Partners (NPP) contracts for the remodel of the Treasurer's Satellite Office located in Dillon Store at 6th Street and Lawrence Avenue in a cost not-to-exceed \$56,868;
- ▶ Approval to access the MACPP regional cooperative vehicle contract and the City of KCMO for special equipment with Shawnee Mission Ford for the purchase of two F-550 cab and chassis 4x2 trucks with special equipment for the Public Works department in the amount of \$127,553; and
- ▶ Acquisition of easements for Project No. 2015-05 for County Route 458 for the following property owners: Robert L. and Shirley J. Brandt (Lawrence, KS; Tract 2); CENU, Inc. (Lawrence, KS; Tract 14); Alan L. Martin (Lawrence, KS; Tract 15); Andrew J. and Mary F. Flory (Lawrence, KS; Tract 16); Philip W. and Stephanie L. Struble (Lawrence, KS; Tract 17); Lloyd B. and Cheryl R. Hammerschmidt (Lawrence, KS; Tract 18); Sidney and Carolyn Black (Houston, TX; Tract 27); John E. and Valeria R. Howland (Lawrence, KS; Tracts 29, 31, 34, 36, 38 & 42); Jon F. and Kathy Barr (Lawrence, KS; Tract 32); Justin L. and Carlyle A Salb (Lawrence, KS; Tract 35); Wen Chen Peng, single person and Lih Woei Peng, single person (Lawrence, KS; Tract 41); and Anthony A and Connie Merz (Lawrence, KS; Tract 49).

Motion was seconded by Thellman and carried 3-0.

PRESENTATION/LEED CERTIFICATION 03-08-17

Eileen Horn, Sustainability Coordinator; Keith Browning, Director of Public Works; Steve Clark and Jane Huesemann, Clark Huesemann, presented Douglas County with a plaque for being the first LEED certified local government building in Douglas County.

PRESENTATION ON TOURISM 03-08-17

Michael Davidson, Executive Director of Explore Lawrence, made a presentation to the Board on the latest Tourism impact study for Douglas County.

In summary, 3,600 jobs in Douglas County are related to tourism. In 2015, visitor spending grew 7.6% reaching \$244.5 million. This growth represented a \$17 million increase over 2014 or a \$1.4 million per month in visitor sales. Lodge spending raised \$4 million to a total of \$42.5 million which represents 17.4 cents of every dollar spent in Douglas County. The two largest categories of spending were transportation and food & beverages; \$67.1 million was spent at restaurants, bars and grocery stores. Visitor spending growth in Douglas County has been outperforming the state as a whole.

No action taken.

CRIMINAL JUSTICE COORDINATING COUNCIL UPDATE 03-08-17

Robert Bieniecki, CJCC Coordinator, made a presentation to the Board as a follow up to the March 7, 2017 CJCC meeting.

Mike Brouwer, Reentry Director, updated the Board on Pre-arrest Diversion, which is part of the Justice/Mental Health Collaboration Grant. It is run by case managers at Bert Nash. The first step is to check on warrants and contact those individuals that need to go to court and offer a ride if they need it to keep them from being arrested. So far the case managers have handled 8-10 of these cases. In each instance, the individual forgot they had a court date.

Emily Kennedy, Data Analyst, described how the screening process for the pre-trial release program worked and the criteria to be considered.

Bieniecki stated the subcommittee is looking at automated software that would significantly help the monitoring officer with calls and texting. There are currently 20 in the program and hope to see that number double.

Thellman asked how many case managers are working on the pretrial program. Bieniecki said we have a pretrial supervisor and a pretrial monitoring officer who both fall under the umbrella of court services.

Bieniecki said he is planning an update on the Behavior Health Court for the April 19, 2017 agenda.

No action taken.

WALK ON ITEM/LECOMPTON TREE DAMAGE 03-08-17

Keith Browning, Director of Public Works, explained he had received complaints from local Lecompton residents that a subcontractor, Freestate Electric Cooperative, a tree removal company working for the Burlington

Northern Santa Fe (BNSF) railroad, damaged trees along the Lecompton Scenic River Road exposing a culvert with steep slopes and they left large amounts of debris.

Browning said the removal of the trees exposed a deep slope culvert. The vegetation was removed to put in a new railroad signal. The road is a township maintained road with a speed limit of 55 mph, or as reasonable and prudent. It was determined that Kaw valley Electric recently changed its name to FreeState, applied for a utility permit through Public Works. The application was forwarded to the Township Trustee for approval. The permit was never approved.

Ed Daniels, Trustee of Lecompton Township, stated he received the permit request the day after the work had started. He would like to have time for the Board to review permits before work begins. Communication is an issue.

Paul Bahnmaier, Lecompton resident, was concerned about losing the historic river road view, and the erosion that would occur as a result of the tree removal. Bahnmaier said people are devastated by the change in the view along the River Road.

One area resident mentioned the road being unsafe now at night because you can't see the edge after dark.

Thellman said she drove out to look at the site and it was worse than she thought. She feels it is reasonable to ask the Public Works Director to give advice on a solution. Thellman questioned why it was necessary to rip trees out, damage others, and then just leave them there. It should look better after the site is cleaned up. She asked Browning if there is a temporary option to make things safer.

Browning responded staff is in the process of adding additional cones out there now. He understands the comment about not seeing the edge of the road at night. The problem can't be fixed overnight but once grass comes up it will provide a visual clue for the edge of the road.

Thellman asked if there are plans to put up a caution sign. Browning said "yes" staff is looking at appropriate signage for the shoulder drop off. The added cones should keep people from the edge.

Carolyn Bond, Lecompton resident, stated she is curious to know if the poles are really for a railroad crossing, but there has only been one crossing for years and it has a gate.

Derusseau added staff will be reaching out to the railroad to stress our disappointment in their lack of attention to the permit process and the outcome.

ACCOUNTS PAYABLE 03-08-17

Gaughan moved to approve accounts payable in the amount of \$1,835,862.10 to be paid on 03/09/17. Motion was seconded by Derusseau and carried 3-0.

APPOINTMENT 03-08-17

Derusseau moved to reappoint Frank Rhodes to a second term on the Construction Board of Appeals Board. Motion was seconded by Gaughan and carried 3-0.

RECESS

At 5:15 p.m. the Board recessed until 6:00 p.m.

RECONVENE

At 6:00 p.m. the Board returned to regular session.

PLANNING 03-08-17

After opening the item for public comment and receiving no comments, Gaughan moved to approve an extension request for **CUP-15-00613**, a Conditional Use Permit for Calico Village, an *Athletic Field* complex for youth soccer on approximately 80 acres, located at the intersection of E 1750 Road and N 1300 Road. The application was submitted by Jambars Futbol Club Inc, on behalf of John Pendleton for Lorita H Pendleton, Trustee, property owner of record. The original CUP was approved by the Board of County Commissioners on February 10, 2016. Motion was seconded by Thellman and carried 3-0.

EXECUTIVE SESSION 03-08-17

At 6:04 p.m., Gaughan moved for the Board to recess to executive session for 30 minutes (until 5:34 p.m.) for the purpose of consultation with legal counsel for the County regarding pending litigation, which would be deemed privileged under the attorney client relationship. The justification is to maintain attorney client privilege on a matter involving Douglas County. Attendees included Craig Weinaug, County Administrator; and Sarah Plinsky, Assistant County Administrator; Leslie Miller, Stevens & Brand; Michael Seck, Fisher, Patterson, Saylor and Smith; and Ken McGovern, Douglas County Sheriff. Motion was seconded by Thellman and carried 3-0.

The Board returned to regular session at 5:34 p.m. No action was taken.

Gaughan moved to adjourn the meeting. Motion was seconded by Derusseau and carried 3-0.

Mike Gaughan, Chair

Nancy Thellman, Vice-Chair

ATTEST:

Jamie Shew, County Clerk

Michelle Derusseau, Member

March 15, 2017

Gaughan called the regular meeting to order at 4:00 p.m. on Wednesday, March 15, 2017 with all members present.

KAC AWARD PRESENTATION 03-15-17

The County Commissioners honored the following employees with Kansas Associations of Counties Service Awards:

Administration

Craig Weinaug, 24

Appraiser

Shawn Showman, 8

District Attorney

Amanda Stofko, 8

Maintenance

Jim Rousselo, 24

Public Works

Steve Cates, 8

Charles Quinn, 16

Sheriff's office

Donn Dunkle, 8

Kristen Dymacek 8

Philip Mathis, 8

David Stoffer, 8

Cindy Axman, 16

Mario Godinez, 16

Darcie Holthaus, 16

David Oakes, 16

Clark Rials, 24

Treasurer

Candice Norman, 8

Youth Service

Lacey Thomas, 8

Rick West, 8

Casey Crane, 16

Stephanie More, 16

Pam Weigand, 24

CONSENT AGENDA 03-15-17

Gaughan moved approval of the following Consent Agenda:

- ▶ Commission Order No. 17-013 (on file in the office the County Clerk);
- ▶ Application to submit Lawrence Landmark Application to place Means house on the local historical register;
- ▶ Accepted the negotiated proposal for mailing services and awarded the contract to Lineage Mailing Services; and
- ▶ Acquisition of Easements for Project No. 2015-05; County Route 458 with the following landowners: Judith N. Pierson, Trustee under "The Judith N. Pierson Revocable Trust: dated March 1995 (Lawrence, KS; Tract 6); Judith N Pierson (Lawrence, KS; Tract 8); Douglas W. and Nancy Brenn (Lawrence, KS; Tract 12); Dennis A. Thome (Lawrence, KS; Tracts 13, 20, 26 & 28); Ron Eugene and Trudy Mae Rice (Lawrence, KS; Tract 25); Joseph M. and Rosalind R. Jennings (Lawrence, KS; Tract 30); William Alexander Ramer (Lawrence, KS; Tract 33); and Mike Harris, also known as Michael J. Harris (Lawrence, KS; Tract 47).

Motion was seconded by Thellman and carried 3-0.

Pulled from the agenda:

LONE STAR LAKE 03-15-17

The Board considered amending the Lone Star Lake Rules and Regulations. The item was pulled from the Consent Agenda for discussion.

Beth Reiber, 1235 Kentucky, stated concerns that the definition of "suitable camping shelter" would allow only RVs and wants to make sure vans rigged for camping and "camping hammocks" are allowed.

Derusseau said she received several concerns about prohibiting hammocks at the lake. She asked staff for more clarification on the language intent. Keith Browning, Director of Public Works, stated the intent is not to prohibit hammocks, but to require people to have camping equipment, and prohibit people from sleeping in their cars. It is an attempt to define "suitable camping shelter" as follows: "A maximum of two camping shelters shall be allowed per camping site with a maximum of 8 persons per site. A suitable camping shelter is required. A suitable camping shelter is one whose primary purpose is for camping and is appropriate for anticipated weather during the camping visit."

Browning stated a "hammock with the rain fly" would be acceptable because it's built for camping.

Browning went on to define, "Suitable shelter may include camping gear intended to protect the camper from the elements. This is not necessarily a tent, but gear to keep you protected from the elements." He also stated a suitable camping shelter does not include motor vehicles. However language regarding vans converted to a camper could be added.

Keith added the newspaper article mentioned we are prohibiting drones at the park, which is not correct. Drones are prohibited in the swimming and camp areas for safety and privacy concerns.

It was the consensus of the Board for staff to update the language per discussion and bring back for consideration at a later date.

PLANNING/ZONING 03-15-17

The Board considered **17-00022** a request to rezone approximately 0.58 acres from County B-1 (Neighborhood Business District to County R-1 (Single-Family Residential) District at 697 E 1725 Road, Baldwin City. The application was submitted by Vinland Preservation LLC, property owner of record. Becky Pepper, Lawrence-Douglas County Metropolitan Planning staff, presented the item.

Staff recommends approval of the request based upon the following findings of fact:

- I. **Zoning and land uses of surrounding properties.** The primary purpose of the R-1 District is to provide for the single-family residential development. While there is not R-1 zoning in the area, the existing development to the south of the property aligns with primary purpose of the R-1 District. Therefore, The R-1 District would be compatible with the surrounding uses.
- II. **Character of the area.** The subject property is in the unincorporated town of Vinland. The properties to the south are small platted lots that contain single-family uses similar to the residential use desired for the subject property. The rezoning is consistent with the existing land development to the south of the property.
- III. **Suitability of subject property for the uses to which it has been restricted.** With the small, low density lots to the south, the subject property is suited to the uses which are permitted in the R-1 District.
- IV. **Length to which removal of restrictions will detrimentally affect nearby property.** The property was zoned to B-1 (Neighborhood Business) District in 1972 to accommodate the development of the property with an antique shop and law office. Development of the property for those uses, however, never occurred. A portion of the existing church building was converted to a single family residence in 1982, however that use has since been abandoned and the property is vacant.

- V. **Extent to which removal of restrictions will detrimentally affect nearby property.** The primary purpose of the R-1 District is to provide for the single-family residential development. This type of development will be compatible with the existing land uses found in the unincorporated town of Vinland and will protect the existing character of the area. Therefore, a small area of R-1 District zoning should have minimal detrimental effect on nearby properties.
- VI. **Relative gain to the public health, safety and welfare by the destruction of the value of the petitioner's property as compared to the hardship imposed upon the individual landowners.** There are no detrimental impacts associated with the approval of the rezoning anticipated on nearby properties.

Gaughan opened the item for public comment. No comment was received.

Gaughan moved to approve the request to rezone approximately 0.58 acres from B-1 (Neighborhood Business) District to R-1 (Single-Family Residential) District as it is the appropriate zoning district for the subject property. Motion was seconded by Derusseau and carried 3-0.

PUBLIC WORKS 03-15-17

The County Commission considered an agreement to reimburse KDOT for federal fund disbursement overage, Supplemental Agreement No. 2 to Agreement No. 48-12, Project No. 23 C-4123-01, replacement of Route 1057 bridge over the Wakarusa River. Keith Browning, Director of Public Works, presented the item.

Browning stated in January 2017, the County was notified that KDOT never retained any federal funding allocations from Douglas County to pay the \$507,019.83 owed KDOT, and that balance is still due. KDOT acknowledges this was an oversight on their part. As opposed to a lump sum payment, KDOT proposes Douglas County pay the amount owed by allowing KDOT to retain 50% of the amount of Douglas County's allocation of federal funds available to be exchanged beginning in 2018. The remainder of the amount owed would be withheld from Douglas County's 2019 allocation of federal funds. There would be no reduction of available federal funds in 2017.

The Supplemental Agreement No.2 to Agreement No. 48-12 lays out the terms of the reimbursement to KDOT. Beginning in 2018, KDOT would exchange Douglas County's federal fund appropriations for State funds at a 100% exchange rate (the typical exchange rate is 90%), and KDOT would retain 50% of the exchange funds. In 2019, KDOT would retain exchanged funds for the remainder of the total amount owed, or up to 50% of the 2019 exchanged funds, whichever is less.

Gaughan opened the item for public comment. No comment was received.

Gaughan moved to authorize the approval of Supplemental Agreement 2 to Agreement No. 48-12 stipulating terms of Douglas County reimbursing KDOT for \$507,019.83 in federal fund allocation overages on Project no. 23 C-4123-01, the replacement of the Route 1057 bridge over the Wakarusa River, constructed in 2012. Motion was seconded by Derusseau and carried 3-0.

PRESENTATION BY JUSTICE MATTERS 03-15-17

Rose Schmidt, Board Member for Justice Matters, acknowledged the tremendous amount of progress the County has made in criminal justice efforts. She said Justice Matters started working on mental health efforts because they had heard stories of people not having alternatives to jail. They then discovered a whole new population of people with mental health issues with no connection to the justice system. Schmidt said Justice Matters would like to see people have treatment options here in our community as opposed to having to go to Osawatomie State Hospital. She is aware of the County lead proposal for a Crisis Center, but has concerns the process to get things up and running would take up to five years. Schmidt said Justice Matters would like to propose renting and remodeling an existing building they feel could be up and running within a 90-day period at a cost of \$140,000. Schmidt did not offer a means of funding the project, other than the County to find a funding source.

Schmidt proposed using the existing former SRS building at 19th and Delaware. Treatments would not be a substitute to Bert Nash but a place for detox services with a sobering and crisis unit.

Thellman asked Schmidt how she proposed to staff the building. Schmidt said we would have to work staffing out with Bert Nash and the County by either transferring staff from Bert Nash and eventually adding new staff.

David Johnson, CEO Bert Nash, stated there are three things he wanted to provide assurance of: 1) the crisis stabilization building is not the jail or the hospital. The criteria the hospital has to meet for care is more complicated. He also stated he has never heard the crisis center would take 3-5 years. What he heard was approximately two years. 2) In terms of services and social detox, there is a fine line between social and medical detox. Medical detox takes place in a hospital. In fact to be prudent for social detox, you want access to medical services. There is no magic number in blood count that means "safe." Services would need to be close to a hospital; and 3) the Crisis Center would provide more complete services with the ability to engage in frequent treatment after release. Social detox is just a few hours. Bert Nash and the County have been committed to not being satisfied with what others are doing. We want to provide the best services and a repurposed building is not it. Johnson said the challenge is not so much the construction cost of a building but the operating cost over time. These programs do not break even. They have to have subsidy to move forward.

Thellman said some of the concerns she's heard is the new unit at the hospital is just a nicer place to house people waiting to go to Osawatomie.

She asked Karen Shumate, Chief Operating Officer at LMH, to discuss the hospital's goals on the crisis unit.

Shumate stated after listening to discussion tonight we need to determine some common definitions on crisis stabilization and observation. In a hospital, crisis stabilization means that immediate period when a person comes in and they receive medication or a quiet calming area in the first 24 hours. We've had good discussions with all the agencies in town. What we can do with our facility is still up in the air based on what can fit in the area and what they can work with Bert Nash in developing a program. Capital costs for getting started is minimal compared to the ongoing costs of providing 24-hour care. Shumate added those types of talented professionals are hard to find. It's hard to keep well trained, competent staff in this kind of stressful environment. Shumate said we are too preliminary at this time, but have the right people at the table to figure things out. Shumate also said what she is hearing tonight is people focusing on immediate services. For those in the business, that is not the problem they see. The bigger problem is the need for community services to support people once they come home and the need to keep them in their homes.

Thellman asked if the unit will be equipped to be more than a holding area for people to go to Osawatomie. Shumate said, absolutely, that is what they are working on and finding ways to bring in Bert Nash staff with their schedules.

Gaughan said he wanted to clarify the wait time to be admitted to Osawatomie is about 92 hours. But if you have insurance you can go to Stormont Vail or several other locations. Shumate clarified the new data finds the wait to Osawatomie is 78 hours. The wait is less about insurance and more about whether it is a voluntary admission or involuntary. Involuntary admissions in our area have to go to Osawatomie. If you are voluntarily and seek treatment you have a lot more options.

Shumate said we have some aggressive timelines set. Once decisions are made, the facility can get started fairly quickly. The part that will take longer is the case management, which Sarah Plinsky, Assistant County Administrator, is working to continue services to transition people back into the community.

Plinsky said the "case management group" is working on those efforts. She feels staffing plans can be created to start the effort, but the funding is ultimately a Commission decision and it's expensive for staffing and benefits but key to support the efforts. We need to talk about where those funds will come from. Shumate added we need the support system in place or people will fall back. She said she has never seen so many community resources at the same table all going in the same direction. Everyone can feel good about that.

Gaughan asked if LMH were to add four rooms to the Crisis Unit would it be in addition to the three stabilization rooms they already have. Shumate responded "yes" the stabilization rooms have to stay, but she can't comment at this time exactly how many rooms will be added to the new unit.

Thellman commented she visited ComCare who has a crisis observation unit. Often times they are not full with a half million people in their city. We need to understand the scale of our Douglas County needs so we can afford to staff these wonderful programs.

Shumate stated we do sobering at LMH now but haven't kept numbers. They are going to start. She sees utilizing the stabilization rooms for some of the patients. Sometimes they aren't breathing well when they come in. They could be moved to the new unit once they become stable.

Plinsky said one of the subgroups is about addiction. We have medical detox services provided by LMH currently. The group will continue to explore both social sobering and social detox. She feels both can be done in a different type model. We need to determine how they can work in conjunction with the hospital. These cases are complex. At the ComCare visit, she learned their need was medical detox. We already have that.

Thellman said she what she envisions is the potential for care all in the same block like a campus for pre, during and post crisis care with the seamless sense of getting a person through a hard time. In San Antonio, the care is all in one place. The area was a real benefit to the community, especially for those without transportation.

Gaughan opened the item for public comment.

Graham Kreicker, 1421 W 2nd Street, stated he is happy to see this Commission so interested in seeing the severe problem of mental health answered. He would like to see the Commissioners appropriate at least half the funding for the crisis center in next year's budget. He would also like to see the temporary location proposed by Justice Matters approved with a five-year lease.

Bill Simons, Douglas County resident, said he is concerned about how long it is taking to complete the proposed crisis center. He is worried when this item comes up for public consideration on a ballot, other bonds will conflict. Simons said things are getting worse for people with mental health and the community is not meeting their needs.

Angie Blair, 1922 Barker Avenue, said she is a registered nurse who has worked in mental health. She feels we will always have staffing and funding problems no matter what we do. The expense of doing nothing is gut-wrenching because our friends and family are dying.

ACCOUNTS PAYABLE 03-15-17

Gaughan moved to approve accounts payable in the amount of \$386,586.92 to be paid on 03/16/17. Motion was seconded by Thellman and carried 3-0.

Gaughan moved to adjourn the meeting. Motion was seconded by Thellman and carried 3-0.

Mike Gaughan, Chair

Nancy Thellman, Vice-Chair

ATTEST:

Jamie Shew, County Clerk

Michelle Derusseau, Member

April 12, 2017

Gaughan called the regular meeting to order at 4:00 p.m. on Wednesday, April 12, 2017 with all members present.

PROCLAMATION 04-12-17

Gaughan moved approval of a proclamation honoring Martha Parker for 45 years of research and historic preservation of Douglas County and declared April 22, 2017 as Martha Parker Day. Motion was seconded by Derusseau and carried 3-0.

PROCLAMATION 04-12-17

Gaughan moved to declare the week of April 9-15 as "National Public Safety Telecommunicator's Week" in Douglas County. Motion was seconded by Thellman and carried 3-0.

CONSENT AGENDA 04-12-17

Gaughan moved approval of the following Consent Agenda:

- ▶ Commission Order Nos. 17-015 and 17-016 (on file in the office the County Clerk);
- ▶ KU and the College Swimming Coaches Association of America to hold the National Collegiate Open Water Swimming Championship at Lone Star Lake on Saturday, September 16, 2017;
- ▶ Authorization to solicit bids for Project NO. 2015-18, the realignment of the Hamm Landfill access road (N 2100 Road);
- ▶ Authorization to solicit bids for contract maintenance work for the 2017 season, including Project No. 2017-06, asphalt overlays;
- ▶ Authorized Emergency Vehicle Permits for the following: William M. Shockley, Lecompton; (2) Robert Rombach, Kanwaka; and Duane Filkins, Kanwaka;
- ▶ Authorized the conversion of a 0.4 PT Surveillance Officer to a 1.0 FTE Pretrial Monitoring Office, with a budget impact of \$41,949.16 to adequately staff the Pretrial Monitoring Program;
- ▶ Awarded a construction contract in the low bid amount of \$4,757,901.73 to King's Construction for Project No. 2015-05, the rehabilitation of Route 458 from E800 Road to approximately 1,025 feet north of N 1156 Road, and authorized the Public Works Director to approve changer orders totaling up to 10% of the contract amount; and

► Amendment to Real Estate Contract with the Unified School District 497 to change the closing date.

Motion was seconded by Thellman and carried 3-0.

PLANNING/SITE PLAN 04-12-17

Thellman moved to approve SP-17-00177, a site plan for a utility use, which includes the installation of a Southern Star meter building on a 1.92 acre parcel located in the northeast corner of the intersection of KS Hwy 32/N 1800 Road and US Hwy 24/40, subject to the following conditions:

1. An access easement on the adjacent property to the west shall be recorded with the Register of Deeds Office prior to the release of the site plan to the Zoning and Codes Office.
2. Applicant shall obtain a Floodplain Development Permit from the Zoning and Codes Office prior to construction/installation of facility.
3. Provision of a revised site plan with the following changes:
 - a. Addition of a note indicating the off-site access easement to the private drive on the property to the west, along with the Recording Book and Page Number.
 - b. Addition of six evergreen shrubs along the south side of the fenced area.
 - c. Addition of the following note: "No exterior storage or lighting is being proposed with this site plan. The addition of exterior storage would require submittal of a revised site plan to the Planning Office for approval. The addition of exterior lighting would require submittal of lighting information to the Planning Office for approval prior to the installation."
 - d. Addition of a location map, showing the general location of the property.
 - e. Revision of notes referencing the distance to the 'road' to the west, to 'property line' to the west or removal of these notes.

Motion was seconded by Derusseau and carried 3-0.

HEALTH DEPARTMENT 04-12-17

Dan Partridge, Director of the Lawrence-Douglas County Health Department, presented the 2016 Annual Report. No action was taken.

ADMINISTRATIVE SERVICES/EMPLOYEE BENEFITS 04-12-17

Sarah Plinsky, Assistant County Administrator, asked the Board to consider modifying the extension of health insurance benefits to spouses and dependents for the 2017-2018 plan year discontinuing health insurance benefits to domestic partners of employees.

In 2011, Douglas County modified the health insurance plan to extend health insurance benefit to domestic partners of employees. Since that time, there have been changes at the national and state level related to marriage equality that no longer necessitates the extension of benefits.

Married employees do not pay taxes on healthcare benefits that they receive for their spouses and dependents because federal tax laws do not classify the employer's financial support of the coverage for these benefits as wages.

Employees with domestic partners receiving health insurance coverage do not necessarily receive that same favorable tax benefit. The employee must pay taxes on the employer's share of payment for the benefits of domestic partners, unless the domestic partner qualifies as a "dependent" under federal tax law. If they do not qualify, the value of the coverage is included in the gross income of the employee, and the value of the coverage must be reflected on the employee's W-2 Form. Employers are responsible for identifying a "fair market value" of the benefit. This amount would need to be added to the employee W-2 form and be subject to Social Security, FICA, FUTA and federal withholding taxes.

Staff recommends Douglas County return to the industry best practices of extending health insurance benefits to spouses and dependents with the 2017-2018 Plan Year starting June 1, 2017.

Gaughan asked if the County has the right, should something pass state legislature or legal action change the law toward marriage, we could reaffirm our commitment by reestablishing the benefit. Plinsky replied, yes, for the next plan year.

Gaughan opened the item for public comment. No comment was received.

Gaughan moved to grandfather in those domestic partners already on the health insurance plan, and to modify the extension of health insurance benefits to spouses and dependents with the 2017-2018 Health Insurance Plan Year. Motion was seconded by Thellman and carried 3-0.

ACCOUNTS PAYABLE 04-12-17

Gaughan moved to approve accounts payable in the amounts of \$218,087.34 to be paid on 04/13/17; and \$80,161.00 paid on 04/06/17. Motion was seconded by Derusseau and carried 3-0.

Gaughan moved to adjourn the meeting. Motion was seconded by Thellman and carried 3-0.

Mike Gaughan, Chair

Nancy Thellman, Vice-Chair

ATTEST:

Jamie Shew, County Clerk

Michelle Derusseau, Member

April 26, 2017

Gaughan called the regular meeting to order at 4:00 p.m. on Wednesday, April 26, 2017 with all members present.

CONSENT AGENDA 04-26-17

Gaughan moved approval of the following Consent Agenda:

► Commission Order No. 17-018 (on file in the office the County Clerk);

Motion was seconded by Thellman and carried 3-0.

ECONOMIC DEVELOPMENT 04-26-17

Britt Crum-Cano, Economic Development Coordinator, presented the County Commission with a review of the *2016 Annual Report: Economic Development Support & Compliance*.

Thellman noted that in the BTBC section, the tables did not include the County contributions. Thellman said for future reference she would like that information included.

Gaughan said it doesn't have to be in the report, but asked if there was a way to measure the distribution of income across the community or stratification of income; where the growth is and what types of incomes are growing or staying flat. Crum-Cano said she can search to a zip code level for diversity of income. She did an extensive economic profile three years ago. She would be willing to update that information every 5-10 years. The current report is available on the City's website. Crum-Cano stated she is willing to pull information from that report and take suggestions for future updates.

No action was taken

NEIGHBORHOOD REVITALIZATION PROGRAM/BALDWIN CITY 04-26-17

Glenn Rodden, City Manager of Baldwin City, presented the County Commission with a request to offer a City of Baldwin Neighborhood Revitalization Program. It was passed by ordinance with the City of Baldwin City on March 7 2017. It will still need to be approved by USD348. The offer includes the entire City of Baldwin. Properties eligible for tax rebates under the Neighborhood Revitalization Program would receive a 5-year rebate at 100% for new construction and a 5-year rebate at 100% for building

improvements over a 10% increase on appraiser valuation for residential, commercial or industrial use. Residential use with either Affordable Housing or Historic Building designation can receive a 10-year rebate at 95% for building improvements; residential use with affordable housing and Historic Building designation can receive a 15-year rebate at 95% for building improvement.

Rodden said it was determined the entire city of Baldwin would benefit from improvements, so therefore the City Commission voted to open the program to any residential or commercial property that meets the criteria within the city limits, hoping to at least double the number of building permits they have been receiving annually.

Gaughan stated the County has always focused on targeted neighborhood revitalization programs. It will be interesting to see Baldwin's results.

It was the consensus of the Board they are in favor of the Neighborhood Revitalization Program. A resolution will be brought back for consideration on the Consent Agenda at a later date.

SUSTAINABILITY 04-26-17

Eileen Horn, Sustainability Coordinator, updated the County Commission on the results of the KDHE funded tire recycling event held in March 2017. Doug Stephens, Operations Division Manager, and Tonya Voigt, Planning and Zoning Coordinator, were instrumental in the success of the event. The program served 87 residents with a total of 6,179 tires collected (114.45 tons). The total cost of the project was \$18,884.25 with the KDHE Zika Mitigation Tire Disposal Grant contributing \$10,000 of the total.

ADMINISTRATION/TRANSFER OF PROPERTY 04-26-17

Gaughan moved to approve the transfer of property legally described as the former Farmland Property Block C lot 7 (Plat 2013); Property Description NP 1-31-2013 CB/SP FORMER FARMLAND PROPERTY SUB, BLOCK C LOT 7, 9.38 A(C)I, 426 X 1061 to PSP Kansas, LLC; subject to waiver of the special assessments in the amount of \$40,648.17 by the City of Lawrence. Motion was seconded by Derusseau and carried 3-0.

AGREEMENT 04-26-17

Sarah Plinsky, Assistant County Administrator, asked the Board to consider approval of an agreement with Springsted Inc. for municipal advisory services.

Plinsky said Municipal Financial Advisory services can assist staff with navigating the bond issues process, as well as a variety of other financing issues including the tax lid requirements. Springsted works with a number of Kansas clients including the City of Lawrence, Johnson County, City of Shawnee, City of Manhattan and the Unified Government of Wyandotte County and Kansas City, Kansas. Fee structure and payment for these services is generally included in the bond fee costs, but our ability to call and utilize the services of the Financial Advisory is not limited to the issuance of

bonds. A fee schedule with hourly rates was attached to the backup.

David MacGillivray, Chairman, gave background on the role of a financial advisory.

Gaughan opened the item for public comment. No comment was received.

Gaughan moved to waive the purchasing policies and approve an agreement with Springsted Inc. for Municipal Advisory Services. Motion was seconded by Thellman and carried 3-0.

ACCOUNTS PAYABLE 04-26-17

Gaughan moved to approve accounts payable in the amount of \$307,442.11 to be paid on 04/26/17 Motion was seconded by Thellman and carried 3-0.

Gaughan moved to adjourn the meeting. Motion was seconded by Thellman and carried 3-0.

Mike Gaughan, Chair

Nancy Thellman, Vice-Chair

ATTEST:

Jamie Shew, County Clerk

Michelle Derusseau, Member

May 3, 2017

Gaughan called the regular meeting to order at 4:00 p.m. on Wednesday, May 3, 2017 with all members present.

PROCLAMATION 05-03-17

Gaughan moved to a proclamation declaring May 2017 as “Bike Month” and the May 15-19, 2017 as “Bike to Work Week” in Douglas County. Motion was seconded by Thellman and carried 3-0.

Pulled from Consent Agenda:

SUPPORT LETTER 05-03-17

The Board considered approving a letter of support for Douglas County Conservation District Urban Agriculture Initiative Application.

The Douglas County Conservation District is submitting an application for a \$50,000 grant from the National Association of Conservation Districts. The funding would support advancement of urban agricultural initiatives, including the Common Group program and a demonstration teaching garden and high tunnel at the Douglas County Fairgrounds. No financial commitment is requested from the County.

After discussion, Gaughan moved to approve the letter of support for the Douglas County Conservation District Urban Agriculture Initiative Grant Application. Motion was seconded by Thellman and carried 3-0.

CRIMINAL JUSTICE COORDINATING COUNCIL 05-03-17

The Board considered implementing a Douglas County House Arrest Program as presented by Robert Bieniecki, Criminal Justice Coordinating Council Coordinator.

Bieniecki stated one of the goals for the CJCC for 2017 was to implement an internal House Arrest program. An evaluation of current County and State resources indicated a need for additional staff to effectively manage this program. Bieniecki learned that the Defense Attorneys typically won't ask for house arrest for their clients if they know the offender cannot afford the cost of the program through the bonding companies. Depending on the security level of the device, an offender may pay up to \$200 to get on the program.

Bieniecki proposed incorporating a house arrest program through Advance Monitoring of Kansas (currently being used for pretrial monitoring) for the equipment and electronic monitoring at no charge to the offender if they cannot pay the fees. The program would be available to both adult and juvenile offenders from district and municipal courts. He also proposed hiring one fulltime House Arrest Officer to get the program started immediately. That officer would report to Pam Weigand, Director of Youth Services. Youth Services has the space and are open 24/7. The House Arrest Officer would be a grade 11, \$20.76 to \$30.62 professional level position operating under the authority of the District and Municipal courts and managed by the Youth Services Director.

The financial impact at this time includes the full time position with benefits at a cost of \$68,965.14. Other expenses will include onetime equipment expenses for startup equipment and a vehicle.

Thellman stated her support for the program. She asked for a list of programs we are currently using to keep people out of jail. Gaughan responded: the current house arrest program; pretrial monitoring program; Behavioral Health Court; Crisis Intervention Team; Mental Health Co-responders; Site and Release Program; relationship with Bert Nash at the jail; post booking diversion programs; hearing reminders; risk assessments; trial notifications; municipal court program partnership with KU, DCCCA and Judge Miller; non-custodial sentencing are some of the programs offered.

Thellman asked how the County would cover the cost of the program when offered at no cost. Craig Weinaug, County Administrator, responded that it cost the County approximately \$75 per day in direct costs for jail beds in other jails. Any prisoner that does not have to occupy a jail cell would save us this amount of money. We expect to at least break even. Even if we don't, it's the right thing to do. The law enforcement cost is exempted under the tax lid.

Gaughan opened the item for public comment. No comment was received.

Gaughan moved approved the creation of a Douglas County Adult/Juvenile House Arrest Program and a 1.0 FTE House Arrest Officer position to support the program. Motion was seconded by Derusseau and carried 3-0.

ACCOUNTS PAYABLE 05-03-17

Gaughan moved to approve accounts payable in the amounts of \$224,501.32 to be paid on 05/04/17, and \$6,093.92 paid on 04/20/17. Motion was seconded by Thellman and carried 3-0.

Gaughan moved to adjourn the meeting. Motion was seconded by Thellman and carried 3-0.

Mike Gaughan, Chair

Nancy Thellman, Vice-Chair

ATTEST:

Jamie Shew, County Clerk

Michelle Derusseau, Member

AGREEMENT

CONDITIONS OF GRANT

Juvenile Justice Comprehensive Plan State Block Grant

A grant is hereby awarded, commencing on the 1st day of July 2017, from the Kansas Department of Corrections, Juvenile Services, hereinafter referred to as “KDOC-JS,” to the **Douglas County Board of County Commissioners**, hereinafter referred to as “GRANTEE.” This grant and conditions, to which both parties agree and which are enumerated below, remain effective until June 30, 2018. Acceptance of block grant funds indicates GRANTEE’S acknowledgement of, and intent to comply with, all the conditions outlined below.

I. GRANTEE AGREES TO:

- A. Utilize grants funds for the development, implementation, operation and improvement of juvenile community correctional services pursuant to K.S.A. 75-7038 through 75-7053 and amendments thereto, as submitted in the GRANTEE’S comprehensive plan and grant application.
- B. Perform intake and assessment functions as required pursuant to K.S.A. 75-7023 and amendments thereto, and in accordance with KDOC-JS’s Juvenile Intake and Assessment Services Standards, <http://www.doc.ks.gov/juvenile-services/supervision-standards/jias>
- C. Perform juvenile intensive supervised probation functions as required pursuant to K.S.A. 75-7034 et seq. and in accordance with KDOC-JS’s Community Agency Supervision Standards, <http://www.doc.ks.gov/juvenile-services/supervision-standards>
- D. Perform case management services for juvenile offenders placed in KDOC-JS custody and in accordance with KDOC-JS’s Community Agency Supervision Standards, <http://www.doc.ks.gov/juvenile-services/supervision-standards>
- E. Assume the authority and responsibility for funds received through KDOC-JS in accordance with the provisions of the KDOC-JS Financial Rules and Guidelines for Graduated Sanctions and Prevention Block Grants, <http://www.doc.ks.gov/publications/kdoc-juvenile-services/financial-rules>
- F. Convene a juvenile corrections advisory board pursuant to K.S.A. 75-7044 and amendments thereto, and determine and establish an administrative structure for the effective administration and delivery of the comprehensive juvenile justice system.
- G. Provide administrative oversight to enhance the operational and evaluation procedures by assessing program efficiency and effectiveness of juvenile justice programs funded by state block grant funds.
- H. Notify KDOC-JS in writing, within ten (10) days of appointment, of administrative changes of the Chairperson for the Board of County Commissioners or Juvenile Corrections Advisory Board, the Administrative Contact, or the Director(s) of Juvenile Intake and Assessment, Community Case Management and Juvenile Intensive Supervised Probation programs operated under this grant.
- I. Adhere to all applicable Federal and State laws and regulations, the Interstate Compact for Juveniles, K.S.A. 38-1008 et seq., as well as KDOC-JS standards, policies and procedures. GRANTEE shall be responsible for any and all costs associated with non-compliance under this section.
- J. Expend KDOC-JS funds, including, but not limited to, prevention and/or graduated sanctions in accordance with GRANTEE’S Juvenile Justice Comprehensive Plan State Block Grant. Obtain advance approval in writing by the Deputy Secretary of KDOC-JS for all out of state travel and training. All requests for approval of out of state travel and training will be submitted at least two weeks prior to scheduling or obligation of grant funds.

- K. Acknowledge this grant may be terminated by either party upon a minimum of ninety (90) days written notice to the other party. Upon termination, the unexpended balance of funding distributed to GRANTEE shall be returned to KDOC-JS within thirty (30) days.
- L. Acknowledge that if, in the judgment of the Secretary of the Department of Corrections, sufficient funds are not appropriated to fully continue the terms of this agreement, KDOC-JS may reduce the amount of the grant award.
- M. Follow all applicable state and federal laws related to confidentiality of information in regard to juvenile offenders. This provision is not intended to hinder the sharing of information where necessary to effect delivery of services when undertaken in compliance with applicable laws.
- N. Neither assume nor accept any liability for the actions or failures to act, either professionally or otherwise, of KDOC-JS, its employees and/or its contractual agents.
- O. Not consider employees or agents of the GRANTEE as agents or employees of KDOC-JS. GRANTEE accepts full responsibility for payment of unemployment insurance, workers compensation and social security, as well as all income tax deductions and any other taxes or payroll deductions required by law for its employees engaged in work authorized by this Grant.
- P. Not hold KDOC-JS and the State of Kansas, and their employees, officials or agents, liable for any damages or costs arising from the cancellation, voiding, denial or withholding of funds to GRANTEE.
- Q. Submit problems or issues regarding the terms of this grant in writing to the Deputy Secretary of Juvenile Services for final review and resolution.
- R. If any provision of this grant violates any statute or rule of law of the State of Kansas, it is considered modified to conform to that statute or rule of law.
- S. Provide each child under its responsibility for placement and care with the protections found in Section 471 of Title IV-E of the Social Security Act and Kansas' Title IV-E Plan and perform candidate for foster care determinations in accordance with Section 471(a)(15) of the Social Security Act. In connection with the performance of services under this Agreement, GRANTEE also agrees to comply with the provisions of the Civil Rights Act of 1964, as amended (78 Stat. 252), Section 504 of the Rehabilitation Act of 1973, Public Law 93-112, as amended, the Regulations of the U. S. Department of Health and Human Services issued pursuant to these Acts, the provisions of Executive Order 11246, Equal Employment Opportunity, dated September 24, 1965, the provisions of the Americans with Disabilities Act of 1990, Public Law 101-336 and the Health Insurance Portability & Accountability Act of 1996; in that compliance shall include, but is not limited to, disclosing only that information that is authorized by law, authorized by the juvenile offender or his parent or legal guardian, setting a time limit on the authorization and disclosure, taking safeguards to prevent use or disclosure of the records, keeping an accounting of all requests for records and documenting its efforts to either protect or release relevant records; there shall be no discrimination against any employee who is employed in the performance of this Agreement, or against any applicant for such employment, because of age, color, national origin, ancestry, race, religion, creed, disability, sex or marital status. This provision shall include, but not be limited to the following: employment, promotion, demotion, or transfer; recruitment or advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. GRANTEE agrees that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity of the GRANTEE. GRANTEE further agrees to insert similar provisions in all sub-contracts for services allowed and authorized under this Agreement under any program or activity.
- T. Provide services to applicable juveniles residing or adjudicated in GRANTEE's Judicial District.
- U. Maintain books, records, documents, and other evidence in a manner that accurately reflects receipts and expenditures of all programs funded by this grant.
- V. Not use state funds allocated through this grant to supplant GRANTEE'S present Federal, State or local funding of services or programs.
- W. Maintain records and submit reports containing such information and at such times as required by KDOC-JS.
- X. Attend all applicable training sponsored by KDOC-JS.
- Y. Enter into agreements with member counties and/or private, public or not-for-profit entities for the delivery of graduated sanctions and prevention services in order to maximize the effective and efficient

JUVENILE SERVICES GRANT CONDITIONS

use of state resources. All agreements between GRANTEE and member counties or subcontractors shall be in writing and shall require compliance with these award conditions. GRANTEE shall be responsible for ensuring member county and/or subcontractor compliance with these grant conditions, KDOC-JS Juvenile Intake and Assessment Standards, KDOC-JS Community Agency Supervision Standards, the Financial Rules and Guidelines for Graduated Sanctions and Prevention Block Grants, and state and federal law. If requested by KDOC-JS, the GRANTEE shall forward a copy of all such agreements to KDOC-JS indicating compliance with this condition.

II. JUVENILE SERVICES AGREES TO:

- A. Maintain standards, policies and procedures for Juvenile Intake and Assessment, Community Case Management and Juvenile Intensive Supervised Probation, and provide consultation and technical assistance to GRANTEE for the implementation of the comprehensive juvenile justice system.
- B. Provide oversight necessary to support the Juvenile Justice Reform Act.
- C. Maintain case management purchase of service funds for services in the Juvenile Services Provider Handbook, <http://www.doc.ks.gov/juvenile-services/provider-services/provider-handbook>
- D. Receive and process invoices for non-Medicaid provider services contained in the Handbook.
- E. Assume responsibility for payment of Medicaid services contained in the Case Management Payment System Handbook.
- F. Delegate authority to Grantee to sign consents necessary in the administration of programs for juvenile offenders in the custody of the Kansas Department of Corrections, Juvenile Services, to GRANTEE or its designees.
- G. Acknowledge this grant may be terminated by either party upon a minimum of ninety (90) days written notice to the other party. Upon termination, the unexpended balance of funding distributed to GRANTEE shall be returned to KDOC-JS within thirty (30) days.
- H. Conduct audits and reviews of GRANTEE to determine their level of compliance with Juvenile Intake and Assessment, Community Case Management, and Juvenile Intensive Supervised Probation standards and the Case Management Payment System Handbook, KDOC-JS Financial Rules and Guidelines for Graduated Sanctions and Prevention Block Grants, and all applicable laws, regulations, and policies. In the event of a finding of unsatisfactory compliance with its obligations under this Agreement, or a finding based upon other evidence of a serious violation and/or lack of compliance with Agreement, all applicable Federal and State laws and regulations, as well as KDOC-JS field standards, policies and procedures, KDOC-JS may withhold part or all of any grant due or to become due to GRANTEE as payment for services rendered hereunder.
- I. Neither assume nor accept any liability for the actions or failure to act, either professionally or otherwise, of GRANTEE, its employees and/or its contractual agents.

APPROVED BY: Chairperson, Board of County Commissioners

Name: _____
(Please Print First Name, MI, and Last Name)

Signature: _____ Date: _____

APPROVED BY: Kansas Department of Corrections, Juvenile Services

Name: Joe Norwood, Secretary

Signature: _____ Date: _____

MEMORANDUM

TO: Board of County Commissioners
Craig Weinaug, County Administrator

FROM: Pam Weigand, Youth Services Director

SUBJECT: Review and Approve 7th Judicial District Kansas Department of Corrections-
Juvenile Services Juvenile Justice Grant Application for SFY 2018.

DATE: May 10, 2017

As you are aware Senate Bill 367, was passed by the 2016 Kansas Legislature, the bill was based upon a comprehensive examination of Kansas' juvenile justice system which developed data-driven policies based upon research and built upon consensus among key stakeholders from across Kansas. New research and new approaches have emerged to offer juvenile justice systems a wide range of effective and cost-effective options for protecting public safety, holding juvenile offenders accountable, and improving recidivism and other outcomes for children and families. The bill provides for a phased implementation of these new approaches between the summer of 2016 and July of 2019.

We were notified on March 8, 2017 that our funding for state fiscal year (SFY) 2018 will be a continuation of the districts SFY2017 Graduated Sanctions and Prevention block grant, to be used during the period of July 1, 2017 through June 30, 2018.

The 7th Judicial District's Prevention allocation is: \$ 37,199.00

The 7th Judicial District's Graduated Sanctions allocation is: \$ 461,944.22

The only change from the SFY 2017 application will be the allocation of Graduated Sanction funds to be used for Immediate Intervention Programs and budgeting funds for Court Services client incentives (@\$500.00).

The Corrections Advisory Board met on April 11th. The majority of the board present approved the SFY 2018 KDOC-JS grant application.

Thank you for your consideration.

PLANNING COMMISSION REPORT
Regular Agenda -- Public Hearing Item

PC Staff Report
04/24/2017

ITEM NO. 2 TEXT AMENDMENT TO COUNTY ZONING REGULATIONS; RADIO, TELEVISION, TELECOMMUNICATION, AND MICROWAVE TOWERS (MKM)

TA-16-00511: Consider a Text Amendment to Chapter 12 of the County Code, *Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas* to revise Section 12-319-4.31, *Radio, television, telecommunication, and microwave towers*, to bring the standards and definitions into compliance with State law. *Initiated by County Commission on 11/30/16.*

RECOMMENDATION: Staff recommends approval of the proposed amendment, TA-16-00511, to revise Section 12-319-4.31 Radio, television, telecommunication, and microwave towers to update the definitions and standards for Wireless Facilities in compliance with recent State legislation and to create a new category 12-319-4.38 for Radio, Television, and Microwave Towers.

Reason for Request: Kansas State House Bill No. 2131 amended a number of state laws related to the regulation of Telecommunications Facilities. The bill became law effective October 1, 2016. The proposed text amendment would bring the *Zoning Regulations of the Unincorporated Territory of Douglas County*, specifically Section 12-319-4.31 thereof, into compliance with the new laws.

RELEVANT GOLDEN FACTOR:

- Conformance with the comprehensive plan.

ATTACHMENTS

- Attachment A – Draft language Wireless Facilities
- Attachment B - Draft language Radio, Television, and Microwave Towers

OVERVIEW OF PROPOSED AMENDMENT

Section 12-319-4.31 of the Zoning Regulations currently contains standards and provisions regarding radio, television, telecommunication, and microwave towers. As a result of the new legislation, 'Telecommunication Towers', in the Zoning Regulations, have been relabeled 'Wireless Facilities' and the standards and provisions enacted with KS State House Bill No. 2131 have been applied.

As a result, it was necessary to create a separate section, 12-319-4.38, for the remaining types of towers: Radio, Television, and Microwave. Minimal changes were made to the provisions for these types of towers. The wording was updated for clarity and provisions that apply only to Wireless Facilities were removed. Some standards were revised to maintain consistency with the standards being adopted for Wireless Facilities. These include the following:

- a) Revised the length of time a tower could remain unused before being removed from 3 years to 1 year (with a provision that an extension could be approved by the County Commission.)

- b) Established a waiver process from the setback requirements

Attachment B contains two versions of the draft language. The first contains the previous wording for all types of towers and shows the items which have been deleted as they apply only to telecommunication towers or Wireless Support Structures and shows the wording which was added specifically for the other types of towers, such as radio, television, and microwave towers. Some provisions which were added to the Wireless Support Structures by the recent legislature were also added to the other tower types, to maintain consistency.

CRITERIA FOR REVIEW AND DECISION-MAKING

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

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

The adoption of new Wireless Facilities standards by the KS Legislature necessitated this amendment. It was necessary to revise the Zoning Regulations for Wireless Facilities to maintain compliance with the State Statutes.

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

The general goal of the Comprehensive Plan is to provide

"...for the optimum in public health, safety, convenience, general social and physical environment and individual opportunities for all the residents of the community, regardless of racial, ethnic, social, or economic origin. It is the goal of the planning process to achieve a maximum of individual freedom, but public welfare must prevail." (Introduction, page 3, Horizon 2020)

The proposed amendment establishes regulations which are compliant with the State Statutes and provides minor additions to ensure the public, health, safety, convenience, and general welfare.

12-319-4.31 Wireless Facilities

a. Purpose

The Governing Body recognizes that facilitating the development of wireless service technology benefits both the residents and the economic development of Douglas County. The purpose of these standards is to ensure that residents, businesses, and industry within the county enjoy reliable access to wireless telecommunications networks, while, at the same time, safeguarding the health, safety, welfare, and aesthetics of the county. Accordingly, these standards are intended to ensure that the location, installation, construction, and modification of Wireless Facilities within the unincorporated portion of the county comply with all Federal and State laws and regulations.

b. Definitions

The following words, terms, and phrases, when used in this Section, shall, except where the context clearly indicates otherwise, have the following meanings:

- 1) Accessory Equipment means any equipment serving or being used in conjunction with Wireless Facilities or Wireless Support Structures, including but not limited to utility or transmission equipment, power supplies, generators, batteries, cables equipment buildings, cabinets and storage sheds, shelters, or similar structures.
- 2) Antenna means telecommunications equipment that transmits or receives radio waves necessary for the provision of Wireless Services.
- 3) Co-location means the mounting or installation of Wireless Facilities, including Antennas, on a building, structure, Wireless Support Structure, utility pole, or other existing structure for the purposes of transmitting or receiving radio waves for telecommunications purposes.
- 4) Disguised Wireless Facility means any Wireless Facility that is integrated as an architectural feature of a structure so that the existence of the Wireless Facility is not readily apparent to the casual observer, or any Wireless Support Structure that is disguised to resemble a tree, flag pole, steeple, clock tower, or other similar building element.
- 5) Major Modification means any improvement that results in a substantial change to a Wireless Facility or to a Wireless Support Structure. Major modifications include, but are not limited to increasing the height of the Wireless Support Structure by more than ten feet or ten percent, whichever is greater, expansion of the area of Accessory Equipment, and any similar improvement. Co-location of new Wireless Facilities, including Antennas, on an existing Wireless Support Structure shall not be deemed a Major Modification.

- 6) Minor Modification means any improvement that results in some material change to a Wireless Facility or a Wireless Support Structure, but of a level, quantity, or intensity that is less than a Major Modification.
- 7) Monopole means a single, free-standing, pole-type structure supporting Wireless Facilities, including Antennas.
- 8) Ordinary Maintenance means maintenance to ensure that Wireless Facilities, Wireless Support Structures, and Accessory Equipment are maintained in safe operating condition. Ordinary Maintenance shall include, but not be limited to inspections, modifications of Wireless Facilities and Wireless Support Structures to ensure structural integrity, exchanging Antennas or Accessory Equipment on a like-for-like basis, relocating Antennas already in place, or other similar actions that fall short of being a Minor Modification.
- 9) Wireless Facility means any equipment at a fixed location that enables wireless telecommunications between user telecommunications devices and telecommunications networks.
- 10) Wireless Service Provider means a provider of Wireless Services.
- 11) Wireless Service means “personal wireless services,” “personal wireless service facilities,” and “commercial mobile services” as those terms are defined at 47 U.S.C. § 332(c)(7)(C) and (d), as amended, which are provided to telecommunications devices through the implementation and use of Wireless Facilities.
- 12) Wireless Support Structure means any freestanding structure, such as a Monopole, or other self-supporting tower, or other suitable structure designed to support or capable of supporting Wireless Facilities, including Antennas. Wireless Support Structures do not include telephone poles, electrical utility poles, or any towers used for the distribution or transmission of electrical services.

c. Approvals Required

- 1) Conditional Use Permit. No new Wireless Facility, no new Wireless Support Structure, no Co-location that results in a Major Modification of an existing Wireless Facility or Wireless Support Structure, and no Major Modification of an existing Wireless Facility or Wireless Support Structure shall be allowed in any zoning district of the unincorporated portion of the county absent the issuance, upon application, of a Conditional Use Permit in accordance with the procedures established at Section 12-319-1 of these Regulations, as amended.
- 2) Site Plan Approval. No Co-location that is a Minor Modification of an existing Wireless Facility or Wireless Support Structure and no Minor Modification of

an existing Wireless Facility or Wireless Support Structure shall be allowed in any zoning district of the unincorporated portion of the county absent approval, upon application, of a Site Plan in accordance with the procedures established at 12-319A of these Regulations, as amended.

d. Terms of Approval; Renewal; Limits

- 1) Term. Any Conditional Use Permit or Site Plan Approval issued hereunder, assuming all conditions of approval are met and maintained, shall be valid for a period of ten years. Any renewal thereof, which shall be subject to administrative approval, shall be for a period of five years. At the time of renewal, the Owner/Applicant shall demonstrate to the Planning Director that the Wireless Facility or Wireless Support Structure remains in compliance with the original conditions of approval.
- 2) Limits. Commencing on the date of issuance of any Conditional Use Permit or Site Plan Approval hereunder, the Owner/Applicant shall have a period of one year in which to commence construction or installation of the Wireless Facility or Wireless Support Structure and shall thereafter diligently pursue construction or installation to its completion. Failure to commence construction or installation within one year of receiving a permit or approval or failure to diligently pursue construction or installation to its completion shall cause the Conditional Use Permit or Site Plan Approval to lapse and to be deemed null and void.

e. Application

At the time of application for a Conditional Use Permit or for Site Plan Review for any Wireless Facility or Wireless Support Structure, the Owner/Applicant shall submit the following:

- 1) A completed Application, on a form supplied by the Planning Director, signed by the Owner(s) of the subject property or signed by an Applicant if accompanied by written authorization of the Owner(s) granting to the Applicant the authority to submit the Application in behalf of the Owner.
- 2) Elevation drawings showing the height of the proposed Wireless Facility including Antennas (and any lightning rod or lightning arrester), and all Accessory Equipment, including any buildings and structures.
- 3) A Site Plan, drawn to scale, including:
 - a) the information required by Section 12-319A-4 of these Regulations, as amended;
 - b) the location of existing or proposed Wireless Facilities or Wireless Facility Support Structures;
 - c) the location of other existing or proposed structures;

- d) the location of accessory equipment and/or other accessory uses;
 - e) the location of access road(s), access road surface materials, and any parking area;
 - f) the height, location, and construction materials of fences or other barriers;
 - g) a Landscape Plan, in accordance with Section 12-319A-4.10 of these Regulations, as amended;
 - h) elevation contours; and
 - i) zoning and uses of properties neighboring the subject property.
- 4) If the project involves a new Wireless Support Structure, a signed and sealed report from a qualified professional engineer, licensed to practice in the State of Kansas, that includes:
- a) the height and design of the proposed Wireless Support Structure;
 - b) the height for all potential mounting positions for Antennas and the minimum separation distances between Antennas;
 - c) the capacity of the Wireless Support Structure, including the number and types of Antennas that can be accommodated;
 - d) a statement that the Wireless Support Structure is designed, in accordance with this Section, to collapse upon itself in the event of failure, including the projected fall zone of any such Wireless Support Structure; and
 - e) any other information that may be necessary or requested by the Planning Director to evaluate the Application.
- 5) If the project involves a new Wireless Support Structure, the application shall include:
- a) line-of-sight diagrams or photo simulations showing the proposed Wireless Support Structure against the skyline and viewed from at least three different vantage points within the surrounding area;
 - b) a statement that the Owner/Applicant considered Co-location, where it considered Co-location, and why Co-location would not meet the Owner/Applicant's needs; and
 - c) a statement that the proposed Wireless Support Structure will be made available to other Wireless Service Providers for Co-location at commercially reasonable rates, or a statement that the

Owner/Applicant is seeking a waiver of the Co-location requirement and why such waiver is being sought.

- 6) If the project involves Co-location on an existing structure, a signed and sealed report from a qualified professional engineer, licensed to practice in the State of Kansas, which establishes that the existing building or structure is structurally sound and can safely accommodate the proposed Co-location.
- 7) If the project involves a new Wireless Support Structure or a Major Modification of an existing Wireless Support Structure, a fee, not to exceed \$2,000, as established by the Governing Body, which amount shall recapture the County's costs of processing the application.
- 8) If the project involves a Co-location or anything else that is not a Major Modification, a fee, not to exceed \$500, as established by the Governing Body, which amount shall recapture the County's costs of processing the application.
- 4) If the project involves a new Wireless Support Structure, all owners of record of unincorporated property located within a one-mile radius of the proposed structure must be notified with written notice by the applicant. The applicant shall submit a Certificate of Mailing for the notice required by this Section, and a list of notified property owners at the time of application for a Conditional Use Permit. An application for a Conditional Use Permit for a communication tower shall not be valid without an executed Certificate of Mailing. The notice shall be sent by regular mail, postage pre-paid, by the applicant. The notice shall provide:
 - a) A brief description and location of the proposed tower;
 - b) Projected date for construction;
 - c) The person, with contact telephone number and address, designated by the applicant to respond to questions concerning the proposed tower;
 - d) The date the Conditional Use Permit application will be submitted to the Planning Office for review and process;
 - e) A statement with substantially the following information:

Notice of Conditional Use Permit (CUP) Consideration pending before the Lawrence-Douglas County Planning Office.

This letter is being sent to the owners of unincorporated property for the purpose of informing the property owner(s) and other interested parties about the proposed tower development describe further in this letter. This letter does not grant the recipient and/or property owner any additional legal rights to challenge the proposed development, instead, it is being provided solely to advise property owner(s) of the

pending development. For further information, contact the applicant's designated representative or the Lawrence-Douglas County Planning Office at (785) 832-3150.

- f) The failure to receive the additional notice by a property owner shall not affect the validity of the Conditional Use Permit approval or consideration.

f. General Standards

1) Co-location:

- a) Wireless Support Structures shall be designed to accommodate at least three Wireless Service Providers. The compound area supporting the Wireless Support Structure likewise shall be of adequate size to accommodate Accessory Equipment for at least three Wireless Service Providers.
- b) Whenever it is economically and technically feasible, and it is aesthetically appropriate, as determined by the Governing Body, the Planning Commission, or the Planning Director, Disguised Wireless Facilities shall be designed to accommodate the Co-location of other Wireless Service Providers.
- c) Upon written request of the Owner/Applicant, the Governing Body, the Planning Commission, or the Planning Director may waive the County's Co-location requirements if it is determined, as demonstrated by technical evidence presented by the Owner/Applicant, that Co-location at the site is non-essential to the public interest, that construction of a shorter Wireless Support Structure with fewer Wireless Facilities, including Antennas, will promote community compatibility or interests, or that Co-location would cause interference with other existing Wireless Facilities.

- 2) Building Permits: All new Wireless Support Structures, all major modifications of existing Wireless Facilities, and all Accessory Equipment shall not be installed or constructed without the issuance of a Building Permit in accordance with Chapter 13 of the County Code.

- 3) Replacement of Existing Wireless Facilities: The replacement of any existing Wireless Facility or Wireless Support Structure shall require compliance with the terms of this Section and shall require, as may be pertinent, either approval and issuance of a Conditional Use Permit in accordance with the procedures established at Section 12-319-4.1 of these Regulations, as amended, or approval of a Site Plan in accordance with the procedures established at Section 12-319A of these Regulations, as amended.

4) Setbacks:

- a) A ground mounted tower shall be set back from the nearest property line a distance which is at least equal to the height of the tower, measured from the center of the tower base.
- b) A tower mounted on the roof of a building or on top of other structures shall be set back either
 - i. a distance which is at least equal to the total height of the structure and tower from the nearest property line, measured from the center of the tower (similar to a ground-mounted tower), or
 - ii. a distance which is at least equal to the height of the tower above the roof/structure from the edge of the roof.
- c) Setback Waiver. The Planning Commission may recommend and the Governing Body may approve a waiver from these setback requirements if it finds that all of the following conditions are met:
 - i. the waiver will not adversely affect the public health, safety, or general welfare of the community;
 - ii. the waiver will not adversely affect the rights of adjacent property owners or residents;
 - iii. strict application of the provisions of this section would constitute unnecessary hardship on the Owner/Applicant; and
 - iv. the waiver is appropriate under the circumstances.
- d) Additional Setback. Additional setbacks may be required to contain ice fall or debris from tower failures and/or to preserve the privacy of adjoining residential and public property.

5) Height: The height of a tower is unregulated but all towers must comply with FAA regulations.

6) Separation Requirements:

- (a) All new Wireless Facilities, except Disguised Wireless Facilities, shall be located a minimum of 1,000 feet from existing Wireless Support Structures. The distance shall be measured from the base of the existing Wireless Support Structure to the base of the proposed Wireless Facility.
- (b) The Planning Commission may recommend and the Governing Body may grant a waiver from the 1,000-foot separation requirement if the

Owner/Applicant demonstrates that a waiver will not adversely affect the public health, safety, or general welfare of the community and that strict application of this section would constitute unnecessary hardship.

7) Design Standards

- a) Access: Access shall be provided to all Wireless Facilities, Wireless Support Structures, and accessory equipment per the approval of the County Public Works Director.
- b) Accessory Equipment:
 - i. All accessory equipment that are buildings, cabinets, storage sheds, and shelters shall be used only to store equipment and other supplies necessary for the operation of the Wireless Facility or Wireless Support Structure. Equipment not used in direct support of such operation shall not be stored on the site.
 - ii. All accessory equipment that are buildings or structures shall require a Building Permit, and shall conform to Height and Setback restrictions established for the zoning district in which the site is located.
 - iii. All Accessory Equipment shall be designed to be compatible with and to blend into its surrounding environment through the use of color, camouflage, screening, landscaping, and architecture.
 - iv. Lighting of Accessory Equipment for basic security purposes is permitted. However, such lighting shall be shielded and shall be directed downward. Floodlights are prohibited.
 - v. The addition of related equipment to any building or structure that is Accessory Equipment shall not increase the height of said building or structure more than 20% of the height of the existing building or structure; or more than the maximum height allowed in the zoning district in which the site is located, whichever is less.
- c) Antennas:
 - i. No Antenna may be attached to any Wireless Support Structure or Co-located on any other structure, unless the Wireless Support Structure or other structure is at least forty feet in height.
 - ii. The addition or Co-location of any Antenna on a Wireless Support Structure or any other structure shall not increase the height of said building or structure **(a)** more than 20% or **(b)** more than the maximum height allowed in the zoning district in which the site is located, whichever is less.

- iii. Antennas Co-located on existing structures shall not be subject to Setback requirements.
- iv. No antenna may be Co-located on any structure listed in the National Register of Historic Places or the Register of Historic Kansas Places until the State Historic Preservation Officer has been given notice and an opportunity to investigate and comment upon the proposed project.
- v. To the extent that it is feasible and the engineer's report demonstrates that the roof is structurally sound and can safely accommodate it, any Accessory Equipment to an Antenna Co-located on an existing structure shall be located on the roof of the existing building or structure provided that said Accessory Equipment shall not occupy more than 25% of the total roof area and the Accessory Equipment is shielded from view from neighboring properties and rights of way.
- d) Cables/Conduit: All cable runs should be through portals and maintained within the Wireless Support Structure. Where cable or conduit is required to be located on the outside of any Wireless Support Structure, the cable or conduit shall be painted or covered by material to match the color of the Wireless Support Structure.
- e) Color: The color of the tower shall comply with the standards set by the Federal Aviation Administration (FAA) or the County.
- f) Disguised Wireless Facilities:
 - i. A Disguised Wireless Facility must be enclosed, camouflaged, screened, obscured, or otherwise not apparent to the casual observer. A Disguised Wireless Facility must be integrated into another structure as an architectural facility or must be designed to resemble an object or structure that does not have the appearance of a monopole or other Wireless Facility.
 - ii. The Disguised Wireless Facility must meet the requirements of the underlying zoning district, including, but not limited to height, setback, and use restrictions.
- g) Landscaping: Screening landscaping required for the Wireless Facility shall be maintained by the Owner/ Applicant. In cases where the property is not visible from adjacent properties or rights of way or where landscaping is not necessary, appropriate, or feasible, the Governing Body, the Planning Commission, or the Planning Director may waive this requirement.

- h) Lighting and Marking: All lighting necessary to comply with the FAA, FCC, or the County lighting requirements. Lighting shall consist of dual lighting structures with day time strobe lights on medium intensity and night time red lights only. No high intensity strobes or night time strobes shall be permitted. Further, all towers requiring lighting shall provide battery backup or other alternative power source to assure lighting operations during times of power outages.
- i) Security and Fencing: Ground-mounted Accessory Equipment and related structures shall be secured and enclosed within fencing not less than six feet in height. Fencing shall be constructed with materials that are designed to be compatible with and to blend in to the surrounding areas. Every Wireless Facility shall be protected from trespass by unauthorized persons to discourage climbing of structures.
- j) Signage: No advertising or other display shall be permitted on any Wireless Facility or Wireless Support Structure, unless such is required by the FCC, the FAA , or the County.
- k) Wireless Support Structures:
 - i. All new Wireless Support Structures shall be of monopole design. Guyed and lattice towers are prohibited.
 - ii. All new Wireless Support Structures located in districts zoned residential, or located within 500 feet of any property or district zoned residential, shall be Disguised Wireless Facilities as defined in this Section.
 - iii. All Wireless Support Structures shall be designed and constructed such that if a failure does occur, the Wireless Support Structure will collapse on itself and will not collapse on structures at or near the site.
 - iv. No Wireless Support Structure shall, except during construction, have a platform, crow's nest, or like structure surrounding it or attached to it.
- 8) Final Decision
 - a) Time Limits. Within 150 calendar days of receiving an application for a new Wireless Support Structure or within 90 calendar days of receiving any other application hereunder, the County shall:
 - i. review the application in light of the standards of this Section and applicable provisions of the County Code;
 - ii. make a final decision to approve or disapprove the application; and

- iii. advise the Owner/Applicant by written notice of the County's final decision, which final decision shall be supported by written substantial evidence in the record. Such final decision shall be deemed effective on the date of the written notice.
 - b) Commencement of Time. The time limits for final decision shall commence upon the County's acceptance of a complete application. If an application is incomplete, the County shall notify the Owner/Applicant within thirty days of its deficiencies and, in such case, the time limits shall not commence until a complete application has been submitted and accepted. Alternatively, the time limits may commence upon a date agreed upon in writing by the County and the Owner/Applicant.
 - c) Effect of Lapse of Time. Unless otherwise agreed upon by the Owner/Applicant and the County, an application shall be deemed approved if (i) the County fails to issue a final decision with the time limits established at subsection 6(a) and (ii) the Owner/Applicant provides to the County written notice that the applicable time limits have lapsed.
 - d) Appeal. Any party aggrieved by the County's final decision approving or disapproving an application or any party aggrieved by the Owner/Applicant's written notice that the time limits have lapsed may appeal said result to the District Court of Douglas County, Kansas, in accordance with K.S.A. 60-2101(d), as amended.
- 9) Miscellaneous Provisions
- a) Abandonment and Removal. Any Wireless Facility or Wireless Support Structure that is not operated for a period of one year shall be deemed abandoned. The Owner/Applicant shall remove any abandoned Wireless Facility or Wireless Support Structure at his, her, or its expense within 180 days after abandonment.
 - b) Interference. All Wireless Facilities shall be constructed, installed, operated, and maintained in accordance with all applicable federal, state, and local laws, resolutions, and regulations so as not to interfere or cause interference with existing telecommunications, including but not limited to radios, televisions, computers, and City and/or County emergency broadcast systems.
 - c) Nonconforming Wireless Facilities. Wireless Facilities and Wireless Support Structures that were legally permitted on or before the effective date of this Ordinance shall be considered lawful nonconforming structures.

- i. Major Modifications and Minor Modifications to nonconforming structures shall be permitted in accordance with the provisions of this Section.
 - ii. Replacement of any nonconforming structure shall be with a structure that complies with the provisions of this Section. If any nonconforming facility or structure is damaged by more than 60% of its fair market value, it shall only be replaced by a conforming facility or structure if it is legal to do so.
 - d) Ordinary Maintenance. Ordinary Maintenance, as defined herein, shall be exempt from the permitting and approval requirements of this Section.
- 10) Exemptions
- a) The provisions of this Section shall not apply to the following:
 - i. Any Wireless Facility, including Amateur and Receive-only Antennas, that are:
 - (a) less than 75 feet in height;
 - (b) located in the Rear Yard of a residentially zoned Parcel; and
 - (c) Owned and operated by a federally licensed amateur radio operator.
 - (d) Wireless Facilities that are exempt under this Subsection shall not be considered, be deemed available, or be used for Co-location.
 - ii. Broadcast Towers; and
 - iii. Satellite Dishes.

DRAFT LANGUAGE/Changes shown

Changes shown in red:

new language underlined, deleted language ~~struck through~~

12-319-4.38 Radio, television, telecommunication, and microwave towers.

- a. ~~Tower Standards;~~ Purpose. ~~The purpose of section T~~ this section ~~shall be to~~ establish standards for the use and construction of radio or television broadcasting towers and/or apparatus, microwave transmitting and/or receiving towers and/or stations, or any tower or other similar structure 100 feet or more in height from the ground, or 40 feet in height as measured to the highest point of the tower/antenna if mounted on a structure or building, or of any height if lighted; whether publicly or privately owned with the exception of Wireless Facilities.
- b. ~~Same,~~ Development Plan Required. At the time of application for Conditional Use Permit ~~a site plan is required to be submitted pursuant to this Chapter,~~ the applicant shall submit a development plan in sufficient detail, as determined by the staff of the Planning Department, to evaluate its conformance with applicable standards and guidelines.
The development plan shall include:
 - 1) ~~The applicant shall provide W~~ritten authorization from the property owner of the proposed tower site.
 - 2) ~~An application for tower approval shall include the submission of a~~ site plan drawn to scale showing the property boundaries, tower, guy wire anchors and other apparatus, existing and proposed structures, proposed transmission buildings and/or other accessory uses, access road(s) location, access road surface material, parking area, fences, location and content of warning sign, exterior lighting specifications, a landscaping plan, land elevation contours, and existing land uses surrounding the site. If any accessory building is proposed, details of the building including elevations and proposed use of the building is required to be submitted with the application.
 - 3) ~~An application for tower approval shall include a~~ report or written information which describes the tower height and design including a cross-section of the structure; engineering specifications prepared by a qualified professional engineer, licensed to practice in the State of Kansas detailing construction of tower, base and guy wire anchorage; the proposed painting and lighting schemes; and describes the tower's capacity, including the number and type of antennas that it can accommodate.
 - 4) In addition to ~~notifying property~~ the written notice to owners within 1,000 ft of the tower request ~~per Section 12-324~~ which is provided by the Planning Office, all owners of record of unincorporated property located within a

one-mile radius of the proposed tower request must also be notified with written notice by the applicant. The applicant shall submit a Certificate of Mailing for the notice required by this Section, and a list of notified property owners at the time of application for a Conditional Use Permit. An application for a Conditional Use Permit for a communication tower shall not be valid without an executed Certificate of Mailing. The notice shall be sent by regular mail, postage pre-paid, by the applicant. The notice shall provide:

- a) A brief description and location of the proposed tower;
- b) Projected date for construction;
- c) The person, with contact telephone number and address, designated by the applicant to respond to questions concerning the proposed tower;
- d) The date the Conditional Use Permit application will be submitted to the Planning Office for review and process;
- e) A statement with substantially the following information:

Notice of Conditional Use Permit (CUP) Consideration pending before the Lawrence-Douglas County Planning Office.

This letter is being sent to the owners of unincorporated property for the purpose of informing the property owner(s) and other interested parties about the proposed tower development describe further in this letter. This letter does not grant the recipient and/or property owner any additional legal rights to challenge the proposed development, instead, it is being provided solely to advise property owner(s) of the pending development. For further information, contact the applicant's designated representative or the Lawrence-Douglas County Planning Office at (785) 832-3150.

5) The failure to receive the additional notice by a property owner shall not affect the validity of the Conditional Use Permit approval or consideration.

c. ~~Same~~, General Provisions.

- 1) An effort in good faith must be made to locate new antenna on existing towers, or other structures. A request for a new tower must be accompanied by evidence that application was made to locate on existing towers, with no success.

~~2) A proposal for a new communications tower shall not be approved unless the applicant can document that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower due to one or more of the following reasons:~~

- ~~a) The planned equipment would exceed the structural capacity of existing and approved towers, considering existing and planned use of those towers, and existing and approved towers cannot be reinforced to~~

- ~~accommodate the planned or equivalent equipment at a reasonable cost.~~
- ~~b) The planned equipment would cause RF interference with other existing or planned equipment for these towers, and the interference cannot be prevented at a reasonable cost.~~
 - ~~c) Existing or approved towers do not have space on which planned equipment can be placed so it can function effectively and reasonable in parity with other similar equipment in place or approved.~~
 - ~~d) Other reasons that make it impracticable to place the equipment planned by the applicant on existing and approved towers.~~
 - ~~3) All towers shall be designed to accommodate at least three two-way antennas for every 150 feet of tower height, or at least one two-way antenna and one microwave facility for every 150 feet of tower height. The above requirements may be modified to provide the maximum number of compatible users within the radio frequency emission levels.~~
- 2) The owner at the owner's expense shall remove any tower that is not in use for a period of three years or more one year, unless a request for an extension has been approved by the Board of County Commissioners.
- 3) ~~The tower owner/operator shall submit a letter to the Planning Office by July 1 of each year listing the current users and types of antenna located on the approved tower.~~ A sign shall be posted on the tower or the exterior fence around the base of the tower noting the name and telephone number of the tower owner/operator.
- d. Same, Development Standards. Setbacks
- ~~1) The location of a ground mounted tower must be such that it is setback at least equal to the height of the tower to the nearest property line measured from the center of the tower. A ground mounted tower may be set back less than the tower height to the nearest property line if documentation from a registered engineer is submitted certifying that in the event of a tower failure or collapse, the fall zone of the tower will be contained within the proposed set back area. All guy wires, similar support devices and other apparatus shall be no closer than twenty feet from any lot line.~~
 - ~~2) Towers may be placed on the roof of a building or on top of other structures using either of the following to determine tower height and setback:~~
 - ~~a) Tower height above the roof/structure may be as high as the setback distance to the nearest roof/structure edge.~~
 - ~~b) The height of a ground-mounted tower may be used for a roof/structure-mounted tower if the required setbacks for a ground tower are satisfied.~~

- 1) A ground mounted tower shall be set back from the nearest property line a distance which is at least equal to the height of the tower, measured from the center of the tower.
- 2) The setback for a tower mounted on the roof of a building or on top of other structures may be determined from either the edge of the property line or the edge of the roof as follows:
 - i. The tower shall be set back a distance which is at least equal to the total height of the structure and tower from the nearest property line, measured from the center of the tower (similar to a ground-mounted tower), or
 - ii. If the overall setback above is not met, the tower shall be set back a distance equal to the height of the tower above the roof/structure from the edge of the roof.
- 3) The Planning Commission may recommend and the Governing Body may approve a waiver from these setback requirements if it finds that all of the following conditions are met:
 - a) the waiver will not adversely affect the public health, safety, or general welfare of the community;
 - b) the waiver will not adversely affect the rights of adjacent property owners or residents;
 - c) strict application of the provisions of this section would constitute unnecessary hardship on the Owner/Applicant; and
 - d) the waiver is appropriate under the circumstances.
- 4) Additional setbacks may be required to contain ice-fall or debris from tower failures and/or to preserve the privacy of adjoining residential and public property. Setbacks shall apply to all tower parts including guy wire anchors, and to any accessory facilities.

e) Development Standards

- 1) The height of a tower shall meet the setback requirements as stated in this chapter.
- 2) All towers should be located in areas zoned commercial, industrial, or agricultural, except that towers may be permitted in areas zoned residential if it can be demonstrated that all reasonable efforts were made to locate the proposed tower in non-residentially zoned areas.
- 3) All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment. Towers shall not be lighted except to assure human safety as required by the Federal Aviation

Administration (FAA). Towers should be a galvanized finish or painted gray or light blue unless other standards are required by the FAA. In all cases, mono pole towers shall be preferable to guyed towers or free standing structures. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.

DRAFT LANGUAGE / Changes Incorporated

12-319-4.37 Radio, television, and microwave towers.

- a. Purpose. This section establishes standards for the use and construction of radio or television broadcasting towers and/or apparatus, microwave transmitting and/or receiving towers and/or stations, or any tower or other similar structure 100 feet or more in height from the ground, or 40 feet in height as measured to the highest point of the tower/antenna if mounted on a structure or building, or of any height if lighted; whether publicly or privately owned with the exception of Wireless Facilities.
- b. Development Plan Required. At the time of application for Conditional Use Permit the applicant shall submit a development plan in sufficient detail, as determined by the staff of the Planning Department, to evaluate its conformance with applicable standards and guidelines.
The development plan shall include:
 - 1) Written authorization from the property owner of the proposed tower site.
 - 2) A site plan drawn to scale showing the property boundaries, tower, guy wire anchors and other apparatus, existing and proposed structures, proposed transmission buildings and/or other accessory uses, access road(s) location, access road surface material, parking area, fences, location and content of warning sign, exterior lighting specifications, a landscaping plan, land elevation contours, and existing land uses surrounding the site. If any accessory building is proposed, details of the building including elevations and proposed use of the building is required to be submitted with the application.
 - 3) A report or written information which describes the tower height and design including a cross-section of the structure; engineering specifications prepared by a qualified professional engineer, licensed to practice in the State of Kansas detailing construction of tower, base and guy wire anchorage; the proposed painting and lighting schemes; and describes the tower's capacity, including the number and type of antennas that it can accommodate.
 - 4) In addition to the written notice to owners within 1,000 ft of the tower request which is provided by the Planning Office, all owners of record of unincorporated property located within a one-mile radius of the proposed tower request must also be notified with written notice by the applicant. The applicant shall submit a Certificate of Mailing for the notice required by this Section, and a list of notified property owners at the time of application for a Conditional Use Permit. An application for a Conditional Use Permit for a communication tower shall not be valid without an executed Certificate of Mailing. The notice shall be sent by regular mail,

postage pre-paid, by the applicant. The notice shall provide:

- g) A brief description and location of the proposed tower;
- h) Projected date for construction;
- i) The person, with contact telephone number and address, designated by the applicant to respond to questions concerning the proposed tower;
- j) The date the Conditional Use Permit application will be submitted to the Planning Office for review and process;
- k) A statement with substantially the following information:

Notice of Conditional Use Permit (CUP) Consideration pending before the Lawrence-Douglas County Planning Office.

This letter is being sent to the owners of unincorporated property for the purpose of informing the property owner(s) and other interested parties about the proposed tower development describe further in this letter. This letter does not grant the recipient and/or property owner any additional legal rights to challenge the proposed development, instead, it is being provided solely to advise property owner(s) of the pending development. For further information, contact the applicant's designated representative or the Lawrence-Douglas County Planning Office at (785) 832-3150.

- l) The failure to receive the additional notice by a property owner shall not affect the validity of the Conditional Use Permit approval or consideration.

c. General Provisions.

- 1) An effort in good faith must be made to locate new antenna on existing towers, or other structures. A request for a new tower must be accompanied by evidence that application was made to locate on existing towers, with no success.
- 2) The owner at the owner's expense shall remove any tower that is not in use for a period of one year, unless a request for an extension has been approved by the Board of County Commissioners.
- 3) A sign shall be posted on the tower or the exterior fence around the base of the tower noting the name and telephone number of the tower owner/operator.

d. Setbacks

- 1) A ground mounted tower shall be set back from the nearest property line a distance which is at least equal to the height of the tower, measured from the center of the tower.

- 2) The setback for a tower mounted on the roof of a building or on top of other structures may be determined from either the edge of the property line or the edge of the roof as follows:
 - a) The tower shall be set back a distance which is at least equal to the total height of the structure and tower from the nearest property line, measured from the center of the tower (similar to a ground-mounted tower), or
 - b) If the overall setback above is not met, the tower shall be set back a distance equal to the height of the tower above the roof/structure from the edge of the roof.
 - 3) The Planning Commission may recommend and the Governing Body may approve a waiver from these setback requirements if it finds that all of the following conditions are met:
 - a) The waiver will not adversely affect the public health, safety, or general welfare of the community;
 - b) The waiver will not adversely affect the rights of adjacent property owners or residents;
 - c) Strict application of the provisions of this section would constitute unnecessary hardship on the Owner/Applicant; and
 - d) The waiver is appropriate under the circumstances.
 - 4) Additional setbacks may be required to contain ice-fall or debris from tower failures and/or to preserve the privacy of adjoining residential and public property. Setbacks shall apply to all tower parts including guy wire anchors, and to any accessory facilities.
- e) Development Standards**
- 1) The height of a tower shall meet the setback requirements as stated in this chapter.
 - 2) All towers should be located in areas zoned commercial, industrial, or agricultural, except that towers may be permitted in areas zoned residential if it can be demonstrated that all reasonable efforts were made to locate the proposed tower in non-residentially zoned areas.
 - 3) All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment. Towers shall not be lighted except to assure human safety as required by the Federal Aviation

Administration (FAA). Towers should be a galvanized finish or painted gray or light blue unless other standards are required by the FAA. In all cases, mono pole towers shall be preferable to guyed towers or free standing structures. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.

RESOLUTION NO. 17-___

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS ADOPTING TEXT AMENDMENTS TO THE ZONING REGULATIONS FOR THE UNINCORPORATED TERRITORY OF DOUGLAS COUNTY, KANSAS.

WHEREAS, the Lawrence-Douglas County Planning Commission, after holding a public hearing on April 24, 2017, following due and lawful notice pursuant to K.S.A. 12-757 and the *Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas*, as codified in Chapter 12, Article 3 of the Douglas County Code and as amended (the "Zoning Regulations"), has recommended that the Board of County Commissioners of Douglas County, Kansas (the "Board") make text amendments to the Zoning Regulations, the nature and description of such change being fully set forth below; and

WHEREAS, on _____, 2017 the Board found that the Zoning Regulations regarding Conditional Use and Conditional Use Permits should be amended by adopting the text amendments set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS AS FOLLOWS:

I. Adoption of Text Amendments. The Board hereby finds that the statutory provisions for the amendment of the Zoning Regulations has been fully complied with and hereby adopts the following text amendments (the "Text Amendments") amending the Zoning Regulations as follows:

A. Revising subsection 12-319-4.31 from RADIO, TELEVISION, TELECOMMUNICATIONS, AND MICROWAVE TOWERS to WIRELESS FACILITIES as follows:

12-319-4.31 Wireless Facilities

a. Purpose.

The Governing Body recognizes that facilitating the development of wireless service technology benefits both the residents and the economic development of Douglas County. The purpose of these standards is to ensure that residents, businesses, and industry within the county enjoy reliable access to wireless telecommunications networks, while, at the same time, safeguarding the health, safety, welfare, and aesthetics of the county. Accordingly, these standards are intended to ensure that the location, installation, construction, and modification of Wireless Facilities within the unincorporated portion of the county comply with all Federal and State laws and regulations.

b. Definitions.

The following words, terms, and phrases, when used in this Section, shall, except where the context clearly indicates otherwise, have the following meanings:

- 1) Accessory Equipment means any equipment serving or being used in conjunction with Wireless Facilities or Wireless Support Structures, including but not limited to utility or transmission equipment, power supplies, generators, batteries, cables equipment buildings, cabinets and storage sheds, shelters, or similar structures.

- 2) Antenna means telecommunications equipment that transmits or receives radio waves necessary for the provision of Wireless Services.
- 3) Co-location means the mounting or installation of Wireless Facilities, including Antennas, on a building, structure, Wireless Support Structure, utility pole, or other existing structure for the purposes of transmitting or receiving radio waves for telecommunications purposes.
- 4) Disguised Wireless Facility means any Wireless Facility that is integrated as an architectural feature of a structure so that the existence of the Wireless Facility is not readily apparent to the casual observer, or any Wireless Support Structure that is disguised to resemble a tree, flag pole, steeple, clock tower, or other similar building element.
- 5) Major Modification means any improvement that results in a substantial change to a Wireless Facility or to a Wireless Support Structure. Major modifications include, but are not limited to increasing the height of the Wireless Support Structure by more than ten feet or ten percent, whichever is greater, expansion of the area of Accessory Equipment, and any similar improvement. Co-location of new Wireless Facilities, including Antennas, on an existing Wireless Support Structure shall not be deemed a Major Modification.
- 6) Minor Modification means any improvement that results in some material change to a Wireless Facility or a Wireless Support Structure, but of a level, quantity, or intensity that is less than a Major Modification.
- 7) Monopole means a single, free-standing, pole-type structure supporting Wireless Facilities, including Antennas.
- 8) Ordinary Maintenance means maintenance to ensure that Wireless Facilities, Wireless Support Structures, and Accessory Equipment are maintained in safe operating condition. Ordinary Maintenance shall include, but not be limited to inspections, modifications of Wireless Facilities and Wireless Support Structures to ensure structural integrity, exchanging Antennas or Accessory Equipment on a like-for-like basis, relocating Antennas already in place, or other similar actions that fall short of being a Minor Modification.
- 9) Wireless Facility means any equipment at a fixed location that enables wireless telecommunications between user telecommunications devices and telecommunications networks.
- 10) Wireless Service Provider means a provider of Wireless Services.
- 11) Wireless Service means “personal wireless services,” “personal wireless service facilities,” and “commercial mobile services” as those terms are defined at 47 U.S.C. § 332(c)(7)(C) and (d), as amended, which are provided to telecommunications devices through the implementation and use of Wireless Facilities.
- 12) Wireless Support Structure means any freestanding structure, such as a Monopole, or other self-supporting tower, or other suitable structure designed to support or capable of supporting Wireless Facilities, including Antennas. Wireless Support Structures do not include telephone poles, electrical utility poles, or any towers used for the distribution or transmission of electrical services.

c. Approvals Required.

- 1) Conditional Use Permit. No new Wireless Facility, no new Wireless Support Structure, no Co-location that results in a Major Modification of an existing Wireless Facility or Wireless Support Structure, and no Major Modification of an existing Wireless Facility or Wireless Support Structure shall be allowed in any

zoning district of the unincorporated portion of the county absent the issuance, upon application, of a Conditional Use Permit in accordance with the procedures established at Section 12-319-1 of these Regulations, as amended.

- 2) Site Plan. No Co-location that is a Minor Modification of an existing Wireless Facility or Wireless Support Structure and no Minor Modification of an existing Wireless Facility or Wireless Support Structure shall be allowed in any zoning district of the unincorporated portion of the county absent approval, upon application, of a Site Plan in accordance with the procedures established at 12-319A of these Regulations, as amended.

d. Terms of Approval; Renewal; Limits.

- 1) Term. Any Conditional Use Permit or Site Plan Approval issued hereunder, assuming all conditions of approval are met and maintained, shall be valid for a period of ten years. Any renewal thereof, which shall be subject to administrative approval, shall be for a period of five years. At the time of renewal, the Owner/Applicant shall demonstrate to the Planning Director that the Wireless Facility or Wireless Support Structure remains in compliance with the original conditions of approval.
- 2) Limits. Commencing on the date of issuance of any Conditional Use Permit or Site Plan Approval hereunder, the Owner/Applicant shall have a period of one year in which to commence construction or installation of the Wireless Facility or Wireless Support Structure and shall thereafter diligently pursue construction or installation to its completion. Failure to commence construction or installation within one year of receiving a permit or approval or failure to diligently pursue construction or installation to its completion shall cause the Conditional Use Permit or Site Plan Approval to lapse and to be deemed null and void.

e. Application.

At the time of application for a Conditional Use Permit or for Site Plan Review for any Wireless Facility or Wireless Support Structure, the Owner/Applicant shall submit the following:

- 1) A completed Application, on a form supplied by the Planning Director, signed by the Owner(s) of the subject property or signed by an Applicant if accompanied by written authorization of the Owner(s) granting to the Applicant the authority to submit the Application in behalf of the Owner.
- 2) Elevation drawings showing the height of the proposed Wireless Facility including Antennas (and any lightning rod or lightning arrester), and all Accessory Equipment, including any buildings and structures.
- 3) A Site Plan, drawn to scale, including:
 - a) the information required by Section 12-319A-4 of these Regulations, as amended;
 - b) the location of existing or proposed Wireless Facilities or Wireless Facility Support Structures;
 - c) the location of other existing or proposed structures;
 - d) the location of accessory equipment and/or other accessory uses;
 - e) the location of access road(s), access road surface materials, and any parking area;
 - f) the height, location, and construction materials of fences or other barriers;
 - g) a Landscape Plan, in accordance with Section 12-319A-4.10 of these Regulations, as amended;
 - h) elevation contours; and

- i) zoning and uses of properties neighboring the subject property.
- 4) If the project involves a new Wireless Support Structure, a signed and sealed report from a qualified professional engineer, licensed to practice in the State of Kansas, that includes:
 - a) the height and design of the proposed Wireless Support Structure;
 - b) the height for all potential mounting positions for Antennas and the minimum separation distances between Antennas;
 - c) the capacity of the Wireless Support Structure, including the number and types of Antennas that can be accommodated;
 - d) a statement that the Wireless Support Structure is designed, in accordance with this Section, to collapse upon itself in the event of failure, including the projected fall zone of any such Wireless Support Structure; and
 - e) any other information that may be necessary or requested by the Planning Director to evaluate the Application.
- 5) If the project involves a new Wireless Support Structure, the application shall include:
 - a) line-of-sight diagrams or photo simulations showing the proposed Wireless Support Structure against the skyline and viewed from at least three different vantage points within the surrounding area;
 - b) a statement that the Owner/Applicant considered Co-location, where it considered Co-location, and why Co-location would not meet the Owner/Applicant's needs; and
 - c) a statement that the proposed Wireless Support Structure will be made available to other Wireless Service Providers for Co-location at commercially reasonable rates, or a statement that the Owner/Applicant is seeking a waiver of the Co-location requirement and why such waiver is being sought.
- 6) If the project involves Co-location on an existing structure, a signed and sealed report from a qualified professional engineer, licensed to practice in the State of Kansas, which establishes that the existing building or structure is structurally sound and can safely accommodate the proposed Co-location.
- 7) If the project involves a new Wireless Support Structure or a Major Modification of an existing Wireless Support Structure, a fee, not to exceed \$2,000, as established by the Governing Body, which amount shall recapture the County's costs of processing the application.
- 8) If the project involves a Co-location or anything else that is not a Major Modification, a fee, not to exceed \$500, as established by the Governing Body, which amount shall recapture the County's costs of processing the application.
- 9) If the project involves a new Wireless Support Structure, all owners of record of unincorporated property located within a one-mile radius of the proposed structure must be notified with written notice by the applicant. The applicant shall submit a Certificate of Mailing for the notice required by this Section, and a list of notified property owners at the time of application for a Conditional Use Permit. An application for a Conditional Use Permit for a communication tower shall not be valid without an executed Certificate of Mailing. The notice shall be sent by regular mail, postage pre-paid, by the applicant. The notice shall provide:
 - a) A brief description and location of the proposed tower;
 - b) Projected date for construction;
 - c) The person, with contact telephone number and address, designated by the applicant to respond to questions concerning the proposed tower;

- d) The date the Conditional Use Permit application will be submitted to the Planning Office for review and process;
- e) A statement with substantially the following information:
 Notice of Conditional Use Permit (CUP) Consideration pending before the Lawrence-Douglas County Planning Office.
This letter is being sent to the owners of unincorporated property for the purpose of informing the property owner(s) and other interested parties about the proposed tower development describe further in this letter. This letter does not grant the recipient and/or property owner any additional legal rights to challenge the proposed development, instead, it is being provided solely to advise property owner(s) of the pending development. For further information, contact the applicant's designated representative or the Lawrence-Douglas County Planning Office at (785) 832-3150.
- f) The failure to receive the additional notice by a property owner shall not affect the validity of the Conditional Use Permit approval or consideration.

f. General Standards.

- 1) Co-location:
 - a) Wireless Support Structures shall be designed to accommodate at least three Wireless Service Providers. The compound area supporting the Wireless Support Structure likewise shall be of adequate size to accommodate Accessory Equipment for at least three Wireless Service Providers.
 - b) Whenever it is economically and technically feasible, and it is aesthetically appropriate, as determined by the Governing Body, the Planning Commission, or the Planning Director, Disguised Wireless Facilities shall be designed to accommodate the Co-location of other Wireless Service Providers.
 - c) Upon written request of the Owner/Applicant. the Governing Body, the Planning Commission, or the Planning Director may waive the County's Co-location requirements if it is determined, as demonstrated by technical evidence presented by the Owner/ Applicant, that Co-location at the site is non-essential to the public interest, that construction of a shorter Wireless Support Structure with fewer Wireless Facilities, including Antennas, will promote community compatibility or interests, or that Co-location would cause interference with other existing Wireless Facilities.
- 2) Building Permits: All new Wireless Support Structures, all major modifications of existing Wireless Facilities, and all Accessory Equipment shall not be installed or constructed without the issuance of a Building Permit in accordance with Chapter 13 of the County Code.
- 3) Replacement of Existing Wireless Facilities: The replacement of any existing Wireless Facility or Wireless Support Structure shall require compliance with the terms of this Section and shall require, as may be pertinent, either approval and issuance of a Conditional Use Permit in accordance with the procedures established at Section 12-319-4.1 of these Regulations, as amended, or approval of a Site Plan in accordance with the procedures established at Section 12-319A of these Regulations, as amended.
- 4) Setbacks:
 - a) A ground mounted tower shall be set back from the nearest property line a distance which is at least equal to the height of the tower, measured from the center of the tower base.

- b) A tower mounted on the roof of a building or on top of other structures shall be set back either
 - i. a distance which is at least equal to the total height of the structure and tower from the nearest property line, measured from the center of the tower (similar to a ground-mounted tower), or
 - ii. a distance which is at least equal to the height of the tower above the roof/structure from the edge of the roof.
 - c) Setback Waiver: The Planning Commission may recommend and the Governing Body may approve a waiver from these setback requirements if it finds that all of the following conditions are met:
 - i. the waiver will not adversely affect the public health, safety, or general welfare of the community;
 - ii. the waiver will not adversely affect the rights of adjacent property owners or residents;
 - iii. strict application of the provisions of this section would constitute unnecessary hardship on the Owner/Applicant; and
 - iv. the waiver is appropriate under the circumstances.
 - d) Additional Setback: Additional setbacks may be required to contain ice fall or debris from tower failures and/or to preserve the privacy of adjoining residential and public property.
- 5) Height: The height of a tower is unregulated but all towers must comply with FAA regulations.
- 6) Separation Requirements:
- a) All new Wireless Facilities, except Disguised Wireless Facilities, shall be located a minimum of 1,000 feet from existing Wireless Support Structures. The distance shall be measured from the base of the existing Wireless Support Structure to the base of the proposed Wireless Facility.
 - b) The Planning Commission may recommend and the Governing Body may grant a waiver from the 1,000-foot separation requirement if the Owner/Applicant demonstrates that a waiver will not adversely affect the public health, safety, or general welfare of the community and that strict application of this section would constitute unnecessary hardship.
- 7) Design Standards:
- a) Access: Access shall be provided to all Wireless Facilities, Wireless Support Structures, and accessory equipment per the approval of the County Public Works Director.
 - b) Accessory Equipment:
 - i. All accessory equipment that are buildings, cabinets, storage sheds, and shelters shall be used only to store equipment and other supplies necessary for the operation of the Wireless Facility or Wireless Support Structure. Equipment not used in direct support of such operation shall not be stored on the site.
 - ii. All accessory equipment that are buildings or structures shall require a Building Permit, and shall conform to Height and Setback restrictions established for the zoning district in which the site is located.
 - iii. All Accessory Equipment shall be designed to be compatible with and to blend into its surrounding environment through the use of color, camouflage, screening, landscaping, and architecture.
 - iv. Lighting of Accessory Equipment for basic security purposes is permitted. However, such lighting shall be shielded and shall be directed downward. Floodlights are prohibited.

- v. The addition of related equipment to any building or structure that is Accessory Equipment shall not increase the height of said building or structure more than 20% of the height of the existing building or structure; or more than the maximum height allowed in the zoning district in which the site is located, whichever is less.
- c) Antennas:
- i. No Antenna may be attached to any Wireless Support Structure or Co-located on any other structure, unless the Wireless Support Structure or other structure is at least forty feet in height.
 - ii. The addition or Co-location of any Antenna on a Wireless Support Structure or any other structure shall not increase the height of said building or structure **(a)** more than 20% or **(b)** more than the maximum height allowed in the zoning district in which the site is located, whichever is less.
 - iii. Antennas Co-located on existing structures shall not be subject to Setback requirements.
 - iv. No antenna may be Co-located on any structure listed in the National Register of Historic Places or the Register of Historic Kansas Places until the State Historic Preservation Officer has been given notice and an opportunity to investigate and comment upon the proposed project.
 - v. To the extent that it is feasible and the engineer's report demonstrates that the roof is structurally sound and can safely accommodate it, any Accessory Equipment to an Antenna Co-located on an existing structure shall be located on the roof of the existing building or structure provided that said Accessory Equipment shall not occupy more than 25% of the total roof area and the Accessory Equipment is shielded from view from neighboring properties and rights of way.
- d) Cables/Conduit: All cable runs should be through portals and maintained within the Wireless Support Structure. Where cable or conduit is required to be located on the outside of any Wireless Support Structure, the cable or conduit shall be painted or covered by material to match the color of the Wireless Support Structure.
- e) Color: The color of the tower shall comply with the standards set by the Federal Aviation Administration (FAA) or the County.
- f) Disguised Wireless Facilities:
- i. A Disguised Wireless Facility must be enclosed, camouflaged, screened, obscured, or otherwise not apparent to the casual observer. A Disguised Wireless Facility must be integrated into another structure as an architectural facility or must be designed to resemble an object or structure that does not have the appearance of a monopole or other Wireless Facility.
 - ii. The Disguised Wireless Facility must meet the requirements of the underlying zoning district, including, but not limited to height, setback, and use restrictions.
- g) Landscaping: Screening landscaping required for the Wireless Facility shall be maintained by the Owner/ Applicant. In cases where the property is not visible from adjacent properties or rights of way or where landscaping is not necessary, appropriate, or feasible, the Governing Body, the Planning Commission, or the Planning Director may waive this requirement.
- h) Lighting and Marking: All lighting necessary to comply with the FAA, FCC, or the County lighting requirements. Lighting shall consist of dual lighting

structures with day time strobe lights on medium intensity and night time red lights only. No high intensity strobes or night time strobes shall be permitted. Further, all towers requiring lighting shall provide battery backup or other alternative power source to assure lighting operations during times of power outages.

- i) Security and Fencing: Ground-mounted Accessory Equipment and related structures shall be secured and enclosed within fencing not less than six feet in height. Fencing shall be constructed with materials that are designed to be compatible with and to blend in to the surrounding areas. Every Wireless Facility shall be protected from trespass by unauthorized persons to discourage climbing of structures.
- j) Signage: No advertising or other display shall be permitted on any Wireless Facility or Wireless Support Structure, unless such is required by the FCC, the FAA , or the County.
- k) Wireless Support Structures:
 - i. All new Wireless Support Structures shall be of monopole design. Guyed and lattice towers are prohibited.
 - ii. All new Wireless Support Structures located in districts zoned residential, or located within 500 feet of any property or district zoned residential, shall be Disguised Wireless Facilities as defined in this Section.
 - iii. All Wireless Support Structures shall be designed and constructed such that if a failure does occur, the Wireless Support Structure will collapse on itself and will not collapse on structures at or near the site.
 - iv. No Wireless Support Structure shall, except during construction, have a platform, crow's nest, or like structure surrounding it or attached to it.

g. Final Decision.

- 1) Time Limits. Within 150 calendar days of receiving an application for a new Wireless Support Structure or within 90 calendar days of receiving any other application hereunder, the County shall:
 - a) review the application in light of the standards of this Section and applicable provisions of the County Code;
 - b) make a final decision to approve or disapprove the application; and
 - c) advise the Owner/Applicant by written notice of the County's final decision, which final decision shall be supported by written substantial evidence in the record. Such final decision shall be deemed effective on the date of the written notice.
- 2) Commencement of Time. The time limits for final decision shall commence upon the County's acceptance of a complete application. If an application is incomplete, the County shall notify the Owner/Applicant within thirty days of its deficiencies and, in such case, the time limits shall not commence until a complete application has been submitted and accepted. Alternatively, the time limits may commence upon a date agreed upon in writing by the County and the Owner/Applicant.
- 3) Effect of Lapse of Time. Unless otherwise agreed upon by the Owner/Applicant and the County, an application shall be deemed approved if (i) the County fails to issue a final decision with the time limits established at subsection g(1) and (ii) the Owner/Applicant provides to the County written notice that the applicable time limits have lapsed.

- 4) Appeal. Any party aggrieved by the County's final decision approving or disapproving an application or any party aggrieved by the Owner/Applicant's written notice that the time limits have lapsed may appeal said result to the District Court of Douglas County, Kansas, in accordance with K.S.A. 60-2101(d), as amended.
- h. Miscellaneous Provisions.
- 1) Abandonment and Removal. Any Wireless Facility or Wireless Support Structure that is not operated for a period of one year shall be deemed abandoned. The Owner/Applicant shall remove any abandoned Wireless Facility or Wireless Support Structure at his, her, or its expense within 180 days after abandonment.
 - 2) Interference. All Wireless Facilities shall be constructed, installed, operated, and maintained in accordance with all applicable federal, state, and local laws, resolutions, and regulations so as not to interfere or cause interference with existing telecommunications, including but not limited to radios, televisions, computers, and City and/or County emergency broadcast systems.
 - 3) Nonconforming Wireless Facilities. Wireless Facilities and Wireless Support Structures that were legally permitted on or before the effective date of this Ordinance shall be considered lawful nonconforming structures.
 - a) Major Modifications and Minor Modifications to nonconforming structures shall be permitted in accordance with the provisions of this Section.
 - b) Replacement of any nonconforming structure shall be with a structure that complies with the provisions of this Section. If any nonconforming facility or structure is damaged by more than 60% of its fair market value, it shall only be replaced by a conforming facility or structure if it is legal to do so.
 - 4) Ordinary Maintenance. Ordinary Maintenance, as defined herein, shall be exempt from the permitting and approval requirements of this Section.
- i. Exemptions.
- a) The provisions of this Section shall not apply to the following:
 - i. Any Wireless Facility, including Amateur and Receive-only Antennas, that are:
 - (a) less than 75 feet in height;
 - (b) located in the Rear Yard of a residentially zoned Parcel; and
 - (c) Owned and operated by a federally licensed amateur radio operator.
 - (d) Wireless Facilities that are exempt under this Subsection shall not be considered, be deemed available, or be used for Co-location.
 - ii. Broadcast Towers; and/or
 - iii. Satellite Dishes.
- B. Adding new subsection 12-319-4.37 to **SUPPLEMENTAL USE REGULATIONS-CONDITIONAL USES-TEMPORARY USES** relating to RADIO, TELEVISION, AND MICROWAVE TOWERS as follows:

12-319-4.37 Radio, television, and microwave towers.

- a. Purpose. This section establishes standards for the use and construction of radio or television broadcasting towers and/or apparatus, microwave transmitting and/or receiving towers and/or stations, or any tower or other similar structure 100 feet or more in height from the ground, or 40 feet in height as measured to the highest point of the tower/antenna if mounted on a structure or building, or of any height if lighted;

whether publicly or privately owned with the exception of Wireless Facilities.

- b. Development Plan Required. At the time of application for Conditional Use Permit the applicant shall submit a development plan in sufficient detail, as determined by the staff of the Planning Department, to evaluate its conformance with applicable standards and guidelines. The development plan shall include:

- 1) Written authorization from the property owner of the proposed tower site.
- 2) A site plan drawn to scale showing the property boundaries, tower, guy wire anchors and other apparatus, existing and proposed structures, proposed transmission buildings and/or other accessory uses, access road(s) location, access road surface material, parking area, fences, location and content of warning sign, exterior lighting specifications, a landscaping plan, land elevation contours, and existing land uses surrounding the site. If any accessory building is proposed, details of the building including elevations and proposed use of the building is required to be submitted with the application.
- 3) A report or written information which describes the tower height and design including a cross-section of the structure; engineering specifications prepared by a qualified professional engineer, licensed to practice in the State of Kansas detailing construction of tower, base and guy wire anchorage; the proposed painting and lighting schemes; and describes the tower's capacity, including the number and type of antennas that it can accommodate.
- 4) In addition to the written notice to owners within 1,000 ft of the tower request which is provided by the Planning Office, all owners of record of unincorporated property located within a one-mile radius of the proposed tower request must also be notified with written notice by the applicant. The applicant shall submit a Certificate of Mailing for the notice required by this Section, and a list of notified property owners at the time of application for a Conditional Use Permit. An application for a Conditional Use Permit for a communication tower shall not be valid without an executed Certificate of Mailing. The notice shall be sent by regular mail, postage pre-paid, by the applicant. The notice shall provide:
 - a) A brief description and location of the proposed tower;
 - b) Projected date for construction;
 - c) The person, with contact telephone number and address, designated by the applicant to respond to questions concerning the proposed tower;
 - d) The date the Conditional Use Permit application will be submitted to the Planning Office for review and process;
 - e) A statement with substantially the following information:

Notice of Conditional Use Permit (CUP) Consideration pending before the Lawrence-Douglas County Planning Office.

This letter is being sent to the owners of unincorporated property for the purpose of informing the property owner(s) and other interested parties about the proposed tower development describe further in this letter. This letter does not grant the recipient and/or property owner any additional legal rights to challenge the proposed development, instead, it is being provided solely to advise property owner(s) of the pending development. For further information, contact the applicant's designated representative or the Lawrence-Douglas County Planning Office at (785) 832-3150.
 - f) The failure to receive the additional notice by a property owner shall not affect the validity of the Conditional Use Permit approval or consideration.

- c. General Provisions.

- 1) An effort in good faith must be made to locate new antenna on existing towers,

or other structures. A request for a new tower must be accompanied by evidence that application was made to locate on existing towers, with no success.

- 2) The owner at the owner's expense shall remove any tower that is not in use for a period of one year, unless a request for an extension has been approved by the Board of County Commissioners.
- 3) A sign shall be posted on the tower or the exterior fence around the base of the tower noting the name and telephone number of the tower owner/operator.

d. Setbacks

- 1) A ground mounted tower shall be set back from the nearest property line a distance which is at least equal to the height of the tower, measured from the center of the tower.
- 2) The setback for a tower mounted on the roof of a building or on top of other structures may be determined from either the edge of the property line or the edge of the roof as follows:
 - a) The tower shall be set back a distance which is at least equal to the total height of the structure and tower from the nearest property line, measured from the center of the tower (similar to a ground-mounted tower), or
 - b) If the overall setback above is not met, the tower shall be set back a distance equal to the height of the tower above the roof/structure from the edge of the roof.
- 3) The Planning Commission may recommend and the Governing Body may approve a waiver from these setback requirements if it finds that all of the following conditions are met:
 - a) The waiver will not adversely affect the public health, safety, or general welfare of the community;
 - b) The waiver will not adversely affect the rights of adjacent property owners or residents;
 - c) Strict application of the provisions of this section would constitute unnecessary hardship on the Owner/Applicant; and
 - d) The waiver is appropriate under the circumstances.
- 4) Additional setbacks may be required to contain ice-fall or debris from tower failures and/or to preserve the privacy of adjoining residential and public property. Setbacks shall apply to all tower parts including guy wire anchors, and to any accessory facilities.

e. Development Standards.

- 1) The height of a tower shall meet the setback requirements as stated in this chapter.
- 2) All towers should be located in areas zoned commercial, industrial, or agricultural, except that towers may be permitted in areas zoned residential if it can be demonstrated that all reasonable efforts were made to locate the proposed tower in non-residentially zoned areas.
- 3) All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment. Towers shall not be lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers should be a galvanized finish or painted gray or light blue unless other standards are required by the FAA. In all cases, mono pole towers shall be preferable to guyed towers or free standing structures. Towers should be

designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.

II. Addition to the Zoning Regulations. The Text Amendments made by this Resolution shall be as a supplement to the Zoning Regulations, as codified in Chapter 12, Article 3 of the Douglas County Code.

III. Invalidity. If any section, clause, sentence or phrase of Resolution of the Text Amendments adopted hereby 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 Resolution or the Text Amendments adopted hereby, as the case may be.

IV. Repeal. The Zoning Regulations heretofore adopted that are in conflict with this Text Amendments are amended, repealed, or replaced, as the case may be, to be consistent with the Text Amendments adopted hereby.

V. Effective Date. This Resolution shall be in full force and effect from and after its adoption by the Board and its publication once in the office County newspaper.

ADOPTED this ____ day of _____, 2017.

BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, KANSAS

Mike Gaughan, Chairman

ATTEST:

Nancy Thellman, Member

Jameson D. Shew, County Clerk

Michelle Derusseau, Member

PC Minutes 4/24/17

ITEM NO. 2 TEXT AMENDMENT TO COUNTY ZONING REGULATIONS; RADIO, TELEVISION, TELECOMMUNICATION, & MICROWAVE TOWERS (MKM)

TA-16-00511: Consider a Text Amendment to Chapter 12 of the County Code, *Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas* to revise Section 12-319-4.31, *Radio, television, telecommunication, and microwave towers*, to bring the standards and definitions into compliance with State law. *Initiated by County Commission on 11/30/16.*

STAFF PRESENTATION

Ms. Mary Miller presented the item.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Sands inquired about what defined a use for the tower. He said after a year of non-use it was required to be pulled down. He was concerned a tower may be used for something other than it's intended use.

Ms. Miller said it would have to be used as a telecommunications or tv tower. She said if it was used as a fence post that wouldn't count. She said it had to be used for the Conditional Use Permit that was approved.

ACTION TAKEN

Motioned by Commissioner von Achen, seconded by Commissioner Sands, to approve the proposed amendment, TA-16-00511, to revise Section 12-319-4.31 Radio, television, telecommunication, and microwave towers to update the definitions and standards for Wireless Facilities in compliance with recent State legislation and to create a new category 12-319-4.38 for Radio, Television, and Microwave Towers, and forwarding to the Board of County Commissioners.

Commissioner Britton asked if everything they were looking at was echoing the State law changes.

Ms. Miller said yes, that previous requirements conflicted with the State.

Unanimously approved 10-0.

PLANNING COMMISSION REPORT
Regular Agenda –Public Hearing Item

PC Staff Report
4/24/17

**ITEM NO. 7B CONDITIONAL USE PERMIT; 902 STORAGE; 1700 BLOCK E 902 RD
(MKM)**

CUP-17-00092: Consider a Conditional Use Permit for a *Mini-Storage* facility, located on approximately 11.63 acres in the 1700 Block of E 902 Rd. Submitted by BG Consultants, for Garber Enterprises, Inc., property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the Conditional Use Permit for a *Mini-Storage* use, subject to the following conditions:

1. The CUP shall be administratively reviewed every 5 years by the Douglas County Zoning and Codes Department.
2. A new septic system shall be installed prior to the operation of the use, per Health Department approval. The plans shall be revised, if needed, to provide additional area for the septic system.
3. Provision of a revised photometric plan which shows where the light levels reach the maximum amount permitted north of the lights along the north side of the driveway and the north side of the facility (0.2 foot candles).
4. Provision of a revised CUP plan with the following changes:
 - a. Note the agreement between Westar and the property owner regarding the access drive within the 150 ft easement along the north property line and include the recording Book and Page number. If Westar is permitted shared use on this drive, the use should be limited to trucks that are no larger than a pick-up truck.
 - b. Add the following note: "*No exterior storage will occur on the site. Any exterior storage would require a revised site plan and compliance with the exterior storage standards in Section 12-319-4.34 and may require an amendment to the CUP, depending on the scale of the exterior storage.*"
 - c. Add 'Manager's Residence' to the Proposed Buildings and note size of dwelling unit and location on the site.
 - d. Note the height of the light poles on the plan.
 - e. Revise General Note 3 as follows: "E 902 Road will be improved **to Kanwaka Township standards** from Rock Chalk Drive to the drive for the storage facility. Improvements will include a 24 ft wide surface of 8 in. thick **stabilized** gravel (min.) with an annual dust palliative **treatment** paid for by the owner."
 - f. Modify landscape plan to include a variety of trees and relocate the trees out of Westar's easement.
 - g. Label the size of the proposed water line and indicate Rural Water District No. 1 is the provider.
 - h. Note that the proposed sign is not approved with this CUP and requires a separate permit from the County Zoning and Codes Office.

Reason for Request:

Applicant's Response:

"The Owner wishes to construct a mini-storage facility. The mini-storage use requires a Conditional Use Permit."

KEY POINTS

- The property is located in close proximity to the city limits and has been included in previous annexation requests. (Figure 1) Due to the close proximity to the Lawrence city limits and the likelihood of annexation in the future, the project is being reviewed with standards of both the Douglas County Zoning Regulations and the Lawrence Development Code.
- The subject property lies within the boundaries of the *K-10 & Farmer's Turnpike Plan*, which lists the recommended future land use for the property. Warehouse facilities, such as the proposed mini-storage, are included in the list of recommended uses for this property.
- A mini-storage facility is permitted in the A Zoning District with approval of a Conditional Use Permit.
- An Annexation Agreement and a Consent to Annexation will be executed and recorded as part of the platting process.

ASSOCIATED CASES/OTHER ACTION REQUIRED

- PP-17-00093 The Preliminary Plat for the subject property. The Preliminary Plat is also on the Planning Commission April, 2017 agenda for consideration.
- PF-17-00094; The Final Plat for the subject property. If the Preliminary Plat is approved, the Final Plat will be processed administratively and placed on the Board of County Commissioners' agenda for acceptance of dedications.
- Approval of the Conditional Use by the Board of County Commissioners.
- Applicant shall obtain a permit for the Conditional Use from the Zoning and Codes Office prior to commencing the use.
- Applicant shall obtain a building permit from the Zoning and Codes Office prior to any construction.

PUBLIC COMMUNICATION

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

GENERAL INFORMATION

Current Zoning and Land Use: A (County-Agricultural) District; *Agriculture*

Surrounding Zoning and Land Use:

To the north:
A (County-Agricultural), F-W (County-Floodway) and F-F (County Floodway Fringe) Districts; *Agriculture*, Wooded Stream Corridor for Baldwin Creek and associated floodplain.

To the west:
A (County-Agricultural); *Agriculture* and K10 Highway.

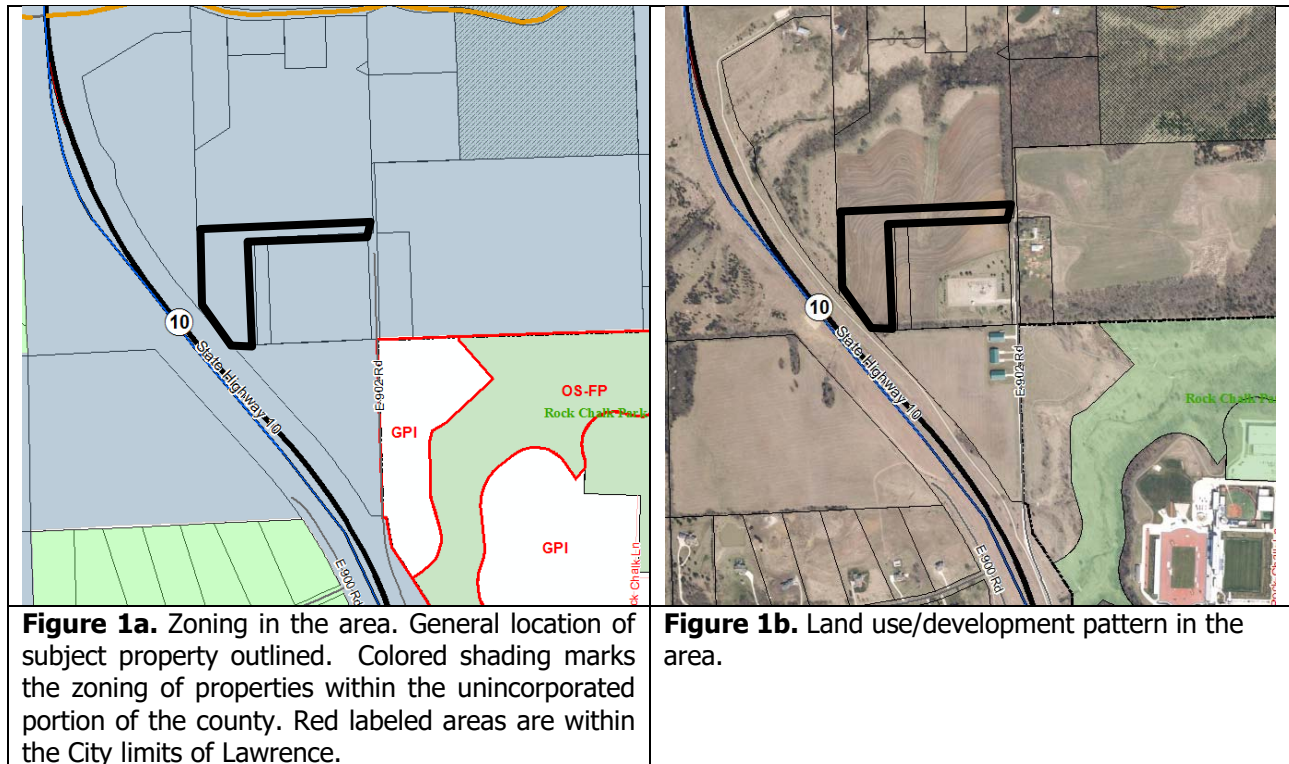
To the east:
A (County-Agricultural); Westar Baldwin Substation; *Utility*

To the south:
A (County-Agricultural) and A-1 (County Suburban-Home Residential) Districts; *Agriculture* and *Single-Family Dwellings*.

To the southeast:
Property within City limits zoned GPI (General Public and Institutional uses) and OS-FP (Open Space with Floodplain Management Regulations Overlay) District; Undeveloped

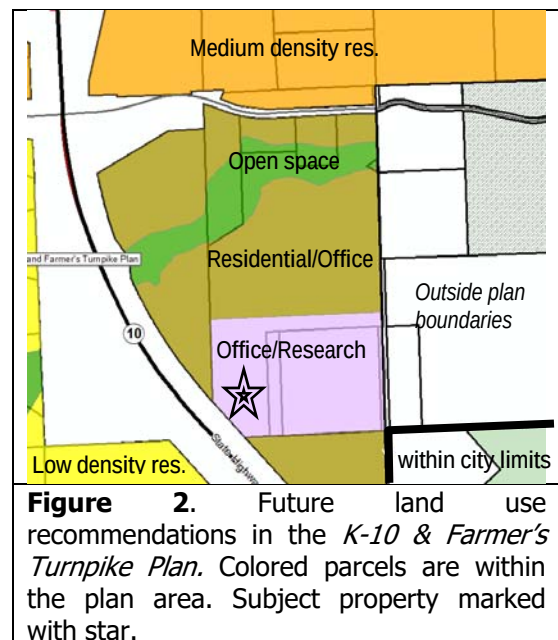
(Figure 1)

land, *Passive Recreation, Entertainment and Spectator Sports, Active Recreation and Participant Sports.*



Summary of Request

The Conditional Use Permit application was submitted to accommodate a *Mini-Storage* use on the subject property. As discussed in the Preliminary Plat staff report, this property was included in previous annexation and rezoning requests along with a Comprehensive Plan Amendment to revise the future land use recommendations in the *K-10 & Farmer's Turnpike Plan* so that 1) a mini-storage use would be permitted to the west of the Westar Baldwin Creek Substation, subject property, and 2) single-dwelling homes would be permitted to the north of the mini-storage use. The Planning Commission approved the Comprehensive Plan Amendment to allow Office/Research uses to the west of the substation (Figure 2) but denied the request for strictly residential uses to the north. The plan notes that one of the recommended uses in the Office/Research area is *Light Wholesale, Storage, and Distribution*. (Section 3.2.1.7, *K-10 & Farmer's Turnpike Plan*) This use category includes mini-storage facilities.



The subject property contains approximately 11.6 acres and is located adjacent to the Baldwin Creek Westar Substation. Twelve one-story storage buildings are proposed, ranging from 35 ft

x 145 ft to 40 ft x 240 ft; for a total building area of 99,675 sq ft. A 1,050 sq ft office and manager's residence will be located in the northeastern building. The plan should be revised to note the manager's residence. The number of units in the buildings is flexible and will vary depending upon demand. The door sizes will typically be limited to 8 ft wide and the unit sizes will be in increments of 5 ft.

The property is within the Urban Growth Area, in close proximity to the City limits, and has been included in City annexation and rezoning applications. The annexation was not approved, as the developer was not prepared to extend City services and infrastructure to the property at that time; however, the Comprehensive Plan Amendment revising the recommended land use on the subject property so that light warehouse uses are permitted was approved. The proposed use on the subject property is possible without the extension of city utilities and infrastructure. Due to the close proximity to city limits and the developer's desire to be annexed into the city, the application is being reviewed under both the standards in the Zoning Regulations, to insure current compliance with the County Code, and under the standards of the City Development Code, to insure future compliance with City Code when the property is annexed.

I. ZONING AND USES OF PROPERTY NEARBY

The subject property is within the Urban Growth Area of Lawrence and is located near the city limits. This proximity to the city results in a mix of rural and urban zonings and land uses in the area. Nearby properties located outside the city limits are zoned A (County-Agricultural) and A-1 (Suburban Home Residential) Districts. In addition the F-F and F-W (Floodway Fringe and Floodway) Overlay Districts are located to the north. Properties within the City, to the southeast of the subject property, are zoned GPI (City-General Public and Institutional Uses) and OS-FP (City-Open Space with Floodplain Management Regulations Overlay) Districts. Property to the north, while zoned agricultural, was divided through the Certificate of Survey process for residential development. Land uses in the nearby area include a major utility, recreation center, sports facility, city park, rural residences and agricultural uses. In staff's opinion, the proposed storage facility would be compatible with the rural and urban zoning and land uses in the area.

Staff Finding – The subject property is located near the city limits; therefore there is a blend of urban and rural zonings and land uses in the area. Agriculture and General Public and Institutional Uses are the predominate land uses in the area. The proposed use, a mini-storage facility, would be compatible with the nearby land uses and zonings.

II. CHARACTER OF THE AREA

The area is at the northwest boundary of the city and contains both rural and urban properties. The area is bounded on the west by K-10 Highway, which is classified in the Major Thoroughfares Map as a Freeway, and on the north by N 1750 Road, which is classified as a Principal Arterial. Future Collector Streets connect N 1750 Road to W 6th Street/Highway 40 to the south and provide east/west connections to E 1000 Rd and Wakarusa Drive, Principal Arterials. The area has planned access to the major transportation network; however, many of the connecting streets have not yet been constructed. Urban development in this area will require street improvements. (Figure 3)

The rural lands are used primarily for agriculture, rural residences, woodlands, and a major utility. Urban land to the south of the subject property consists of an undeveloped lot which was platted with Rock Chalk Park and lands which were developed with recreation and sport uses: a City park with walking trails; Rock Chalk Park, a KU sport facility; and a City recreation center. Other urban properties in the area include the Mercato development to the south of Rock Chalk Park and the Links at Lawrence, a multi-dwelling development proposed to the east of Rock Chalk Park. These

The Baldwin Creek floodplain and riparian corridor are significant environmental features in the area. Open space is available in the area in the form of City parklands, with the Rock Chalk Park to the southeast of the subject property and future City parkland to the northeast.

Staff Finding – The area contains a network of planned roads to provide connections to arterials bordering the area on the north (N 1750 Road), east (E 1000 Road and Wakarusa Drive) and

south (W 6th Street/Highway 40). Of these, E 902 Road is in place and Wakarusa Drive (Rock Chalk Drive) is being extended with the development of The Links to connect to E 902 Road. Improvements to E 902 Road will be necessary with this development.

Open space (Baldwin Creek Floodplain and riparian corridor, and City parklands) is present in the area. The area contains a mix of urban and rural land uses with the major uses being agriculture, rural residential, utility, recreation, open space, and sports. The proposed use should have no negative impact on environmental features or open space in the area. With appropriate site design, the use should be compatible with the existing and proposed uses in the area.

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

Applicant's Response:

"The location of the site makes it an ideal location for the mini-storage facility."

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

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

The property may not be suitable for residential development, given its location next to the electric substation. The mini-storage use would not be impacted by the industrial nature of the adjacent use. In addition, the mini-storage use will not require city services, but will utilize an on-site sewage management system and rural water.

The property is well suited for the current agricultural uses and also for the proposed *Mini-Storage* use.

Staff Finding – The property is suitable for the uses which are permitted within the A (Agricultural) District and is also suitable for the proposed *Mini-Storage* use.

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

Staff Finding –The property has been used for agricultural uses since the adoption of the Zoning Regulations in 1966.

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

Applicant's Response:

"The approval of the CUP has no detrimental effect on nearby and surrounding properties because the use is consistent with adjacent uses. The property is bordered

by K-10 highway on the southwest, a Westar substation on the east, and agricultural uses on the south, north and west.”

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

The proposed use is fairly low impact, with the only activity being the delivery or retrieval of material from the storage units. Negative impacts that could occur with a mini-storage use would be associated with the anticipated traffic to and from the site and with the necessary security lighting. The facility itself will be set back from E 902 Road which currently provides access for a few residences in this area to W 6th Street. (Figure 4) E 902 Road borders Rock Chalk Park and the Mercato Development. E 902 Road will be constructed to City Collector Street standards adjacent to the Mercato property with the development of Mercato, connecting to W 6th Street. Staff suggested that E 902 Road be paved to the intersection with Rock Chalk Drive but the township indicated they would prefer E 902 Road to be stabilized, rather than chip and sealed, and that the mini-storage developer would pay for the annual dust palliative treatment. This upgrade will accommodate the self-storage traffic and will also provide a better roadway for the local residential traffic.

A photometric plan showing the lighting proposed was provided. Lighting will be installed along the north side of the driveway. The photometric shows lighting levels as high as 6.0 foot candles along the north side of the drive, which is about 25 ft wide. The property line is located about 120 ft north of the drive. The photometric should be expanded to show where the light levels reach the maximum amount permitted north of the lights along the north side of the driveway and the north side of the facility (0.2 foot candles). This is the maximum permitted for R Zoned Properties. Since the property to the north is recommended for Residential-Office uses it is likely to be zoned RSO or RMO. The light levels on the other sides of the drive and the facility are less than the 3.0 foot candles permitted along property lines adjacent to non-residential uses. Full cut-off fixtures are proposed for all exterior lights, to minimize glare.

Staff Finding – The project should not negatively impact nearby properties. E 902 Road will be widened and improved to Kanwaka Township standards from the subject property to the intersection with Rock Chalk Drive, which will not only accommodate the self-storage traffic but will provide an improved roadway for the local residences who take access from E 902 Road. The facility itself will be set back from E 902 Road. Lighting will be managed to insure there is no trespass on to adjacent properties and to reduce glare to nearby properties. The photometric plan



Figure 4. Property outlined in blue; location of proposed facility blue. Proposed landscape screening in green.

should be revised to reflect where the lighting levels to the north of the drive and the facility reach the maximum permitted level adjacent to residentially zoned property of 0.2 foot candles.

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

Applicant's Response:

"If approved, the project will increase the tax base and provide an identified service need for the community. Denial of the application would prevent the Owner's ability to make productive use of this property except for agricultural use."

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

Approval of this request would allow the landowner to develop a *Mini-or-Self-Storage* use at this location. If the request is denied the subject property will remain in agricultural production. Denial of this request would benefit the general welfare and safety if there were negative impacts associated with the proposed use; however, negative impacts are expected to be minimal. The property owner will be responsible for improving E 902 Road to Rock Chalk Drive to accommodate the anticipated traffic. E 902 Road is classified as a Future Collector Street in the City Major Thoroughfares Map. When the property is annexed and additional development is proposed in the area, E 902 Road will be improved to City Collector Street Standards. The mini-storage use does not require the extension of City services and is a 'first-step' in the urbanization of the area.

Staff Finding – In staff's opinion, the approval of this request will result in a compatible project that will not harm the public health, safety or welfare; therefore, denial of the request would provide no benefit to the public health, safety or welfare.

VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"The request conforms to Horizon 2020. The city and County Commissions recently approved a modification to Horizon 2020 and the K-10 & Farmer's Turnpike Plan to reclassify the proposed parcel as Office/Research. The mini-storage use is consistent with the Office/Research use group."

An evaluation of the conformance of a Conditional Use Permit request with the comprehensive plan is based on the strategies, goals, policies and recommendations contained within *Horizon 2020*. A Conditional Use Permit provides additional review for uses which may be desirable in an area, but could have negative impacts. This tool allows development to occur in harmony with the surrounding area and to address specific land use concerns.

The property is located within the planning boundary of the *K-10 & Farmer's Turnpike Plan*. This plan was revised in 2015 to recommend Office/Research uses on the subject property and the property to the east which contains the electric substation. The plan recommends the following primary uses for the Office/Research area: professional offices, research services, manufacturing and production limited and technology, light wholesale storage and distribution. (Section 3.2.1.7, *K-10 & Farmer's Turnpike Plan*)

Staff Finding –The proposed CUP is compliant with the recommendations in the comprehensive plan, particularly the *K-10 & Farmer's Turnpike Plan* as the proposed use is a recommended use in the plan.

CUP PLAN REVIEW

Principal factors associated with the future site design include adequate buffering from the residential or residential/office uses to the north, and the appearance of the warehouse from the nearby residential areas and K-10 Highway.

Parking and Access:

The property is being platted concurrently with this Conditional Use Permit. The lot will be 150 ft wide on E 902 Road and the access drive will be located in this area. The self-storage unit will be located to the west of the electric substation as shown in Figure 4. A Westar easement over the 150 ft wide portion which contains the drive for the facility allows for the construction and maintenance of electric and communication transmission and distribution lines. Westar and the property owner are processing an agreement allowing the access drive in the southern 30 ft of the easement. Westar has requested that they be permitted to connect to this driveway and the property owner indicated that this would be acceptable provided no Westar vehicles larger than a pickup truck would be permitted on the driveway and that Westar participate in the annual cost of the dust palliative for E 902 Road. The plans should note this agreement and include the recording Book and Page Number.

The standards, listed in Section 12-31-4.34 *Mini-or self-storage facilities*, of the Zoning Regulations which apply to access and parking are discussed below (the standards are listed and staff's review follows in italics):

Standard b. Must take direct access from a paved road classified as 'collector' or higher.

Staff discussion:

E 902 Road is classified as a Future Collector in the City Major Thoroughfares Map and a Local Road in the Douglas County Access Management Standards Map. The property is in the unique situation of being ready for annexation into the city, except that the property owner is not prepared to extend the required City utilities and infrastructure at this time. Given the likelihood of annexation in the future and the proximity to the City limits, the classification of E 902 Road as a future collector street fulfills this requirement.

The road is not currently paved; however, the Kanwaka Township Trustee indicated that they would prefer that the road be stabilized rather than chip and sealed. The County Engineer provided the following explanation of the stabilizing process:

"Stabilizing a rock road involves thoroughly mixing a stabilizing agent, e.g. magnesium chloride, throughout the depth of the rock surfacing, then shaping and compacting the mixture. Typically, a reclaiming machine is used to incorporate the stabilizing agent into the full depth of rock surfacing. The stabilizing agent is blended into the rock surfacing through the machine's integrated additive injection system during manipulation.

The stabilized rock road is still a rock road, but will be much less dusty. Dust is caused by fine materials in the rock surfacing mix leaving the road surface. The stabilized road holds the fine materials in place, and typically results in less required maintenance. An annual topical dust palliative treatment is still required. A stabilized road with an annual dust palliative treatment is less dusty than an un-stabilized rock road with annual dust treatment."

The County Engineer indicated that the 8" rock surfacing should be adequate for the anticipated traffic with the mini-storage facility. The intent of the 'paved road' requirement is to reduce the impact of dust associated with traffic on adjacent property

owners. The stabilized treatment would provide a suitable surface for the traffic and would reduce the dust. The intent of this standard is met.

Standard f. Access way width must be a minimum of 20 ft for one-way traffic and 25 ft for two-way traffic (to allow parking within the drive aisles).

Staff discussion:

The access drive to the facility and all interior access ways are 25 ft wide.

Standard g. Off-street parking shall be required on the basis of one space for each 8,000 sq ft of floor area in the facility, plus one space for each employee, but in no case shall the number be less than 5 spaces.

Staff discussion:

The plan indicates that there will be 99,675 sq ft of storage area and 1 employee. This would require 13 parking spaces plus 1 employee parking space for a total of 14 parking spaces. Of these, one is required to be ADA van accessible. 14 parking spaces, with one being ADA van accessible, are provided on the plan.

Utilities

On-Site Sewage Management System: The health department indicated that they would evaluate the area proposed for a septic system to see if it is adequate for the use. The applicant should work with the health department to insure adequate area is available for the septic system, or the plans shall be revised to provide adequate area.

Water: Water will be provided from Rural Water District No. 1. A 2 in. line will be bored under K-10 Highway to provide service to the office and residence. (This should be noted on the plan.) The Kanwaka Fire Department noted that hydrants should be installed when possible, but in the meantime they can fill their tanks with water from the hydrant at Rock Chalk Park. The Rural Water District is not able to provide water pressure sufficient for a fire hydrant.

Landscape and Screening:

Standard e: Screening must be provided on any side which abuts a residentially zoned district or a property containing a residence with a view reducing wall, fence, berm, landscaping materials, or a combination.

Staff discussion:

The plan shows a solid screen of Western Arborvitae along the north edge of the access drive from E 902 Road and along the north, west, and south side of the facility. No screening is proposed along the east property line adjacent to the substation. There are no residences or residentially zoned properties abutting the subject property, but the screening is being proposed in anticipation of the area being annexed and rezoned. The long range plan for the area, K10 & Farmer's Turnpike Plan, recommends residential/office land uses to the north.

Following annexation, the west side of the property will be located within the TC Major Transportation Corridor Overlay District for the K-10/SLT Highway. This District extends 500 ft each side of the centerline of the highway and includes a 50 ft building and parking area setback from the right-of-way line and requires a continuous landscape screen. The District requires that landscaping screening be placed within 50 ft of the boundary of the property that lies nearest to the Trafficway. In this case, a 50 ft wide Westar Easement and a 50 ft gas pipe line easement located adjacent to the Trafficway requires the landscaping to be set back; however, the landscaping is planted as close as possible to the Trafficway. The landscaping

being proposed along the K10 right-of-way is compliant with the requirements of this overlay district.

Westar indicated that the trees cannot be located within their easement and suggested that they be moved north or south of the easement. The plan should be revised to relocate the screening landscaping. The landscaping should be revised to show a variety of planting materials so that an effective screen can be maintained in the event of species specific pests or disease.

Other Standards:

Standard a. Must be located in an Urban Growth Area.

Staff discussion:

This property is located in the City of Lawrence Urban Growth Area.

Standard c. Security fencing and lighting must be provided for the entire facility. Security fencing is fencing which permits visibility while obstructing access. An example would be a 6 ft high chain link fence.

Staff discussion:

The plan shows 6 ft tall chain link fencing around the perimeter of the storage facility. It also shows a retaining wall along the east and southeast side of the facility. The height of this wall should be noted on the plan.

Standard d. All outdoor lights shall, to the maximum extent feasible, confine emitted light on the property on which the light is located and not be directed upwards toward the sky. All lights are to be shielded to reflect or direct light away from adjoining property but may be of sufficient intensity to discourage vandalism and theft. Photometric plans must be submitted with the site plan. Maximum illumination at lot line is as follows:

- 1) 0.2 foot-candles, or less, if adjacent to a residentially zoned property.
- 2) 3 foot-candles, or less, if adjacent to a non-residentially zoned property.
- 3) 1 foot-candle at lot line abutting the road right-of-way.

Staff discussion:

A photometric plan showing the lighting proposed was provided. Lighting will be installed along the north side of the driveway. The photometric plan shows lighting levels as high as 6.0 foot candles along the north side of the drive, which is about 25 ft wide. The property line is located about 120 ft north of the drive. The photometric should be expanded to show where the light levels reach the maximum amount permitted north of the lights along the north side of the driveway and the north side of the facility (0.2 foot candles). This is the maximum permitted for R Zoned Properties. Since the property to the north is recommended for Residential-Office uses it is likely to be zoned RSO or RMO. The light levels on the other sides of the drive and the facility are less than the 3.0 foot candles permitted along property lines adjacent to non-residential uses and the 1 foot-candle permitted at the lot line abutting road right-of-way. Full cut-off fixtures are proposed for all exterior lights, to minimize glare. The plan should note the height of the light poles.

Standard h. All storage will be kept within an enclosed building, unless a portion is designated for covered (non-enclosed) or exterior vehicle storage. This area may be used for storage of trucks, automobiles, trailers, boats, or RVs. Exterior storage of unregistered and/or disassembled vehicles is prohibited. Access ways and individual spaces must be shown on the plan and designated on the site. One vehicle and trailer will be permitted per stall. Any covered (non-enclosed) or exterior vehicle storage must be screened from adjacent public roads, residentially

zoned properties or a property containing a residence with a view reducing wall, fence, landscaping materials or a combination of these measures.

Staff discussion:

The plan does not include any exterior storage. A note should be added that no exterior storage will occur, and that any exterior storage would require a revised site plan and compliance with the exterior storage standards in Section 12-319-4.34.

Standard i. Activities which are prohibited on the premises include miscellaneous or garage sales, commercial shipping and receiving, and the servicing or repair of motor vehicles, boats, trailers, lawn mowers and other similar equipment. Storage spaces shall not be used for storage of commercial or industrial trucks and/or trailers, workshops, hobby shops, manufacturing or similar uses. Human occupancy shall be limited to that required to transport, arrange, and maintain stored materials.

Staff discussion:

This is noted on the plan as a condition of the CUP.

Standard j. The area shall be properly policed by the owner or operator for removal of trash and debris.

Staff discussion:

This is noted on the plan. The plan includes a manager's residence to provide an on-site presence.

Standard k. Keyless keypad entry system required or similar secure entry system with monitoring ability.

Staff discussion:

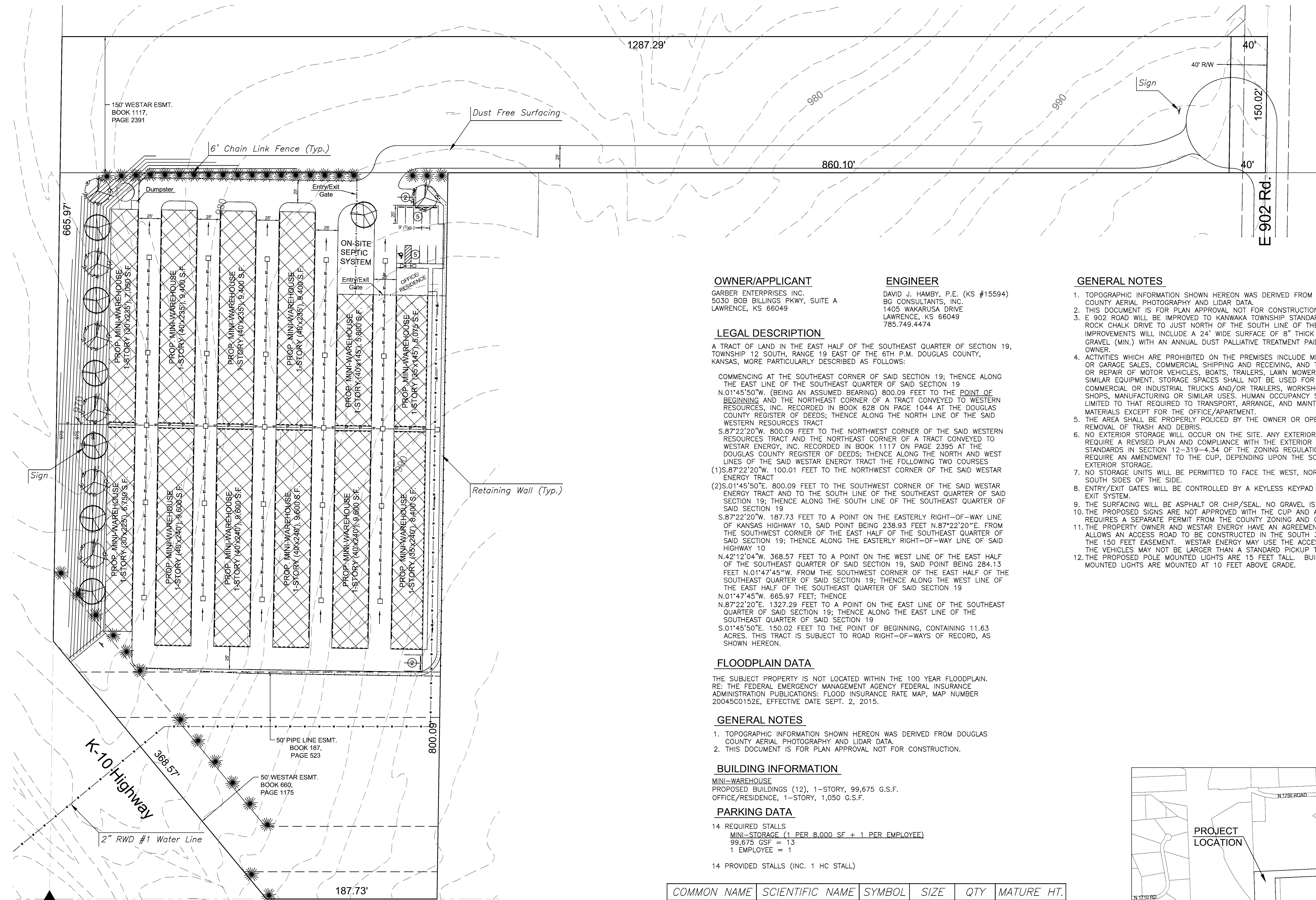
This is noted on the plan.

Standard l. All storage units must be oriented toward the interior of the site. Doors may not be visible or located along the perimeter.

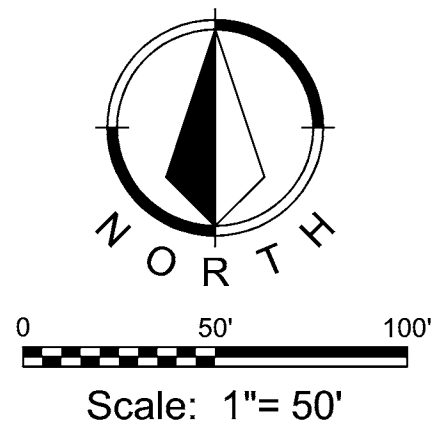
Staff discussion: *The buildings border the east and west side of the facility with no access drives to the rear. The plan notes that no storage units will be permitted to face the sides of the site.*

Conclusion

As noted in the report, this property has been the subject of annexation requests and is in close proximity to the Lawrence city limits. Due to this, the request has been reviewed primarily with county standards, but also reviewed for future compliance with City Code following annexation. In staff's opinion the proposal meets the standards for a Mini- or Self- Storage facility as permitted with a Conditional use.



SITE PLAN



OWNER/APPLICANT

GARBER ENTERPRISES INC.
5030 BOB BILLINGS PKWY, SUITE A
LAWRENCE, KS 66049

ENGINEER

DAVID J. HAMBY, P.E. (KS #15594)
BG CONSULTANTS, INC.
1405 WAKARUSA DRIVE
LAWRENCE, KS 66049
785.749.4474

LEGAL DESCRIPTION

A TRACT OF LAND IN THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 19, TOWNSHIP 12 SOUTH, RANGE 19 EAST OF THE 6TH P.M. DOUGLAS COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 19; THENCE ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 19 N.01°45'50"W. (BEING AN ASSUMED BEARING) 800.09 FEET TO THE POINT OF BEGINNING AND THE NORTHEAST CORNER OF A TRACT CONVEYED TO WESTERN RESOURCES, INC. RECORDED IN BOOK 628 ON PAGE 1044 AT THE DOUGLAS COUNTY REGISTER OF DEEDS; THENCE ALONG THE NORTH LINE OF THE SAID WESTERN RESOURCES TRACT S.87°22'20"W. 800.09 FEET TO THE NORTHWEST CORNER OF THE SAID WESTERN RESOURCES TRACT AND TO THE NORTHWEST CORNER OF A TRACT CONVEYED TO WESTAR ENERGY, INC. RECORDED IN BOOK 1117 ON PAGE 2395 AT THE DOUGLAS COUNTY REGISTER OF DEEDS; THENCE ALONG THE NORTH AND WEST LINES OF THE SAID WESTAR ENERGY TRACT THE FOLLOWING TWO COURSES (1)S.87°22'20"W. 100.01 FEET TO THE NORTHWEST CORNER OF THE SAID WESTAR ENERGY TRACT (2)S.01°45'50"E. 800.09 FEET TO THE SOUTHWEST CORNER OF THE SAID WESTAR ENERGY TRACT AND TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 19 S.87°22'20"W. 187.73 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF KANSAS HIGHWAY 10, SAID POINT BEING 238.93 FEET N.87°22'20"E. FROM THE SOUTHWEST CORNER OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 19; THENCE ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID HIGHWAY 10 N.42°12'04"W. 368.57 FEET TO A POINT ON THE WEST LINE OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 19, SAID POINT BEING 284.13 FEET N.01°47'45"W. FROM THE SOUTHWEST CORNER OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 19; THENCE ALONG THE WEST LINE OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 19 N.01°47'45"W. 665.97 FEET; THENCE N.87°22'20"E. 1327.29 FEET TO A POINT ON THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 19; THENCE ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 19 S.01°45'50"E. 150.02 FEET TO THE POINT OF BEGINNING, CONTAINING 11.63 ACRES. THIS TRACT IS SUBJECT TO ROAD RIGHT-OF-WAYS OF RECORD, AS SHOWN HEREON.

FLOODPLAIN DATA

THE SUBJECT PROPERTY IS NOT LOCATED WITHIN THE 100 YEAR FLOODPLAIN. RE: THE FEDERAL EMERGENCY MANAGEMENT AGENCY FEDERAL INSURANCE ADMINISTRATION PUBLICATIONS: FLOOD INSURANCE RATE MAP, MAP NUMBER 20045C0152E, EFFECTIVE DATE SEPT. 2, 2015.

GENERAL NOTES

1. TOPOGRAPHIC INFORMATION SHOWN HEREON WAS DERIVED FROM DOUGLAS COUNTY AERIAL PHOTOGRAPHY AND LIDAR DATA.
2. THIS DOCUMENT IS FOR PLAN APPROVAL NOT FOR CONSTRUCTION.

BUILDING INFORMATION

MINI-WAREHOUSE
PROPOSED BUILDINGS (12), 1-STORY, 99,675 G.S.F.
OFFICE/RESIDENCE, 1-STORY, 1,050 G.S.F.

PARKING DATA

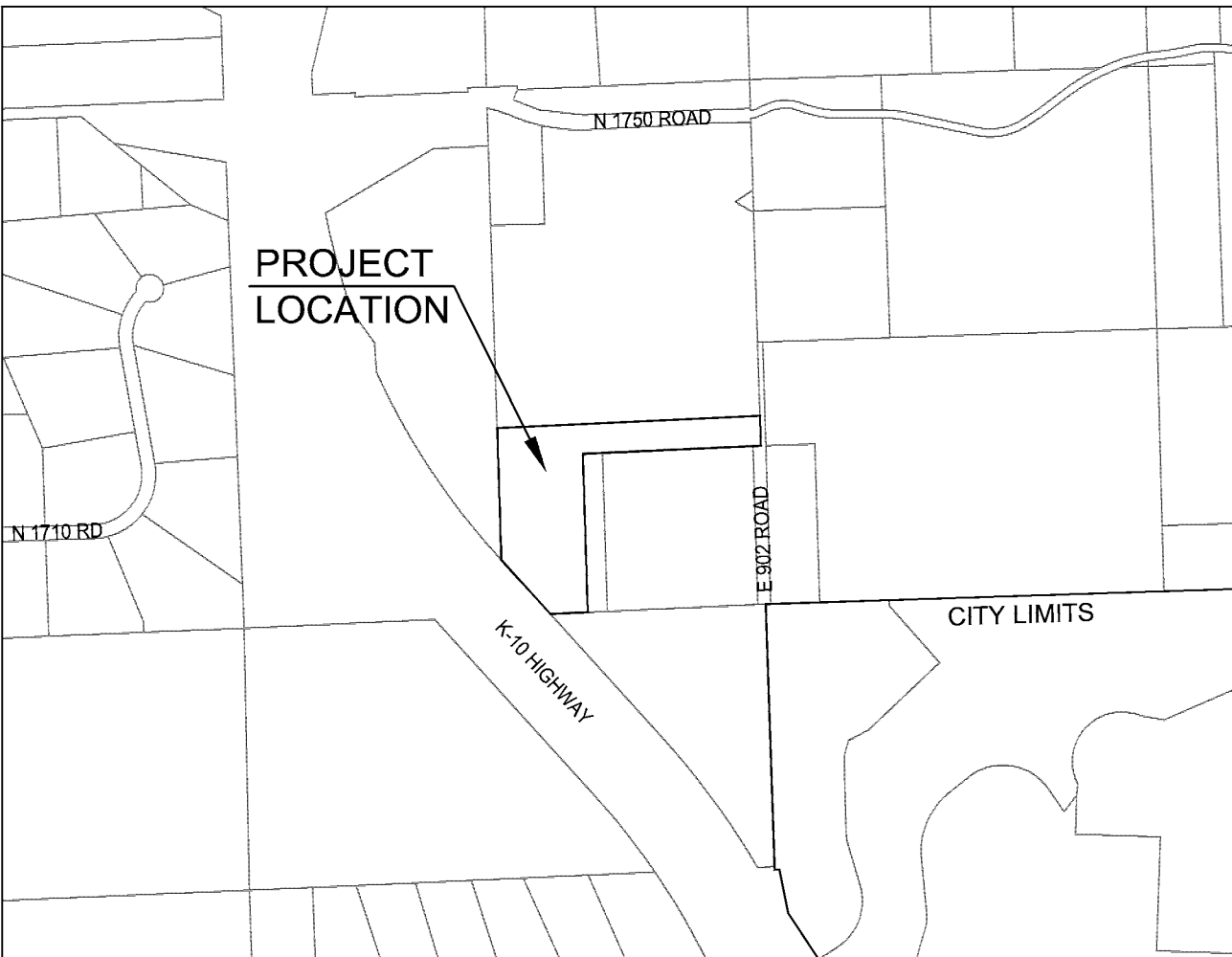
- 14 REQUIRED STALLS
MINI-STORAGE (1 PER 8,000 SF + 1 PER EMPLOYEE)
99,675 GSF = 13
1 EMPLOYEE = 1

14 PROVIDED STALLS (INC. 1 HC STALL)

COMMON NAME	SCIENTIFIC NAME	SYMBOL	SIZE	QTY	MATURE HT.
OKLAHOMA REDBUD	CERCIS CANADENSIS TEXENSIS 'OKLAHOMA'		1.5" CAL.	1	30'
NORWEGIAN SUNSET MAPLE	ACER TRUNCATUM 'KIETHSFORM'		2.5" CAL.	7	35'
FRONTIER ELM	ULMUS 'FRONTIER'		2.5" CAL.	7	40'
WESTERN ARBORVITAE	THUJA PLICATA		6" B&B	35	20'

GENERAL NOTES

1. TOPOGRAPHIC INFORMATION SHOWN HEREON WAS DERIVED FROM DOUGLAS COUNTY AERIAL PHOTOGRAPHY AND LIDAR DATA.
2. THIS DOCUMENT IS FOR PLAN APPROVAL NOT FOR CONSTRUCTION.
3. E 902 ROAD WILL BE IMPROVED TO KANWAKA TOWNSHIP STANDARDS FROM ROCK CHALK DRIVE TO JUST NORTH OF THE SOUTH LINE OF THE PROPERTY. IMPROVEMENTS WILL INCLUDE A 24' WIDE SURFACE OF 8" THICK STABILIZED GRAVEL (MIN.) WITH AN ANNUAL DUST PALLIATIVE TREATMENT PAID FOR BY THE OWNER.
4. ACTIVITIES WHICH ARE PROHIBITED ON THE PREMISES INCLUDE MISCELLANEOUS OR GARAGE SALES, COMMERCIAL SHIPPING AND RECEIVING, AND THE SERVICING OR REPAIR OF MOTOR VEHICLES, BOATS, TRAILERS, LAWN MOWERS AND OTHER SIMILAR EQUIPMENT. STORAGE SPACES SHALL NOT BE USED FOR STORAGE OF COMMERCIAL OR INDUSTRIAL TRUCKS AND/OR TRAILERS, WORKSHOPS, HOBBY SHOPS, MANUFACTURING OR SIMILAR USES. HUMAN OCCUPANCY SHALL BE LIMITED TO THAT REQUIRED TO TRANSPORT, ARRANGE, AND MAINTAIN STORED MATERIALS EXCEPT FOR THE OFFICE/APARTMENT.
5. THE AREA SHALL BE PROPERLY POLICED BY THE OWNER OR OPERATOR FOR REMOVAL OF TRASH AND DEBRIS.
6. NO EXTERIOR STORAGE WILL OCCUR ON THE SITE. ANY EXTERIOR STORAGE WILL REQUIRE A REVISED PLAN AND COMPLIANCE WITH THE EXTERIOR STORAGE STANDARDS IN SECTION 12-319-4.34 OF THE ZONING REGULATIONS AND MAY REQUIRE AN AMENDMENT TO THE CUP, DEPENDING UPON THE SCALE OF THE EXTERIOR STORAGE.
7. NO STORAGE UNITS WILL BE PERMITTED TO FACE THE WEST, NORTH AND SOUTH SIDES OF THE SIDE.
8. ENTRY/EXIT GATES WILL BE CONTROLLED BY A KEYLESS KEYPAD ENTRY AND EXIT SYSTEM.
9. THE SURFACING WILL BE ASPHALT OR CHIP/SEAL. NO GRAVEL IS PLANNED.
10. THE PROPOSED SIGNS ARE NOT APPROVED WITH THE CUP AND APPROVAL REQUIRES A SEPARATE PERMIT FROM THE COUNTY ZONING AND CODES OFFICE.
11. THE PROPERTY OWNER AND WESTAR ENERGY HAVE AN AGREEMENT THAT ALLOWS AN ACCESS ROAD TO BE CONSTRUCTED IN THE SOUTH 30 FEET OF THE 150 FEET EASEMENT. WESTAR ENERGY MAY USE THE ACCESS ROAD BUT THE VEHICLES MAY NOT BE LARGER THAN A STANDARD PICKUP TRUCK.
12. THE PROPOSED POLE MOUNTED LIGHTS ARE 15 FEET TALL. BUILDING MOUNTED LIGHTS ARE MOUNTED AT 10 FEET ABOVE GRADE.

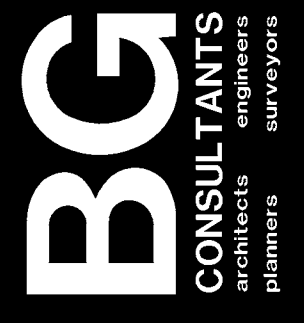


LOCATION MAP

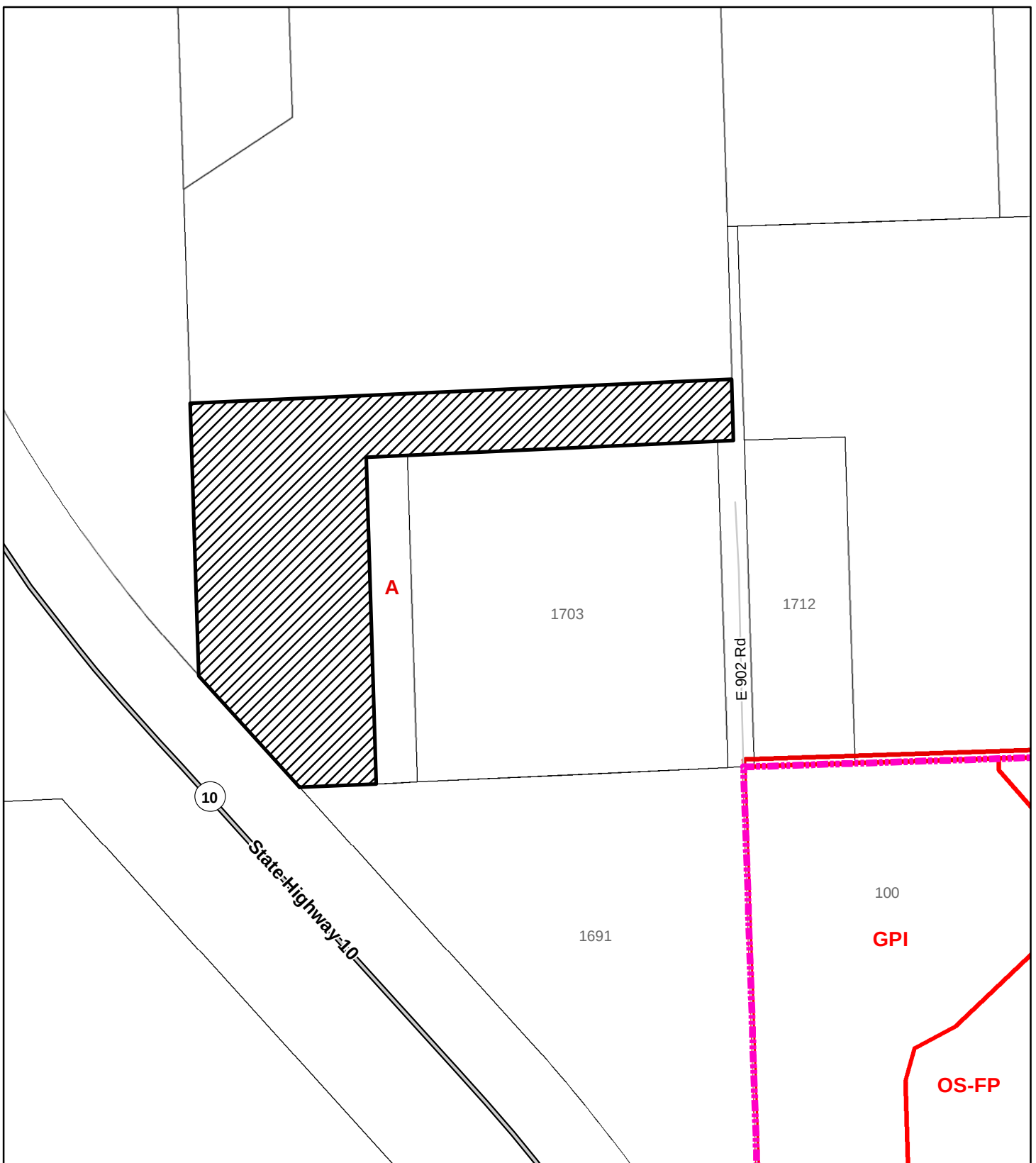
902 STORAGE

1700 BLOCK OF E 902 ROAD, DOUGLAS COUNTY, KS

SITE PLAN



Project No. 13-1080L
Date: Feb. 17, 2017
Revised: Apr. 24, 2017
SHEET NO.



CUP-17-00092: Conditional Use Permit for mini-storage facility,
located on 11.63 acres in the 1700 block of E 902 Rd
PP-17-00093: Preliminary Plat for 902 Storage, located on 11.63
acres in the 1700 block of E 902 Rd

ITEM NO. 7A PRELIMINARY PLAT FOR 902 STORAGE; 1700 BLOCK E 902 RD (MKM)

PP-17-00093: Consider a Preliminary Plat for 902 Storage, a one-lot subdivision containing approximately 11.63 acres, located in the 1700 Block of E 902 Rd. Submitted by BG Consultants, for Garber Enterprises, Inc., property owner of record.

ITEM NO. 7B CONDITIONAL USE PERMIT; 902 STORAGE; 1700 BLOCK E 902 RD (MKM)

CUP-17-00092: Consider a Conditional Use Permit for a mini-storage facility, located on approximately 11.63 acres in the 1700 Block of E 902 Rd. Submitted by BG Consultants, for Garber Enterprises, Inc., property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented items 7A-7B together.

APPLICANT PRESENTATION

Mr. David Hamby, BG Consultants, was present for questioning.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner von Achen said she would support this but was concerned about it being a gateway to the city. She wanted a little reassurance that landscaping would address concerns for the gateway.

Ms. Miller said the landscaping was a little spaced out to provide a more natural appearance. She said there were some constraints with the easement but that staff would work with the applicant on the landscaping.

Mr. McCullough said the architectural detail of the buildings would help as well.

ACTION TAKEN on 7A

Motioned by Commissioner Willey, seconded by Commissioner Britton, to approve the Preliminary Plat of 902 Storage subject to the following conditions:

1. Applicant shall provide documentation from Rural Water District No. 1 and the Kanwaka Fire Department that an adequate supply of water is available for the needs of the development and fire protection for the mini-storage use.
2. Applicant shall provide a revised preliminary plat with the following changes:
 - a. Addition of a note on the face of the plat that an Access Restriction Agreement, effective until property is annexed into the City of Lawrence, restricting access for 180 ft north of the subject property shall be executed and recorded prior to the recording of the final plat.
 - b. Addition of a note that E 902 Road shall be improved to the City Limits to the south, to Kanwaka Township specifications per approval of the Township Trustee.
 - c. Addition of a note that an Annexation Agreement and Consent to Annexation shall be executed and recorded with the Final Plat.

Unanimously approved 10-0.

ACTION TAKEN on 7B

Motioned by Commissioner Willey, seconded by Commissioner Britton, to approve the Conditional Use Permit for a *Mini-Storage* use, subject to the following conditions:

1. The CUP shall be administratively reviewed every 5 years by the Douglas County Zoning and Codes Department.
2. A new septic system shall be installed prior to the operation of the use, per Health Department approval. The plans shall be revised, if needed, to provide additional area for the septic system.
3. Provision of a revised photometric plan which shows where the light levels reach the maximum amount permitted north of the lights along the north side of the driveway and the north side of the facility (0.2 foot candles).
4. Provision of a revised CUP plan with the following changes:
 - a. Note the agreement between Westar and the property owner regarding the access drive within the 150 ft easement along the north property line and include the recording Book and Page number. If Westar is permitted shared use on this drive, the use should be limited to trucks that are no larger than a pick-up truck.
 - b. Add the following note: *"No exterior storage will occur on the site. Any exterior storage would require a revised site plan and compliance with the exterior storage standards in Section 12-319-4.34 and may require an amendment to the CUP, depending on the scale of the exterior storage."*
 - c. Add 'Manager's Residence' to the Proposed Buildings and note size of dwelling unit and location on the site.
 - d. Note the height of the light poles on the plan.
 - e. Revise General Note 3 as follows: "E 902 Road will be improved **to Kanwaka Township standards** from Rock Chalk Drive to the drive for the storage facility. Improvements will include a 24 ft wide surface of 8 in. thick **stabilized** gravel (min.) with an annual dust palliative **treatment** paid for by the owner."
 - f. Modify landscape plan to include a variety of trees and relocate the trees out of Westar's easement.
 - g. Label the size of the proposed water line and indicate Rural Water District No. 1 is the provider.
 - h. Note that the proposed sign is not approved with this CUP and requires a separate permit from the County Zoning and Codes Office.

Unanimously approved 10-0.