

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

WEDNESDAY, JULY 29, 2009 (Light Agenda)

6:35 p.m. – County Commission Meeting
-Convene

CONSENT AGENDA

- (1) (a) Consider approval of Commission Orders;

REGULAR AGENDA

- (2) Consider approval of **CUP-6-7-09**, a Conditional Use Permit for revisions to previously approved CUP-12-12-97. Submitted by Heart of America Teen Challenge, property owner of record. Mary Miller is the Planner.
- (3) Other Business
 - (a) Consider approval of Accounts Payable (if necessary)
 - (b) Appointments
 - (c) Miscellaneous
 - (d) Public Comment
- (4) Adjourn

MONDAY, AUGUST 3, 2009

-Presentation by Judge Tacha regarding Freedoms Frontier National Heritage Area (Judge Tacha)
-Consider the approval of a resolution authorizing the continue imposition of a telephone user tax for the operation of an enhanced 911 emergency telephone service in Douglas County (Selma Southard)

WEDNESDAY, AUGUST 5, 2009

-Consider approval of Supplemental Agreement No. 1 with KDOT concerning the extension of E 1326 Road from Berg Acres area to Route 458, in conjunction with US-59 freeway construction project (Keith Browning)
-Discussion of pedestrian issues in Eudora (John Drees, Eudora Pedestrian Safety Committee)
-Consider approving revised CPA-2004-02, a Comprehensive Plan Amendment to Horizon 2020, Chapter 7: Industrial and Employment Related Land Use and consider adopting Joint City Ordinance No. 8402/County Resolution as tabled from the July 15, 2009 meeting. (Amy Brown is the Planner)

MONDAY, AUGUST 10, 2009

-Consider adoption of Resolution relating to the issuance of bonds to finance improvements in Southeast Lawrence Sanitary Sewer Main Benefit Districts No. 1, No. 2, and No. 3 (Evan Ice)
-Lawrence Chamber Program of Work - 2nd Quarter Progress Report (Tom Kerns)

MONDAY, AUGUST 17, 2009 (Light Agenda)

WEDNESDAY, AUGUST 19, 2009

-Public Hearing for 2010 Budget

MONDAY, SEPTEMBER 7, 2009

-No Commission Meeting in Observation of Labor Day

MONDAY, SEPTEMBER 21, 2009 (Light Agenda)

WEDNESDAY, NOVEMBER 4, 2009

-Lone Star Weed Discussion

Note: The Douglas County Commission meets regularly on Mondays at 8:10 A.M. and Wednesdays at 6:35 P.M. at the Douglas County Courthouse. Specific regular meeting dates that are not listed above have not been cancelled unless specifically noted on this schedule.

BOARD OF COUNTY COMMISSIONERS REPORT
July 29, 2009

**REQUEST TO AMEND CONDITIONS FOR CONDITIONAL USE PERMIT FOR
HEART OF AMERICA TEEN CHALLENGE; 1332 E 1600 RD (S9-T13-R20)**

CUP-06-07-09: Consider a request to amend the conditions for previously approved Conditional Use Permit for Heart of America Teen Challenge [CUP-12-18-97] located at 1332 E 1600 Road, specifically to remove the condition to plat the property. The property is located in the south half of the northwest quarter of the southwest quarter of Section 9, Township 13 South, Range 20 East. Submitted by Mark L. Halford, Executive Director of Heart of America Teen Challenge, Inc, property owner of record.

STAFF RECOMMENDATION: Staff recommends the Board of County Commissioners approve the requested amendment to the conditions of approval to permit the property to remain unplatted based on the findings of fact in the staff report and subject to the following conditions:

1. Execution of an Annexation Agreement.
2. Dedication by separate instrument of additional 7 ft of road right-of-way on the east side of O'Connell Road adjacent to the subject property (totaling 40 ft east of centerline). The Book and Page Number of the Dedication must be noted on the Conditional Use Permit site plan.
3. Provision of a letter from the County Health Department that the septic system and private well meet their requirements.
4. The property shall be surveyed in order to clearly define the property lines.
5. Provision of a revised site plan to include the following note:
 - a. "The permit will be administratively reviewed by the County in 5 years on Dec. 31, 2014."
 - b. "The permit will expire at the end of 10 years on Dec. 31, 2019, unless an application for renewal is approved prior to that date by the local governing body."
 - c. "The facility shall house up to 11 residents, 16 years and older and 3 on-site staff member/counselors. Any increase in the capacity of the facility would require an amendment to the CUP."

Reason for Request: Applicant response: *"To amend the CUP and remove the condition to plat."*

KEY POINTS

- On February 18, 1998, the Board of County Commissioners approved a Conditional Use Permit for the Teen Challenge facility subject to various conditions of approval.
- The applicant is requesting the removal of the condition that the property be platted.
- The property is located within Service Area One of the Lawrence Urban Growth Area and would be required to annex prior to platting per Section 20-803(a) of the Subdivision Regulations.
- The City Utility Department indicated that there were issues associated with the extension of water and sewer service to this property and that the extension of utilities may be cost

prohibitive when compared to the value of the proposed improvement.

ASSOCIATED CASES/OTHER ACTION REQUIRED

- Dedication of additional right-of-way by separate instrument with the Douglas County Register of Deeds.
- Execution of an Annexation Agreement
- Completion of a survey of the property.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- No public comment was received prior to printing this Staff Report.

ATTACHMENTS

- **A:** Operation summary for the Heart of America Teen Challenge facility.

GENERAL INFORMATION

Current Zoning and Land Use: A (Agricultural) District; Teen Challenge, a group home.

Surrounding Zoning and Land Use: To the north, east and south: A (Agricultural) District; O'Connell Youth Ranch to the south and east, undeveloped land to the north.

To the west: A (Agricultural) District with rural residence and RS7 (Single Dwelling Residential) District with single dwelling residences.

Site Summary:	
Subject Property:	18.4 acres
Proposed Buildings:	None proposed at this time
Existing Buildings:	Three: a residence and two outbuildings
Required Parking:	3 (one per each resident counselor)
Required ADA accessible Parking:	1
Parking Provided:	2 regular and 1 ADA accessible provided per previous approved plan

I. ZONING AND USES OF PROPERTY NEARBY

Staff Finding –

The subject property is located within a residential area. Single family homes are located to the west across O'Connell Road and the O'Connell Youth Ranch surrounds the property to the south and east. There is one undeveloped parcel to the north that is zoned Agricultural and beyond that is a Planned Residential Development.

II. CHARACTER OF THE AREA

Staff Finding – The property is located on the east edge of the City of Lawrence. The area is a blend of urban and rural residential uses. The predominate land uses are urban residential and a rural group facility located on heavily wooded property.

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

Applicant response:

"Excellent, as it has been in use for a Group Home for several years."

Staff Finding –

- The current zoning designation for the property is A (Agricultural) District, a district in which many different agriculture-related uses are allowed. *Non-Profit, Religious, Educational and Philanthropic Institutions* are allowed in the A District with approval of a Conditional Use Permit (CUP).
- Approval of the CUP request will not revise the underlying zoning district.

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

Staff Finding –County Zoning Regulations were adopted in 1966; this property has been zoned "A (Agricultural)" since that adoption. This property is not vacant, but has been used as a group home since the approval of the Conditional Use Permit in 1997.

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

Applicant Response:

"No affect. Conditional Use Permit is already in place. This is an amendment."

Section 19-1.01 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 enumerated in section 19-4(8) of the Zoning Regulations of the Unincorporated Territory of Douglas County as a 'Non-Profit, Religious, Educational and Philanthropic Institution'.

Staff Finding – The request is to remove the requirement that the property be platted. Platting the property would have little impact on other properties. Removal of this condition should have no detrimental impact on nearby property.

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 Response:

"Currently used to help those in need."

Evaluation of the relative gain weighs the benefits to the community-at-large vs. the hardship of the owners of the subject property if the application is denied. If the request is denied the applicant would be required to plat and to annex into the City of Lawrence. Annexation into the City of Lawrence would require the extension of City utilities, which would be cost prohibitive at

this time. In addition, there is no directly comparable use to this group facility which is permitted within any City zoning districts. In order for the property to be platted, it would require annexation, rezoning, a text amendment to permit the use within a City Zoning District, and variances to permit utilization of septic system and rural or well water. Benefits of platting would be the provision of a clear property line from which setbacks could be measured and dedication of easements for the future extension of utilities. The platting of this property would not provide any gain to the public health, safety or welfare.

Staff Finding – Approval of the request to remove the condition to plat would allow the group home to continue operations while denial would require the proper owner to go through several other processes in order to be compliant with the Code. Platting would result in clearly defined property lines and dedicated easements for future utility lines. However, property lines could be established through a survey of the property and platting could occur at some point in the future when it is more feasible to annex this property into the City.

VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant Response—

"It is a philanthropic facility providing services to a segment of the community and the site has been designed to be compatible to surrounding area."

HORIZON 2020:

An evaluation of the conformance of a Conditional Use Permit request with *Horizon 2020's* strategies, goals, policies and recommendations finds that the comprehensive plan does not directly address conditional use permits; however, the plan does provide recommendations on land uses within the Urban Growth Area.

Chapter Four – Growth Management:

"Land within the Lawrence UGA is encouraged, over the planning period, to be annexed into Lawrence prior to urban densities of development..." (Page 4-1) Map 3-1 shows the recommended future land uses for Service Area One of the Urban Growth Area. (Page 3-3) The subject property is located within the area designated on the map for 'Low Density Residential' uses; therefore, the proposed use is compliant with the recommendation of *Horizon 2020*. The facility currently accommodates 11 residents and 3 on-site resident counselors for a total of 14 residents on a 18 acre property. As this facility is not designed to 'urban densities of development' the existing facility is compliant with the recommendations in *Horizon 2020*.

Staff Finding – This facility is located within Service Area One of the Lawrence Urban Growth Area; however, as is not designed to 'urban densities of development' the existing facility is compliant with the recommendations in *Horizon 2020*.

STAFF REVIEW

The Heart of America Teen Challenge group home was approved with a Conditional Use Permit in 1998. The purpose of the home remains the same as when it was originally approved: to provide assistance to young men in need through five stages. Teen Challenge provided a summary of their program, which is included with this staff report as Attachment A. The Zoning and Codes Office have no records of any complaints; therefore, it is assumed that this use is compatible with the residential uses in the area.

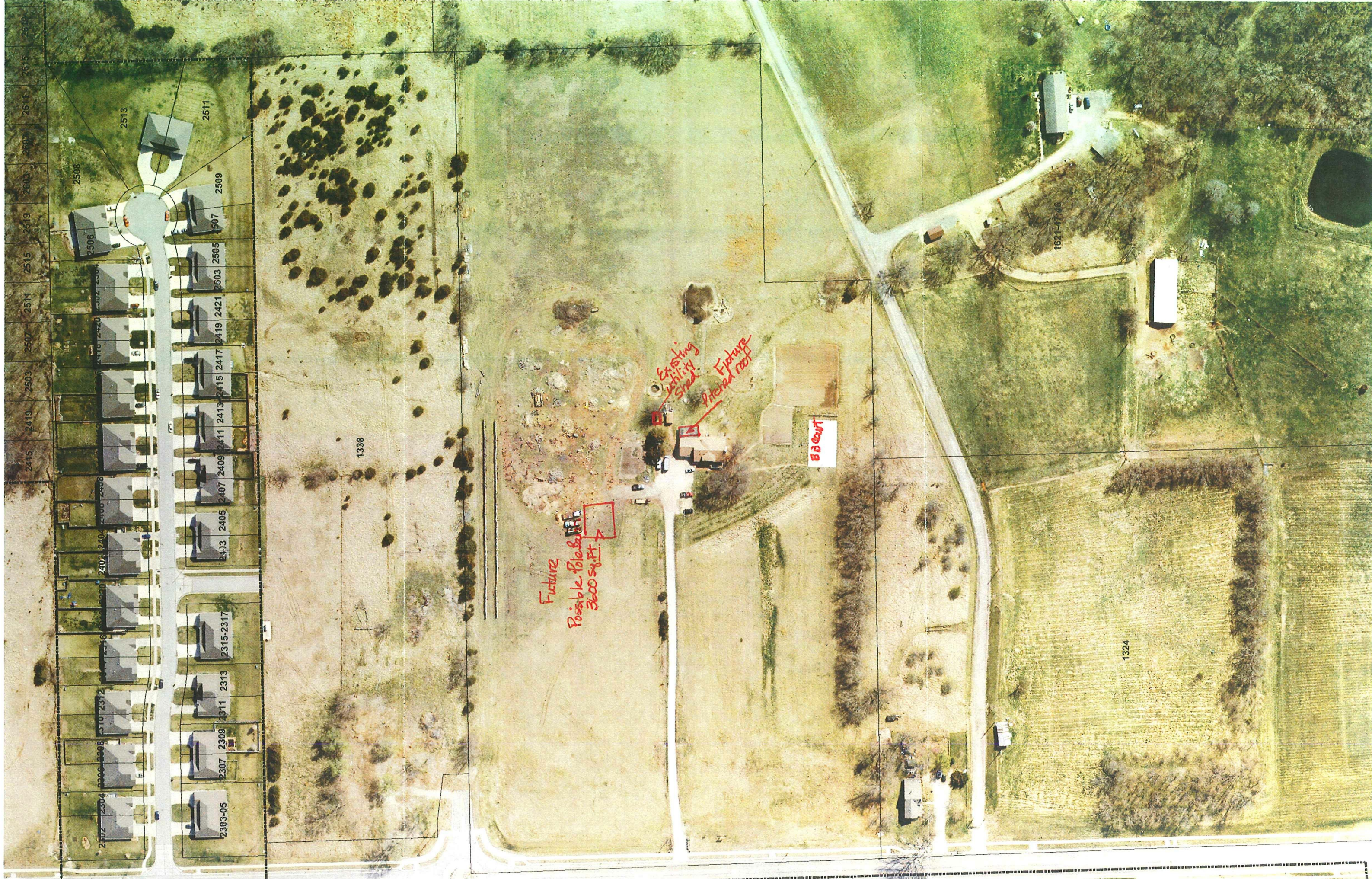
In 1998, the group home was planned to house 8 teenage boys and 2 adult counselors. The property owner, Heart of America Teen Challenge of Greater Kansas City, Inc. plans to continue operating the group homes for males, 16 years of age and older; however, the group home now accommodates up to 11 students and 3 residential staff/counselors. The intensity of the use has increased slightly since the approval of the CUP. A note shall be added to the site plan with the number of residents and staff member/counselors that are permitted and noting that any increase in these numbers would require an amendment to the CUP. The operation summary also indicates that future uses may include the construction of additional buildings such as a classroom annex, or a pole barn for vehicle repair work. These uses currently exist with the Conditional Use Permit, but the addition of the buildings would require a revision to the site plan to insure compatible location of the buildings and uses with off-site development.

The requirement to plat creates issues with the development of the property. The Subdivision Regulations requires annexation of properties within Service Area One prior to any subdivision. Annexation is usually contingent upon the provision of City services to the property. While it would be possible to extend services, the City Utility Engineer indicated it would be cost prohibitive, given the limited intensity of the current development. Another issue would be the requirement to rezone to an appropriate zoning district with annexation. Group homes are defined within the City Limits as "Any dwelling occupied by 11 or more persons, including 8 or more persons with a disability who need not be related by blood or marriage..." As the residents in this facility do not have disabilities, the facility does not meet the City definition of group home. At this time, there is no use group classification within the City Development Code which would include the Teen Challenge Facility; therefore, it would be necessary for a text amendment defining the use and designating districts where it is permitted, either as a use permitted by right or a use requiring a Special Use Permit, to be processed. If the use required a Special Use Permit, it would be necessary to submit a request for rezoning and a Special Use Permit following the approval of the text amendment.

Staff discussed the various issues and determined that the most efficient solution would be to permit the property to remain outside the City limits and to remove the requirement to plat. When other development occurs in the area it may be more cost efficient to provide City services to this property. At that time, it may be appropriate to initiate a text amendment permitting this use within certain zoning districts of the City so the facility owner/operator may request a rezoning to the appropriate zoning designation with annexation.

The only condition being amended is the condition to plat the property. The requirements to execute an Annexation Agreement and to dedicate an additional 7 ft of road right of way by separate instrument remain conditions of the CUP. A CUP permit was issued in 1998 without the conditions of approval having been met; however, in order for the CUP to remain valid, these remaining conditions must be met.

In addition, a 10 year time limit should be placed on this CUP so the development in the area can be evaluated and it can be determined if the facility should continue as a CUP or annex into the City of Lawrence. A note to this effect shall be added to the site plan.



2302 2304 2306 2308 2310 2312 2314 2316 2318 2320 2322 2324 2326 2328 2330 2332 2334 2336 2338 2340 2342 2344 2346 2348 2350 2352 2354 2356 2358 2360

2303-05 2307 2309 2311 2313 2315-2317 2403 2405 2407 2409 2411 2413 2415 2417 2419 2421 2423 2425 2427 2429 2431 2433 2435 2437 2439 2441 2443 2445 2447 2449 2451 2453 2455 2457 2459 2461 2463 2465 2467 2469 2471 2473 2475 2477 2479 2481 2483 2485 2487 2489 2491 2493 2495 2497 2499 2501 2503 2505 2507 2509 2511 2513

1338

Future
Possible Pole Barn
3000 sq. ft.

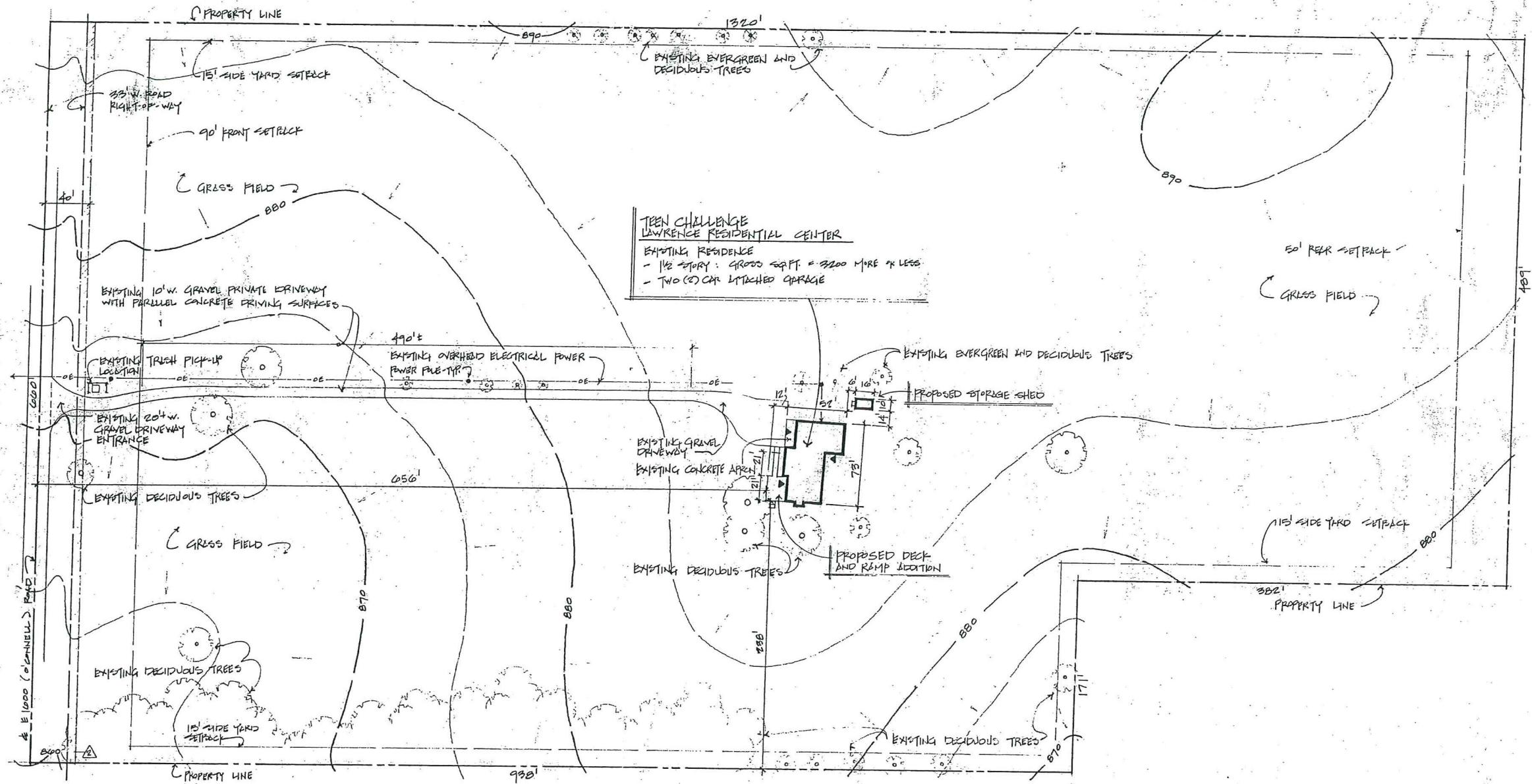
Existing
Utility
Shed

Patched
Future
Footprint

BB Court

1324

1621-47-46



**TEEN CHALLENGE
LAWRENCE RESIDENTIAL CENTER**
 EXISTING RESIDENCE
 - 1 1/2 STORY: GROSS SQFT. = 3200 MORE OR LESS
 - TWO (2) CAR ATTACHED GARAGE

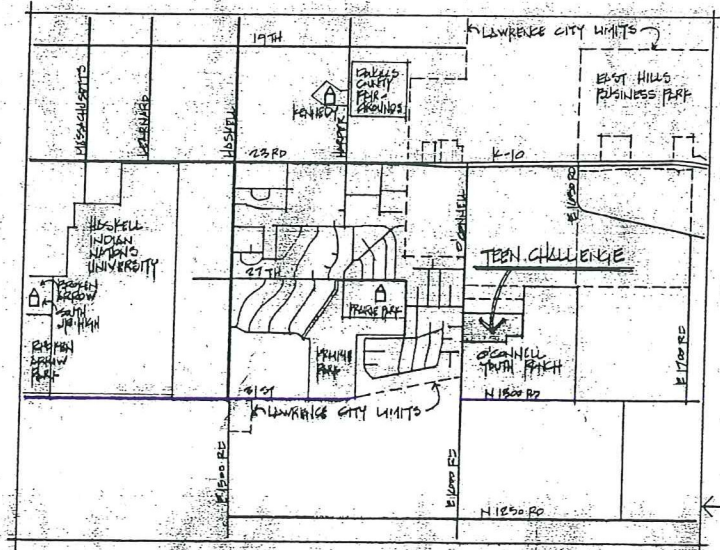
SITE PLAN
 1" = 50'



0 25 50 100 FEET

LEGAL DESCRIPTION:

THE SOUTH HALF (S 1/2) OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION NINE (9), TOWNSHIP THIRTEEN (13) SOUTH, RANGE TWENTY (20) EAST OF THE SIXTH PRINCIPAL MERIDIAN, IN DICKENS COUNTY, KANSAS, LESS THE FOLLOWING DESCRIBED TRACT:
 THE EAST 58.5 FEET OF THE SOUTH 171.00 FEET OF THE EAST HALF (E 1/2) OF THE SOUTH HALF (S 1/2) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION NINE (9), TOWNSHIP THIRTEEN (13) SOUTH, RANGE TWENTY (20) EAST OF THE SIXTH PRINCIPAL MERIDIAN, IN DICKENS COUNTY, KANSAS, CONTAINING 1.5 ACRES, MORE OR LESS.
 THESE CONTAINS TO EQUAL 10.5 ACRES, MORE OR LESS.



PROPERTY LOCATION MAP

0 0.25 0.50 1.00 MILES

**DRAWINGS
IN PROGRESS**
 DO NOT USE FOR CONSTRUCTION

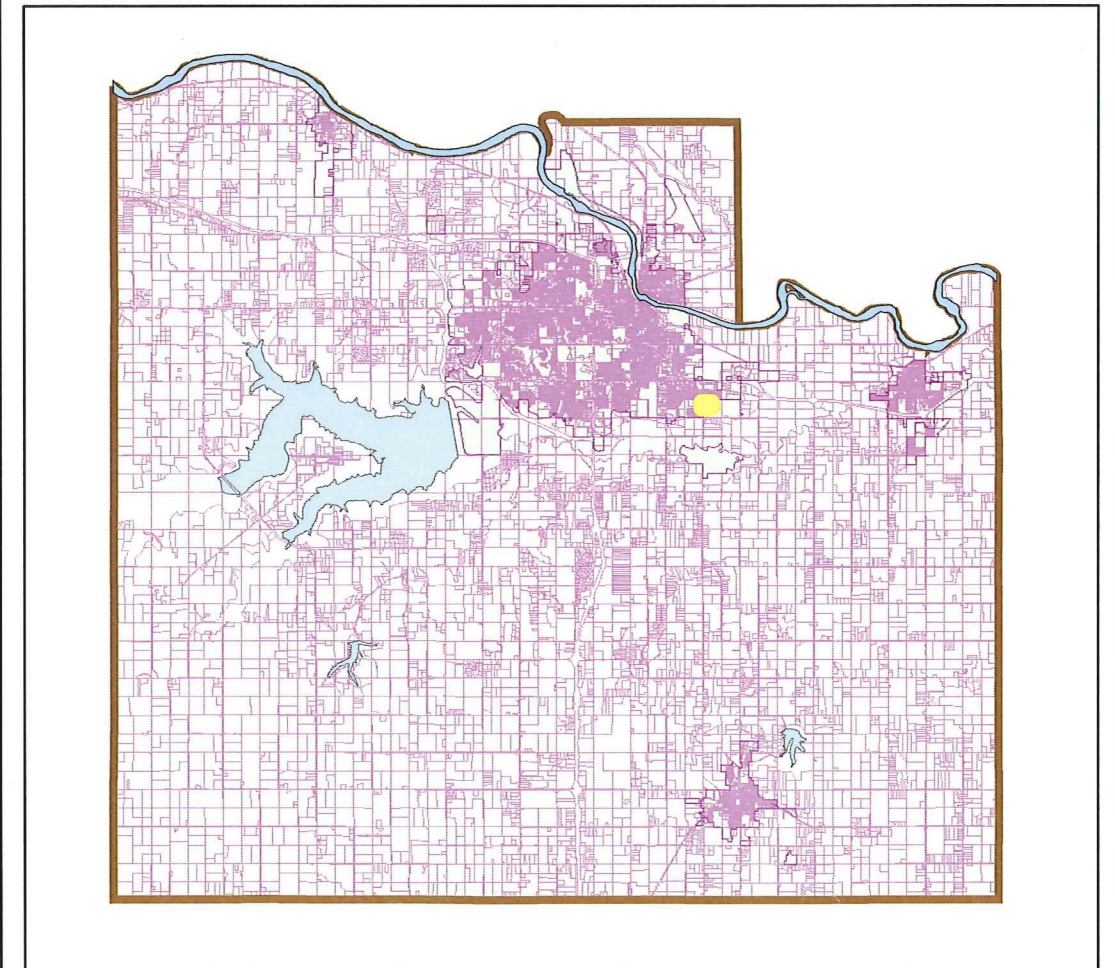
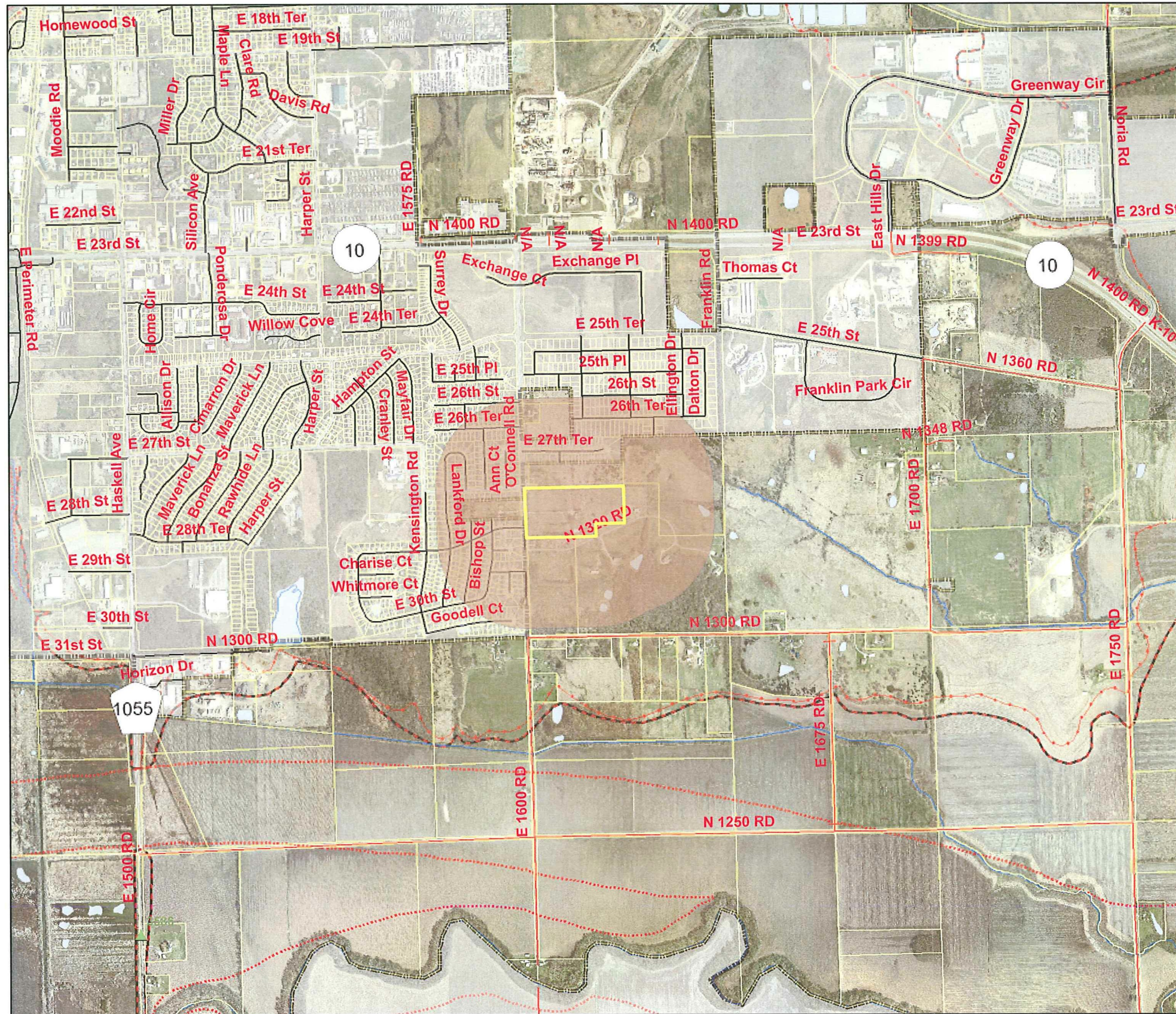
**TEEN CHALLENGE
LAWRENCE RESIDENTIAL CENTER**

J. STEPHEN LANE ARCHITECT
 Lawrence, Kansas
 642-1248

1997 site plan

A1
 02.12.017

CUP-6-7-09



CUP-6-7-09

- CUP-6-7-09 **S_Fld_Haz_Ln**
- 2008counts **Ln_Typ**
- city_limits09
- ownshp09
- S_Wtr_Ln
- 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- 1 PCT ANNUAL CHANCE FLOOD HAZARD
- FLOODWAY

This map was produced by Douglas County GIS. It is for reference only and is not intended for conveyances, nor is it a legal survey. July 24, 2009.