

# BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

## **WEDNESDAY, DECEMBER 2, 2009**

4:00 p.m. – County Commission Meeting

-Convene

### **CONSENT AGENDA**

- (1)(a) Consider approval of Commission Orders;
- (b) Consider approval resolution for Cereal Malt Beverage Licenses for First Stop, L.L.C. (Clerk's Office)
- (c) Consider approval of Notice to the Township Board for Cereal Malt Beverage Licenses for Midland Farms Store and Cecil Monday's Bar & Grill (Clerk's Office)

### **REGULAR AGENDA**

- (2) Consider approval of **PP-8-4-09**, a 58.99 acre, 1 lot Preliminary Plat of Rockwall Farms Addition, located near the intersection of N 1800 Rd & E 700 Rd and a variance from Section 20-810(j)(1) of the Subdivision Regulations regarding the protection measures for environmental sensitive areas and natural areas. Submitted by Paul Werner Architects, for Rockwall Farms L. C., property owner of record. (PC Item 2; approved 8-0 on 10/26/09) Mary Miller is the Planner.
- (3) Direction from the Commission on whether the County wants to participate in a fixed price contract for diesel and/or unleaded fuel (Jackie Waggoner)
- (4) Other Business
  - (a) Consider approval of Accounts Payable (if necessary)
  - (b) Appointments
  - (c) Miscellaneous
  - (d) Public Comment
- (5) Adjourn

## **WEDNESDAY, DECEMBER 9, 2009**

-Executive Session on an item for the purpose of consultation with County Counselor on matters regarding recent litigation. The justification is to maintain attorney client privilege on a matter involving Douglas County.

## **WEDNESDAY, DECEMBER 16, 2009**

-Update to Commission on how access management regulations and implementation (Linda Finger)  
-Consider approval of amendment to the 2009 County Budget (Craig Weinaug)

## **WEDNESDAY, DECEMBER 23, 2009**

-No Commission meeting

## **WEDNESDAY, DECEMBER 30, 2009**

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



1(b)

**RESOLUTION \_\_\_\_\_**

**WHEREAS**, on the **2nd day of December, 2009**, the same being a regular session of the Board of County Commissioners of the County of Douglas, the application of **First Stop, LLC** for a cereal malt beverage license came up for considerations by the above board and

**WHEREAS**, the Board does find that said **First Stop, LLC** is qualified under the law to sell cereal malt beverages not for consumption on the premises located **1423 E 900 Rd, Lawrence, Kansas**

**WHEREAS**, the Board further finds that due and legal notice has been given the Clinton Township Board and that ten days has expired from the giving of said notice and that no written objection has been filed by the Clinton Township Board protesting the granting of a cereal malt beverage license.

**NOW THEREFORE, BE IT RESOLVED** that the applicant, **First Stop, LLC** granted a license to sell cereal malt beverage not for consumption on the premises located at **1423 E 900 Rd, Lawrence, Kansas**

**BE IT FURTHER RESOLVED**, that Jameson Shew, County Clerk of Douglas County, Kansas be directed to issue said license.

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

**ATTEST:**

\_\_\_\_\_  
Jameson Shew, Douglas County Clerk

KEEP THIS LICENSE POSTED CONSPICUOUSLY AT ALL TIME

RETAIL

Fee \$75.00

NO.

**DEALER'S 2010 LICENSE**

**TO ALL WHOM IT MAY CONCERN:**

License is hereby granted to: **FIRST STOP, LLC**

**TO SELL CEREAL MALT BEVERAGES AT RETAIL IN ORIGINAL AND UNOPENED  
CONTAINERS AND NOT FOR CONSUMPTION ON PREMISES**

(State if for consumption on the premises, or for sale in original and unopened containers and not for consumption on premises)

**1423 E 900 ROAD, LAWRENCE, KS. Application therefore on file in the office of the County Clerk of Douglas  
County, having been approved by the governing body of said County, as provided by Laws of Kansas and the  
regulations of the board of County Commissioners.**

**This License will expire 12:00 midnight December 31, 2010 unless sooner revoked, is not transferable, nor will any  
refund be allowed thereon.**

**Done by the Board of County Commissioners of Douglas County, Kansas**

**This 2nd Day of December 2009**

Attest: \_\_\_\_\_  
County Clerk

\_\_\_\_\_  
Chairman

**NOTICE TO THE TOWNSHIP BOARD**

STATE OF KANSAS DOUGLAS COUNTY, ss

TO THE TOWNSHIP CLERK, GRANT TOWNSHIP

This is to notify the members of your Township Board that application has been filed with the Douglas County Commission for **Midland Farm Store** to sell Cereal Malt Beverages at retail for consumption off the premises: **1423 East 900 Road**.

The Township Board may within (10) days file an advisory recommendation as to the granting of such a license and such advisory recommendation shall be considered by the Board of County Commissioners before such license is issued KSA 41-2702.

Done by the Board of County Commissioners this **2nd day of December, 2009**

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
COUNTY CLERK

(SEAL)

The board of county commissions in any county shall not issue a license without giving the clerk of the township board in the township where the applicant desires to locate, written notice by registered mail, of the filing of the application.

Sales Tax Number: 48-1127783

Renewal: Valid from \_\_\_\_\_ to \_\_\_\_\_

(This form prepared by the Attorney General's Office)  
(Firm, Partnership, or Association application form)

**APPLICATION FOR LICENSE TO RETAIL CEREAL MALT BEVERAGES**

\_\_\_\_\_, Douglas COUNTY, KANSAS \_\_\_\_\_

TO THE GOVERNING BODY OF THE CITY OF \_\_\_\_\_, KANSAS

or

THE BOARD OF COUNTY COMMISSIONERS OF Douglas COUNTY, KANSAS

I Rick Grimmett, on behalf of a firm,  
partnership, of association (circle the proper one) known as Midland Farm Store

hereby apply for a license to retail cereal malt beverages in conformity with the laws of the State of Kansas, and the rules and regulations prescribed, and hereafter to be prescribed to you, relating to the sale or distribution of cereal malt beverage; and for the purpose of securing such license, I make the following statements under oath:

1. The firm, copartnership, or association is made up of the following persons whose names, residences, ages, dates of birth, places of birth, methods of obtaining United States citizenship with date and place of naturalization, if that is the basis of citizenship, together with the length of each person's residence within the State of Kansas and the city or county to which this application is being made, are set forth below:

Rickey Grimmett - DOB 04/11/1958 - Topeka, KS

2. I hereby certify that with regard to each of the above-named persons the following statements are true:

None of them has within the last two years from this date been convicted of:

- (a) A felony
- (b) A crime involving moral turpitude
- (c) Drunkenness
- (d) Driving a motor vehicle while under the influence of intoxicating liquors
- (e) Violation of any state or federal intoxicating liquor law

If any of the above have been convicted of any of the above-specified offenses, the details are set out hereinafter.

3. (a) The premises for which the license is desired are located at 1401 N 1941 Diagonal Rd

(b) The legal description of the premises is 7-12-20 Grant Township

(c) The street number is \_\_\_\_\_

(d) The building is described as retail

(e) The business will be conducted under the name of Midland Farm Store

(f) The place of business will be conducted by the following manager, if not by one of the firm, partnership, or association members \_\_\_\_\_

(g) Said manager's place and date of birth \_\_\_\_\_

(h) Said manager's residence in the State of Kansas in \_\_\_\_\_ County and in the City of \_\_\_\_\_ are as follows:

(i) Said manager is a citizen of the United States by birth ( ), naturalization ( ), is not a citizen ( ). If a naturalized citizen, the place and date of naturalization are \_\_\_\_\_

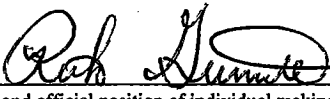
(j) Said manager has not been convicted of any of the crimes specified in number 2 above ( ). If he has, the details are as follows: \_\_\_\_\_

4. The name(s) and address(es) of the owner or owners of the premises upon which the proposed business will be conducted is/are Grant Township CPA

5. This application is for a license to retail cereal malt beverages for consumption on the premises ( ). For a license to retail cereal malt beverages in original and unopened containers and not for consumption on the premises (X ).

A license fee of \$ 75 is enclosed herewith.


I, Rickey Grimmett, one of the partners ( ), association ( ), or firm members ( ), applying for the above-named license to retail cereal malt beverages hereby agree to comply with all the laws of the State of Kansas, and all rules and regulations prescribed, and hereafter to be prescribed by you, relating to the sale or distribution of cereal malt beverages, and do hereby agree to purchase all cereal malt beverages from a wholesaler, licensed and bonded under the laws of the State of Kansas, and do hereby further consent to the immediate revocation of the cereal malt beverage retail license, if any, issued pursuant to this application by the proper officials, for the violations of any such laws, rules or regulations.

 11/13  
(Signature and official position of individual making application)

STATE OF KANSAS, COUNTY OF Douglas, ss.

I, Rickey Grimmett, of the  
(Signature and official position)  
Midland Farm Store, do  
(Name of firm, copartnership, or association)

solemnly swear that I have read the contents of this application, and that all information and answers herein contained are complete and true. So help me God.

 owner  
(Signature and official position)

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
(Character of official administering oath)

My commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

APPLICATION APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

By \_\_\_\_\_  
(Official position)

of \_\_\_\_\_, Kansas  
(City or county)

Recorded in Volume \_\_\_\_\_, at page \_\_\_\_\_

NOTE: A PHOTOCOPY OF THE COMPLETED FORM, TOGETHER WITH THE APPLICATION FEE REQUIRED BY K.S.A. 2001 SUPP. 41-2702(e), MUST BE SUBMITTED TO THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BUREAU, KANSAS DEPARTMENT OF REVENUE.



**NOTICE TO THE TOWNSHIP BOARD**

STATE OF KANSAS DOUGLAS COUNTY, ss

TO THE TOWNSHIP CLERK, EUDORA TOWNSHIP

This is to notify the members of your Township Board that application has been filed with the Douglas County Commission for **Cecil Monday's Bar & Grill** to sell Cereal Malt Beverages at retail for consumption on the premises: **2229 N 1400 Rd, Eudora, KS.**

The Township Board may within (10) days file an advisory recommendation as to the granting of such a license and such advisory recommendation shall be considered by the Board of County Commissioners before such license is issued KSA 41-2702.

Done by the Board of County Commissioners this 2<sup>nd</sup> Day of December, 2009.

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
COUNTY CLERK

(SEAL)

The board of county commissions in any county shall not issue a license without giving the clerk of the township board in the township where the applicant desires to locate, written notice by registered mail, of the filing of the application.

(This form prepared by the Attorney General's Office)  
(Firm, Partnership, or Association application form)  
**APPLICATION FOR LICENSE TO RETAIL CEREAL MALT BEVERAGES**

\_\_\_\_\_, Douglas COUNTY, KANSAS \_\_\_\_\_,  
TO THE GOVERNING BODY OF THE CITY OF \_\_\_\_\_, KANSAS  
or  
THE BOARD OF COUNTY COMMISSIONERS OF Douglas COUNTY, KANSAS

I Roger D. Rose, on behalf of a firm,  
partnership, of association (circle the proper one) known as Cecil Monday's Bar & Grill

hereby apply for a license to retail cereal malt beverages in conformity with the laws of the State of Kansas, and the rules and regulations prescribed, and hereafter to be prescribed to you, relating to the sale or distribution of cereal malt beverage; and for the purpose of securing such license, I make the following statements under oath:

1. The firm, copartnership, or association is made up of the following persons whose names, residences, ages, dates of birth, places of birth, methods of obtaining United States citizenship with date and place of naturalization, if that is the basis of citizenship, together with the length of each person's residence within the State of Kansas and the city or county to which this application is being made, are set forth below:

Roger D. Rose 54 years DOB 11-10-1955 Onaga KS

2. I hereby certify that with regard to each of the above-named persons the following statements are true:

None of them has within the last two years from this date been convicted of:

- (a) A felony
- (b) A crime involving moral turpitude
- (c) Drunkenness
- (d) Driving a motor vehicle while under the influence of intoxicating liquors
- (e) Violation of any state or federal intoxicating liquor law

If any of the above have been convicted of any of the above-specified offenses, the details are set out hereinafter.

3. (a) The premises for which the license is desired are located at \_\_\_\_\_  
2229 N 1400 Rd Eudora, KS 66025-9291

(b) The legal description of the premises is 19-13-21 Eudora Township

(c) The street number is Above

(d) The building is described as Frame with Concrete Floor

(e) The business will be conducted under the name of Cecil Monday's Bar & Grill

(f) The place of business will be conducted by the following manager, if not by one of the firm, partnership, or association members \_\_\_\_\_

(g) Said manager's place and date of birth \_\_\_\_\_

(h) Said manager's residence in the State of Kansas in \_\_\_\_\_ County and in the City of \_\_\_\_\_ are as follows:

(i) Said manager is a citizen of the United States by birth (  ), naturalization (  ), is not a citizen (  ). If a naturalized citizen, the place and date of naturalization are \_\_\_\_\_

(j) Said manager has not been convicted of any of the crimes specified in number 2 above (  ). If he has, the details are as follows: \_\_\_\_\_

4. The name(s) and address(es) of the owner or owners of the premises upon which the proposed business will be conducted is/are Roger & Terri Rose 1238 Acorn St., Eudora, KS

5. This application is for a license to retail cereal malt beverages for consumption on the premises (  ). For a license to retail cereal malt beverages in original and unopened containers and not for consumption on the premises (  ).

A license fee of \$ 125 is enclosed herewith.

I, Roger D. Rose, one of the partners ( X ), association ( ), or firm members ( ), applying for the above-named license to retail cereal malt beverages hereby agree to comply with all the laws of the State of Kansas, and all rules and regulations prescribed, and hereafter to be prescribed by you, relating to the sale or distribution of cereal malt beverages, and do hereby agree to purchase all cereal malt beverages from a wholesaler, licensed and bonded under the laws of the State of Kansas, and do hereby further consent to the immediate revocation of the cereal malt beverage retail license, if any, issued pursuant to this application by the proper officials, for the violations of any such laws, rules or regulations.

Roger Rose Co-OWNER  
(Signature and official position of individual making application)

STATE OF KANSAS, COUNTY OF Douglas, ss.

I, Roger D. Rose Co-Owner, of the Cecil Monday's Bar & Grill, do  
(Signature and official position)  
(Name of firm, copartnership, or association)

solemnly swear that I have read the contents of this application, and that all information and answers herein contained are complete and true. So help me God.

Roger Rose Co-OWNER  
(Signature and official position)

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_  
(Character of official administering oath)

My commission expires on the \_\_\_\_\_ day of \_\_\_\_\_,

APPLICATION APPROVED this \_\_\_\_\_ day of \_\_\_\_\_,

By \_\_\_\_\_  
(Official position)

of Douglas County, Kansas  
(City or county)

Recorded in Volume \_\_\_\_\_, at page \_\_\_\_\_

NOTE: A PHOTOCOPY OF THE COMPLETED FORM, TOGETHER WITH THE APPLICATION FEE REQUIRED BY K.S.A. 2001 SUPP. 41-2702(e), MUST BE SUBMITTED TO THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BUREAU, KANSAS DEPARTMENT OF REVENUE.

**PLANNING COMMISSION REPORT  
REGULAR AGENDA --NON-PUBLIC HEARING ITEM:**

PC Staff Report  
10/26/09

**ITEM NO. 2: PRELIMINARY PLAT ~~INCLUDING VARIANCE~~; ROCKWALL FARMS  
ADDITION; 58.99 ACRES; N 1800 RD & E 700 RD (MKM)**

**PP-8-4-09** Consider a 58.99 acre, 1 lot Preliminary Plat of Rockwall Farms Addition, located near the intersection of N 1800 Rd & E 700 Rd and a variance from Section 20-810(j)(1) of the Subdivision Regulations regarding the protection measures for environmental sensitive areas and natural areas. Submitted by Paul Werner Architects, for Rockwall Farms L. C., property owner of record.

**STAFF RECOMMENDATION:** Staff recommends approval of the Preliminary Plat of the Rockwall Farms Addition and referring it to the Board of County Commissioners for consideration of dedication of easements and rights-of-way subject to the following conditions of approval:

1. The applicant shall execute a temporary set-aside agreement for the environmentally sensitive areas designated for protection. The Book and Page Number of the recorded agreement shall be noted on the face of the final plat.
2. Evidence shall be submitted to the planning office showing that the applicable Fire Department has approved the dry hydrant and its location as being adequate to support firefighting needs prior to the recording of the final plat,
3. The plat shall be revised with the following changes:
  - a. Note 10 revised to read: "An access easement providing public access to N 1800 Road in a location approved by the County Engineer shall be dedicated by separate instrument and the Book and Page Number noted on the final plat."
  - b. Note 11 revised to read: "An easement containing the off-site sewage management system and its connection to the platted lot shall be dedicated by separate instrument. The Book and Page Number of the recorded easement shall be noted on the face of the final plat."
  - c. The following note shall be added regarding the use of a lagoon as a sewage management system: "In the event that a lagoon is used for sanitary waste management, the system shall be designed to allow for future connection to a public sewer system and a copy of the Kansas Department of Health and Environment approval documentation shall be provided the Planning Office. In addition, the plat shall note the appropriate entity for maintenance of a future lagoon".
  - d. A note shall be added which states that direct public access from Lot 1 to N 1800 Road is not permitted.

The variance was determined to be unnecessary, as a Temporary Set Aside Agreement will be executed by the applicant; therefore the variance request has been removed.

**Applicant's Reason for Request:** Subdivision requirement prior to obtaining a building permit for development of a Corporate Retreat.

**KEY POINTS**

- Conditional zoning to the B-2 District was approved by the Board of County Commissioners at their September 23, 2009 meeting. The rezoning resolution shall be published following the recording of the final plat.

**SUBDIVISION CITATIONS TO CONSIDER**

- This application is being reviewed under the Subdivision Regulations for Lawrence and Unincorporated Douglas County, effective Jan 1, 2007.
- Section 20-813 states that building permits will not be issued for unplatted property.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- Board of County Commissioners' acceptance of easements as shown on the preliminary plat.
- Easements dedicated by separate instrument for off-site access to N 1800 Road and off-site sewage management system.
- Temporary Set-Aside Agreement executed and recorded with the Register of Deeds.
- Final Plat submitted to Planning Office for administrative approval and recordation at the Douglas County Register of Deeds.
- Publication of rezoning ordinance to rezone the property to B-2 with conditions
- Submittal of a site plan compliant with the conditions of the rezoning.

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- None

**Site Summary**

Gross Area: 58.99 acres  
Number of Lots: 1

**GENERAL INFORMATION**

Current Zoning and Land Use: A (County-Agricultural) District [rezoning to B-2 (General Business) District conditioned with restricted uses pending]; woodland and agricultural uses

Surrounding Zoning and Land Use: A (County-Agricultural) District in all directions; woodland and agricultural uses with scattered rural residences; more dense residential development located to the southeast.

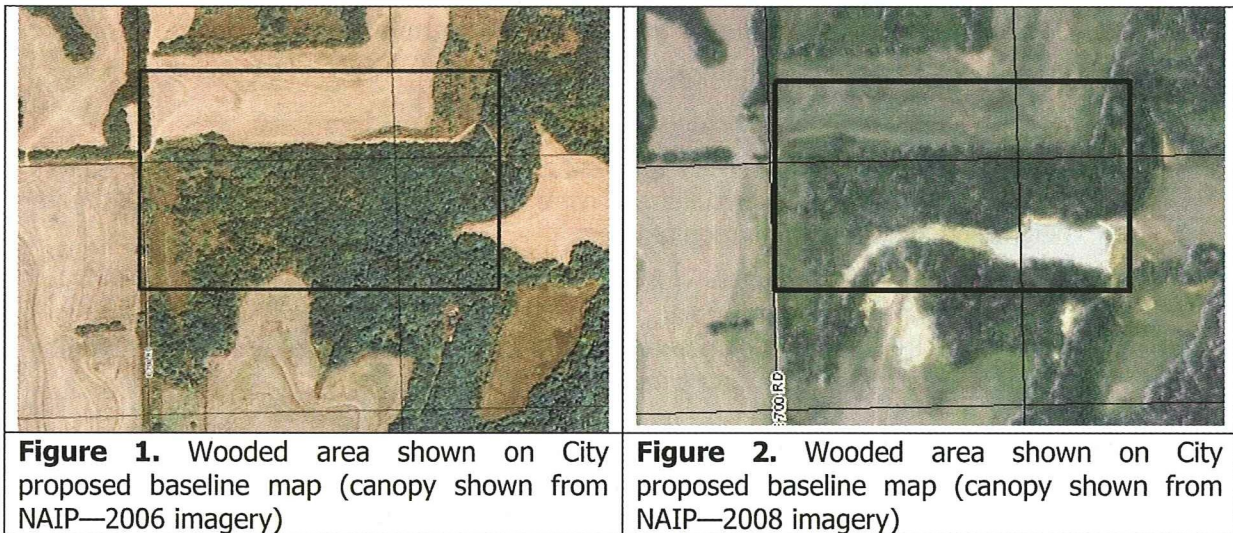
**STAFF REVIEW**

The property consists of approximately 60 acres and is located north of N 1800 Road to the east of E 700 Road, which has recently been vacated in this area. This plat is preparatory to development of a corporate retreat. Rezoning to the B-2 District with conditions has been approved; however, the rezoning resolution will not be published until after the final plat has been recorded with the Register of Deeds.

**Resource Conservation**

Section 20-810(j) of the Subdivision Regulations requires that non-residential subdivisions in the unincorporated area of the county be designed in a way that protects and conserves the natural resources and environmentally sensitive areas through the filing of a Temporary Set Aside Agreement or the filing of a permanent Conservation Easement with the Register of Deeds. This section lists stands of mature trees and individually significant trees as natural areas and environmentally sensitive areas. Stands of mature trees are located on the property and areas will be designated for protection in order to maintain the rural character of the area. The areas to be protected will be defined in the Temporary Set Aside Agreement and shown on the site plan in detail.

The NAIP (National Agricultural Imagery Program) aerials in Figures 1 and 2 show the tree cover on the property in 2006 and in 2008. Trees were removed for the construction of the pond. Additional trees will be removed to provide areas for the cabins, trails and conference center; however, contiguous stretches of trees will be designated for protection to the greatest extent possible.



### Zoning and Land Use

A rezoning request for the subject property has been approved by the Board of County Commissioners at their September 23, 2009 meeting to rezone the property from the A (Agricultural) District to the B-2 (General Business) District with conditions. The conditions require that the property be platted before the rezoning resolution is published and that the site plan provide specific information on the required 300 ft buffer area. *Horizon 2020* recommends a buffer area for rural conference, tourism and recreation uses. In this instance, a 300 foot buffer area was shown on the concept plan. One condition of the rezoning is that the 300 foot buffer area be shown on any site plan submitted for the development along with a note designating maintenance responsibility. In addition, the permitted uses within the B-2 District have been limited to the following uses:

- a. Any use permitted in the "R-1" Single-Family Residential District.
- b. Hospital or clinic for large or small animals, such as cattle, horses, dogs, cats, birds and the like, provided that such hospital or clinic and any treatment rooms, cages, pens or kennels be maintained within a completely enclosed building with

- soundproof walls and that such hospital or clinic be operated in such a way as to produce no objectionable odors outside its walls and located on a sewer.
- c. Outdoor advertising structure, or non-flashing sign pertaining only to a use conducted within the building, and any sign or display in excess of 30 square feet in area shall be attached flat against a wall of the building, and in no case shall any sign or display attached to a building project above the roofline. The permitted 30 square feet of sign area for projecting or free-standing signs may be in one sign or the aggregate area of several signs.
  - d. Personal service uses including barber shops, beauty parlors, photographic or artists' studios, restaurants, (but not drive-in restaurants), taverns, and other personal service uses of a similar character.
  - e. Retail stores, including florist shops and greenhouses in connection with such shops, but there shall be no slaughtering of animals or poultry on the premises of any retail store.
  - f. Amusement place, skating rink, swimming pool or dance hall in a completely enclosed building, auditorium or theater, except open-air drive-in theaters.
  - g. Bowling alleys and billiard parlors.
  - h. Hotels, motels, or motor hotels.
  - i. Outdoor advertising structure or sign and any sign or display in excess of 100 square feet in area shall be attached flat against a wall or building. See Section 6-2(17) for height and location of sign requirements.
  - j. Accessory buildings and uses.

The applicant proposes to develop a corporate retreat in this location which will include meeting rooms, ball room, restaurant, tavern, and a motel with cabins.

The rezoning was approved following the adoption of a Comprehensive Plan Amendment and a text amendment to the Zoning Regulations. The Comprehensive Plan was amended to expand the locations for conference facilities within the unincorporated areas of the county to include areas where conference, recreational or tourism uses might integrate with and benefit from the rural character. The County Commission initiated the text amendment so conditional zoning could be a tool in unusual situations, such as this, where limited uses might be appropriate rather than all the uses permitted in a zoning district. The restricted uses provide assurance that the property will be developed as a Corporate Retreat or conference center, with associated uses.

### **Streets and Access**

The property lies north of N 1800 Road, which is commonly referred to as 'Farmer's Turnpike'. This road is being improved at this time. The County Engineer indicated that the right-of-way for N 1800 Road adjacent to the platted property was adequate. The County Engineer indicated that public access would not be permitted on N 1800 Road at the location where the lot is adjacent to the road. A note shall be added to the plat indicating the access restriction on this portion of N 1800 Road. The applicant indicated that they would take access from a location further to the west on N 1800 Road. An access easement in a location which is approved by the County Engineer for public access shall be dedicated and the Book and Page Number noted on the face of the plat to insure that access is available for this lot.



### **Utilities and Infrastructure**

The property is served by Rural Water District No. 6. The Water District has agreed to provide the development with one meter and up to 1.6 million gallons per year. The Water District indicated that they cannot meet the flow requirement for fire protection. The applicant indicated that the amount of flow the water district can provide will be adequate for their development. Per Section 20-811(e) of the Subdivision Regulations, dry hydrants must be installed adjacent to a pond or other water storage device with sufficient capacity, and in an appropriate location, to support firefighting needs as determined by the applicable Fire Department for properties without adequate water pressure for fire hydrants. As the rural water district is not able to provide water for firefighting purposes, evidence shall be submitted with the final plat showing compliance with this provision.

The applicant provided a summary of available information on the subsurface water table as required in Section 20-812(a)(2)(xi) of the Subdivision Regulations. The plat does not show the location of the sewage management system. The County Health Director approved the use of a sewage management system with the requirement that either the land containing the sewage system and the lot with the corporate retreat should all be under one deed (platted as one lot) or the property containing the lagoon should be permanently linked to the lot with an easement. One condition of approval is that if the sewage management system will not be located on the platted lot, an easement containing the sewage management system and its connection to the lot shall be dedicated by separate instrument and the Book and Page Number noted on the final plat.

Section 20-811(d)(3) permits lagoons provided that such systems shall be subject to approval by the Kansas Department of Health and Environment and shall be designed to allow for future connection to a public sewer system and that maintenance shall be provided by an appropriate entity. The plat shall contain the following note in regard to the future use of a lagoon:

- In the event that a lagoon is used for sanitary waste management, the system shall be designed to allow for future connection to a public sewer system and a copy of the Kansas Department of Health and Environment approval documentation shall be provided the Planning Office. In addition, the plat shall note the appropriate entity for maintenance of a future lagoon.

### **Easements and Rights-of-way**

Off-site easements are necessary to provide for access onto N 1800 Road and a sewage management system off the platted lot. N 1800 Road has adequate right-of-way and no additional right-of-way is required. The right-of-way for E 700 Road has been vacated and there will be no public road into the property.

### **Conformance**

The Comprehensive Plan was recently amended to recommend locations for rural conference, tourism and recreational facilities as these uses are considered suitable for certain areas in the unincorporated portions of the county. A text amendment to the Zoning Regulations was approved to permit conditioned zoning. The rezoning was conditioned to restrict the permitted uses to those associated with a conference center, rural tourism or recreational facility.

The plat, as conditioned, conforms with the Subdivision Regulations and the recommendations and locational criteria of the Comprehensive Plan.

## Memorandum Lawrence-Douglas County Metropolitan Planning Office

**TO: Board of County Commissioners**  
**FROM: Mary Miller, Planning Staff**  
**CC: Craig Weinaug, County Administrator**  
**Scott McCullough, Director of Planning and Development Services**  
**Date: For December 2, 2009 County Commission Agenda**  
**RE: PP-8-4-09: Preliminary Plat for Rockwall Farms Addition**

### **CONDITIONS OF APPROVAL**

The Planning Commission considered the Preliminary Plat for Rockwall Farms Addition at their October 26, 2009 meeting and voted 8 to 0 to approve the preliminary plat and forward it to the Board of County Commissioners for consideration of dedication of easements, subject to the conditions of approval listed in the Staff Report, as revised by the Planning Commission. The conditions are listed below with the revisions noted in bold type and additional information in italics.

1. The applicant shall execute a temporary set-aside agreement for the environmentally sensitive areas designated for protection. The Book and Page Number of the recorded agreement shall be noted on the face of the final plat.  
*The temporary set-aside agreement has been drafted and is included as a part of the Commission's packet.*
2. Evidence shall be submitted to the planning office showing that the applicable Fire Department has approved the dry hydrant and its location as being adequate to support firefighting needs prior to the recording of the final plat.  
*The Lecompton Fire Department indicated that they had discussed the proposed measures for firefighting needs with the applicant and is comfortable with the location of the dry hydrants being shown on the site plan. A copy of this communication has been included in the Commission's packet.*
3. The plat shall be revised with the following changes:
  - a. Note 10 revised to read: "An access easement providing public access to N 1800 Road in a location approved by the County

Engineer shall be dedicated by separate instrument and the Book and Page Number noted on the final plat."

- b. Note 11 revised to read: "An easement containing the off-site sewage management system and its connection to the platted lot shall be dedicated by separate instrument. The Book and Page Number of the recorded easement shall be noted on the face of the final plat."
- c. The following note shall be added regarding the use of a lagoon as a sewage management system: "In the event that a lagoon is used for sanitary waste management, the system shall be designed to allow for future connection to a public sewer system and a copy of the Kansas Department of Health and Environment approval documentation shall be provided the Planning Office. In addition, the ~~plat~~ **easement** shall note the appropriate entity for maintenance of a future lagoon".  
*This condition was discussed at the meeting and it was determined that it may be more appropriate to note the appropriate entity for maintenance of the lagoon on the easement rather than the plat. Staff checked with the Douglas County Health Department and the Kansas Department of Environment and there were no objections to this revision; therefore, the condition has been revised as shown above.*
- d. A note shall be added which states that direct public access from Lot 1 to N 1800 Road is not permitted. *The following language was approved by the Planning Commission:* **"Public access to Lot 1 shall be from the access easement described in Note 10."**

*The applicant will revise the plat with these changes if the Board of County Commissioners votes to approve the plat with these conditions.*

#### **PROCESS**

If the County Commission votes to approve the preliminary plat as conditioned, the applicant shall revise the plat to meet the conditions and will provide Planning with a copy for the file. The final plat shall be processed administratively. The easement for the lagoon and the temporary set-aside agreement will be recorded prior to the recordation of the final plat so the Book and Page Numbers may be noted on the plat.

[Above Space Reserved for County Officials]

## **TEMPORARY SET ASIDE AGREEMENT**

THIS TEMPORARY SET ASIDE AGREEMENT (this "**Agreement**") is made and entered into effective the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (the "**Effective Date**"), by and between Rockwall Farms, L.C., a Kansas limited liability company, having an address of 643 Massachusetts Street, Lawrence, Kansas 66044 ("**Owner**"), and Douglas County Kansas, having an address of 1100 Massachusetts Street, Lawrence, Kansas 66044 ("**Beneficiary**").

### **RECITALS**

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

WHEREAS, a portion of the Property, as shown in the map or schematic attached hereto as **Exhibit B** and, by reference, made a part hereof (the "**Protected Property**"), possesses certain environmentally sensitive areas, as defined in Section 20-810(j) of the Subdivision Regulations for Lawrence and the Unincorporated Areas of Douglas County, Kansas;

WHEREAS, the specific attributes of the environmentally sensitive areas to be protected under this Agreement (collectively referred to as the "**Conservation Values**" which are noted in Exhibit C) shall be shown on the approved site plan of the Property (which includes the protected property), as amended from time to time (the "**Site Plan**");

WHEREAS, the Site Plan is a public document, on file and available for viewing with the Lawrence-Douglas County Planning Department, and is incorporated herein by this reference;

WHEREAS, it is desired that the Conservation Values of the Protected Property be preserved and maintained by imposing certain limitations on the permitted use of the Protected

Property, all in accordance with the terms and provisions of this Agreement.

## **AGREEMENT**

Pursuant to Section 20-810(j) of the applicable subdivision design standards governing non-residential subdivisions in the unincorporated area of Douglas County, Kansas, Owner and Beneficiary hereby enter into this Agreement to protect and preserve the Conservation Values of the Protected Property as follows:

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

**2. OWNER'S RESERVED RIGHTS.** Owner reserves exclusively to Owner, and to Owner's successors and assigns, all rights, title and interests accruing from ownership of the Protected Property, including the right to engage in or permit others to engage in, uses of the Protected Property that are consistent with the purpose of this Agreement and the Site Plan. Without limiting the generality of the foregoing, and by way of example and not limitation, the following rights are hereby expressly reserved by Owner following the Effective Date of this Agreement:

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

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

**2.3 Preservation of Trees.** Cutting, pruning, and removal of trees and woody shrubs by Owner from the Protected Property is permitted, but only to the extent reasonably necessary to (i) maintain the character of the Protected Property, (ii) install and maintain fences, (iii) prevent invasion of undesirable undergrowth, (iv) prevent invasion of woody plants on the native vegetation, (v) control dead or dying trees, and (vi) clear pad sites for the construction of buildings, utility services, septic sewer facilities, paths of travel, and related support services to the extent reasonably necessary and consistent with the Site Plan, and in connection with Owner's intended use. For purposes of this Agreement, Owner's intended use of the Property, including the Protected Property, shall consist primarily of a rural retreat development, which

shall strive to maintain and enhance the existing rural setting and provide a unique setting for a variety of activities classified generally as a corporate retreat, including the construction of a lodge facility surrounded by a chapel and several cabins set amongst the trees and surrounding the pond, all as described on the Site Plan. The cutting, pruning, and removal of trees, brush, woody shrubs, and other undesirable undergrowth from the Property prior to the Effective Date of this Agreement, by Owner or Owner's predecessors, shall not be affected by this Agreement.

**2.4 Recreational and Commercial Uses.** Owner, and its licensees and invitees, may make recreational and commercial uses of the Protected Property (by way of example and not limitation, such as corporate retreats, social functions, lodging, horse riding, hiking, hunting, fishing, etc.), to the extent consistent with Owner's intended use and the Site Plan.

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

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

**2.7 Vehicles.** Motorized vehicles may be operated on the Protected Property in a manner consistent with and in furtherance of Owner's intended use and the Site Plan.

**3. PROHIBITED USES.** Except as expressly provided in this Agreement or in furtherance of Owner's intended use and the Site Plan, any activity on or use of the Protected Property inconsistent with the purpose of this Agreement and preservation of the Conservation Values of the Protected Property is prohibited. Without limiting the generality of the foregoing, Owner agrees as follows:

**3.1 Structures.** Owner shall not construct New Structures on the Protected Property, except as shown on the Site Plan, as amended from time to time. The term "New Structures" as used herein shall mean facilities in connection with a corporate retreat, including the construction of a lodge facility surrounded by a chapel and cabins set amongst the trees and surrounding the pond, together with utility services, septic sewer facilities, paths of travel, and related support services (e.g., horse barn, storage facilities, recreational facilities, etc.), but New Structures may only be constructed as shown on the Site Plan, as amended from time to time. The parties acknowledge and agree that the rural retreat development may expand from time to time, which may include the approval and construction of additional New Structures, and require a revised Site Plan.

**3.2 Minerals and Gas Development.** There shall be no exploration for, development of or extraction of minerals, gas or hydrocarbons on the surface of the Protected Property, except to the extent that the same may be accomplished while preserving the Conservation Values of the Protected Property.

**3.3 Soil, Water and Watersheds.** Any use or activity that may cause significant soil degradation or erosion, or significant pollution of any water on or about the Protected Property is prohibited. Following the Effective Date of this Agreement, there shall be no new damming, impoundment or channelization of the streams, watercourses, or watersheds on the Protected Property, except pursuant to the rights of a watershed district under K.S.A. 24-1201 et seq., as amended, and except as shown on the Site Plan. Any damming, impoundment or channelization of the streams, watercourses, or watersheds on the Protected Property existing as of the Effective Date of this Agreement shall not be affected by this Agreement.

**3.4 Topography.** There shall be no removal of topsoil, sod, sand, gravel, rock, or other materials, or any change in the topography of the Protected Property in any manner, except as reasonably necessary for the construction of New Structures, and as shown on the approved Site Plan. Notwithstanding anything herein to the contrary, the parties hereto acknowledge and agree that the roadways existing as of the Effective Date of this Agreement shall not be affected by this Agreement, and the stockpile of soil located on the Property as of the Effective Date of this Agreement shall not be affected by this Agreement and may be moved and the site graded.

**3.5 Dumping.** There shall be no dumping of trash, construction materials, or hazardous or toxic substances on the Protected Property. Nothing herein shall prohibit the collection of refuse and trash consistent with the intended use of the Protected Property, provided that all such refuse and trash shall be routinely collected, stored, and disposed of in a timely and lawful manner.

**3.6 Commercial Activities.** It is anticipated that Owner, and Owner's licensees, invitees, and tenants, will engage in commercial activities on the Protected Property, as expressly provided for in this Agreement and as shown on the Site Plan. Commercial activities other than those described herein or as allowed by the Site Plan shall not be permitted on the Protected Property.

#### **4. BENEFICIARY'S REMEDIES.**

**4.1 Notice of Violation; Corrective Action.** If Beneficiary determines that a violation of the terms of this Agreement has occurred or is threatened, Beneficiary shall give written notice to Owner of the alleged violation and demand corrective action sufficient to cure the violation.

**4.2 Injunctive Relief.** If Owner fails to cure the violation within 30 days after receipt of notice thereof from Beneficiary, or fails to commence curing such violation within the 30 day period, if such sure cannot reasonably be cured within the 30 day period, or fails to continue diligently to cure such violation until finally cured, Beneficiary may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Agreement or to enjoin the violation. Notwithstanding the 30 day notice required above, if Beneficiary reasonably determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Protected Property, Beneficiary may pursue its remedies under this Agreement, including but not limited to injunctive relief, without prior notice to Owner. The

remedies described herein shall be in addition to all remedies now or hereafter existing at law or in equity.

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

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

**6. COSTS, LIABILITIES, AND CONTROL.**

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

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

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

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

To Owner:                   Rockwall Farms, L.C.  
                                  Attn: Manager  
                                  643 Massachusetts St., Suite 300  
                                  Lawrence, KS 66044

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

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



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

**10. COVENANT RUNNING WITH THE LAND.** Subject to termination or expiration of this Agreement according to its terms, the covenants, terms, conditions, and restrictions of this Agreement shall constitute a covenant and equitable servitude running with the land and be binding upon Owner and Owner's personal representatives, heirs, successors and assigns, and inure to the benefit of Beneficiary and their respective successors and assigns. The terms "Owner" and "Beneficiary," wherever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named Owner and his personal representatives, heirs, successors, and assigns, and the above-named Beneficiary and its successors and assigns. A party's rights, obligations, and liabilities under this Agreement terminate upon transfer of the party's interest in this Agreement or Protected Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

**11. GENERAL PROVISIONS.**

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

**11.2 Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to this Agreement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Agreement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Section 7 of this Agreement.

**12. TERMINATION.** If Owner elects to abandon the permitted uses shown on the the Site Plan, terminate the approved plat of the Protected Property, and rezone the Protected Property to an agricultural use, then this Agreement shall terminate automatically, effective on the date such rezoning ordinance is published in accordance with Kansas law. In addition, if Beneficiary's Subdivision Regulations are amended in the future such that this Agreement would not have been necessary to approve a plat involving the Protected Property had the application for approval been made after the effective date of the amendment, either party hereto may terminate this Agreement upon written notice to the other. In the event of a termination of this Agreement, the parties agree to sign an instrument identifying the termination and record it with the Office of the Douglas County, Kansas Register of Deeds.

**13. EXPIRATION OF AGREEMENT.** This Agreement shall expire on the date that is 2 years after the date that the Protected Property is annexed into the jurisdictional boundaries of any municipal city.

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

**Owner:**

Rockwall Farms, L.C.,  
A Kansas limited liability company

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**Beneficiary:**

Douglas County, Kansas

By: \_\_\_\_\_  
Nancy Thellman  
Title: Chair of Board of County Commissioners

ATTEST:

APPROVED AS TO FORM:

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

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

STATE OF KANSAS        )  
  ) ss  
COUNTY OF DOUGLAS    )

BE IT REMEMBERED, that on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came \_\_\_\_\_, Manager of Rockwall Farms, L.C., a Kansas limited liability company, known to me to be the same person(s) who executed the foregoing instrument on behalf of said limited liability company, and duly acknowledged the execution of same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

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

My commission expires:  
\_\_\_\_\_

STATE OF KANSAS        )  
  ) ss  
COUNTY OF DOUGLAS    )

BE IT REMEMBERED, that on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Nancy Thellman, Chair of Board of County Commissioners of Douglas County, Kansas, known to me to be the same person who executed the foregoing instrument on behalf of Douglas County, Kansas, and duly acknowledged the execution of same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

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

My commission expires:  
  
\_\_\_\_\_

## **SCHEDULE OF EXHIBITS**

- A. Legal Description of Property
- B. Map of Protected Property (Conceptual Site Plan)
- C. Conservation Values of Protected Property

## EXHIBIT A

### Legal Description of Property

A TRACT OF LAND LOCATED IN THE WEST HALF OF SECTION 13, AND ALSO IN THE EAST HALF OF SECTION 14, BOTH IN TOWNSHIP 12 SOUTH, RANGE 18 EAST OF THE SIXTH PRINCIPAL MERIDIAN, NOW DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST LINE OF SAID SECTION 13, SAID POINT BEING 135.01 FEET NORTH OF THE SOUTHWEST CORNER OF SAID SECTION 13; THENCE NORTH  $88^{\circ} 54' 19''$  EAST, 50.00 FEET; THENCE NORTH  $01^{\circ} 53' 10''$  WEST, 1800.00 FEET; THENCE NORTH  $87^{\circ} 51' 27''$  EAST, 1836.67 FEET; THENCE NORTH  $02^{\circ} 08' 33''$  WEST, 1235.56 FEET; THENCE SOUTH  $87^{\circ} 51' 27''$  WEST, 1881.14 FEET TO A POINT ON THE WEST LINE OF SAID SECTION 13; THENCE SOUTH  $01^{\circ} 53' 10''$  EAST ALONG SAID WEST LINE, 3034.66 FEET TO THE POINT OF BEGINNING.

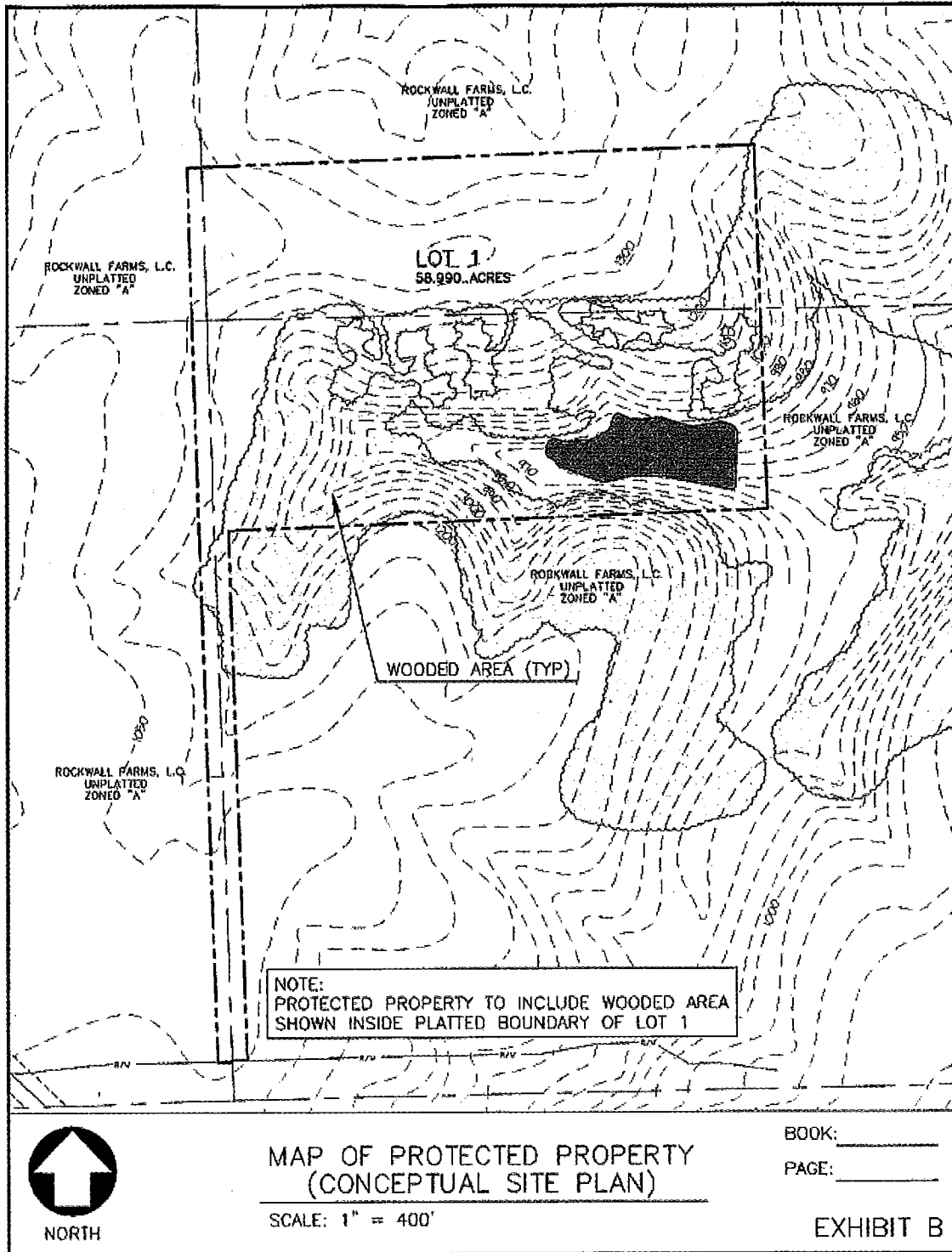
ALSO:

BEGINNING AT A POINT ON THE EAST LINE OF SAID SECTION 14, SAID POINT BEING 130.00 FEET NORTH OF THE SOUTHEAST CORNER OF SAID SECTION 14; THENCE SOUTH  $88^{\circ} 16' 51''$  WEST, 50.00 FEET; THENCE NORTH  $01^{\circ} 53' 10''$  WEST, 3038.30 FEET; THENCE NORTH  $87^{\circ} 51' 27''$  EAST, 50.00 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 14; THENCE SOUTH  $01^{\circ} 53' 10''$  EAST ALONG SAID EAST LINE, 3039.67 FEET TO THE POINT OF BEGINNING.

THE ABOVE CONTAINS 58.990 ACRES, MORE OR LESS, ALL IN DOUGLAS COUNTY, KANSAS

# EXHIBIT B

## Map of Protected Property (Conceptual Site Plan)



## **EXHIBIT C**

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

Conservation Values on the Protected Property are described as follows:

1. Stands of Mature Trees
2. Individually Significant Trees

November 2, 2009

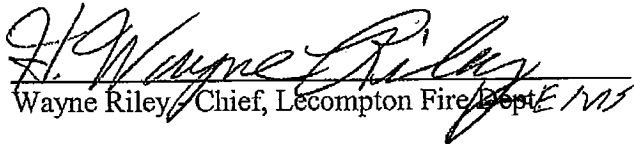
H. Wayne Riley, Chief  
Lecompton Township Fire Dept. *FIRE/EMS*  
PO Box 154  
Lecompton KS 66050-0154

RE: Dry hydrant locations at Rockwall Farms

Dear Mr. Riley,

This letter will confirm our discussions regarding the placement and use of dry hydrants in the above-described project. We have agreed that the dry hydrant(s) will be shown on the site plan at a location subject to your approval in writing.

Your signature below indicates that you agree with the above statement.

  
Wayne Riley, Chief, Lecompton Fire Dept. *EMS*

Thank you for your willingness to work with us in this matter.

Sincerely,



Brian Kemp



PC Minutes 10/26/09

**ITEM NO. 2 PRELIMINARY PLAT INCLUDING VARIANCE; ROCKWALL FARMS ADDITION; 58.99 ACRES; N 1800 RD & E 700 RD (MKM)**

**PP-8-4-09:** Consider a 58.99 acre, 1 lot Preliminary Plat of Rockwall Farms Addition, located near the intersection of N 1800 Rd & E 700 Rd and a variance from Section 20-810(j)(1) of the Subdivision Regulations regarding the protection measures for environmental sensitive areas and natural areas. Submitted by Paul Werner Architects, for Rockwall Farms L. C., property owner of record.

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

Commissioner Harris asked Ms. Miller to address the League of Women Voters letter concerns.

Ms. Miller said the access would be determined by the Director of the Douglas County Public Works so that would not something that Planning or the County Commission would determine. The County Zoning Regulations say that the applicant shall describe the proposed use of the site and calculate the parking and the uses known at that time they would assume the most intensive use. A condition of approval for the County of Commissioners includes a list of things that staff has to look at and one of those is that the proposed use is a permitted use in the district and so the applicant is required to let staff know the use on the site plan.

**APPLICANT PRESENTATION**

Mr. Matthew Gough, Barber Emerson Law Firm, said Ms. Miller did a great job at presenting the item. He went over some of the concerns raised by the League of Women Voters letter. He said references to conditional zoning have already been addressed by Planning Commission when they approved the county code text amendments. He stated concerns about where the access agreement will be are mitigated greatly by the fact that the subject property is owned by the same owner as adjacent parcels. He said the applicant is just carving out a 59 acre flag lot surrounded by many more acres that the applicant owns so there are no concerns about neighbors having notice. He stated also the reason why an easement is recorded is to provide record notice to anyone who would buy the adjacent lot. He said the site plan is coming and is something that will describe the uses and layout where the buildings will be and will provide a great opportunity to look at the specific use.

**PUBLIC HEARING**

No public comment.

**ACTION TAKEN**

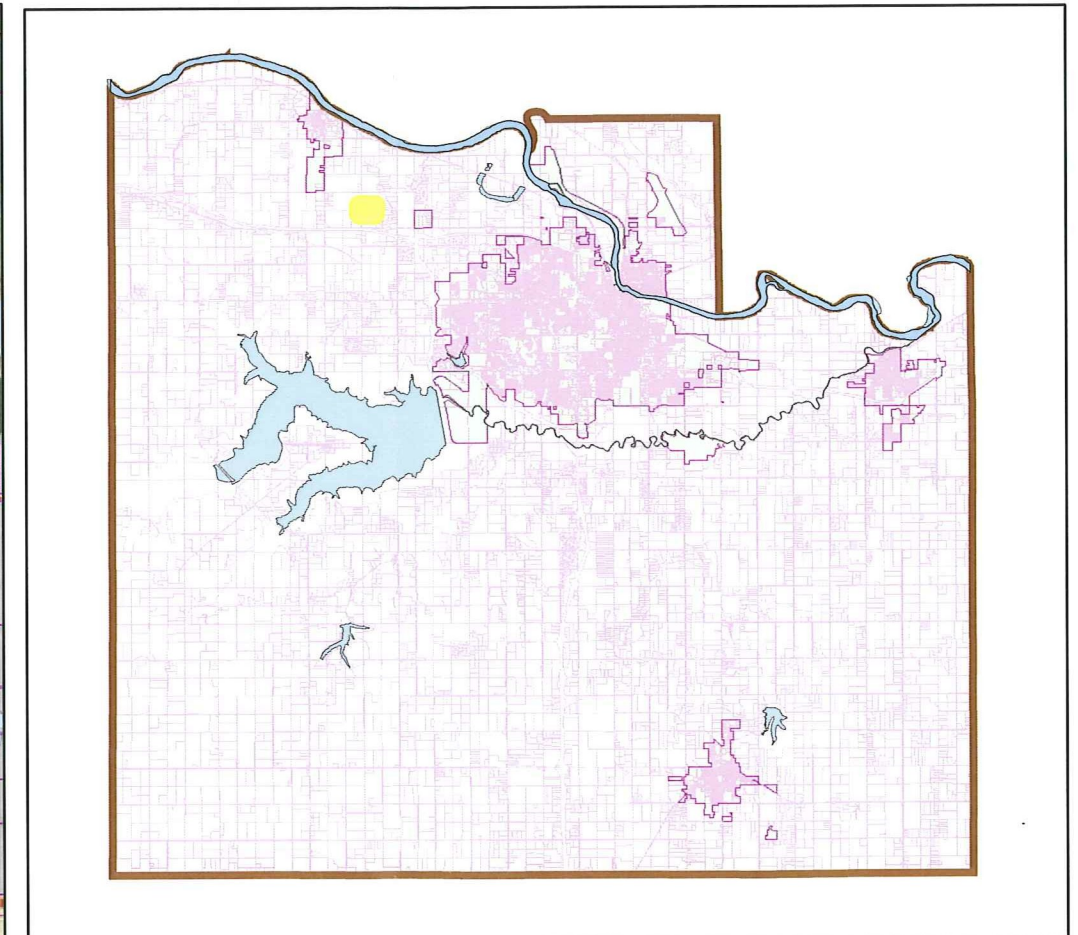
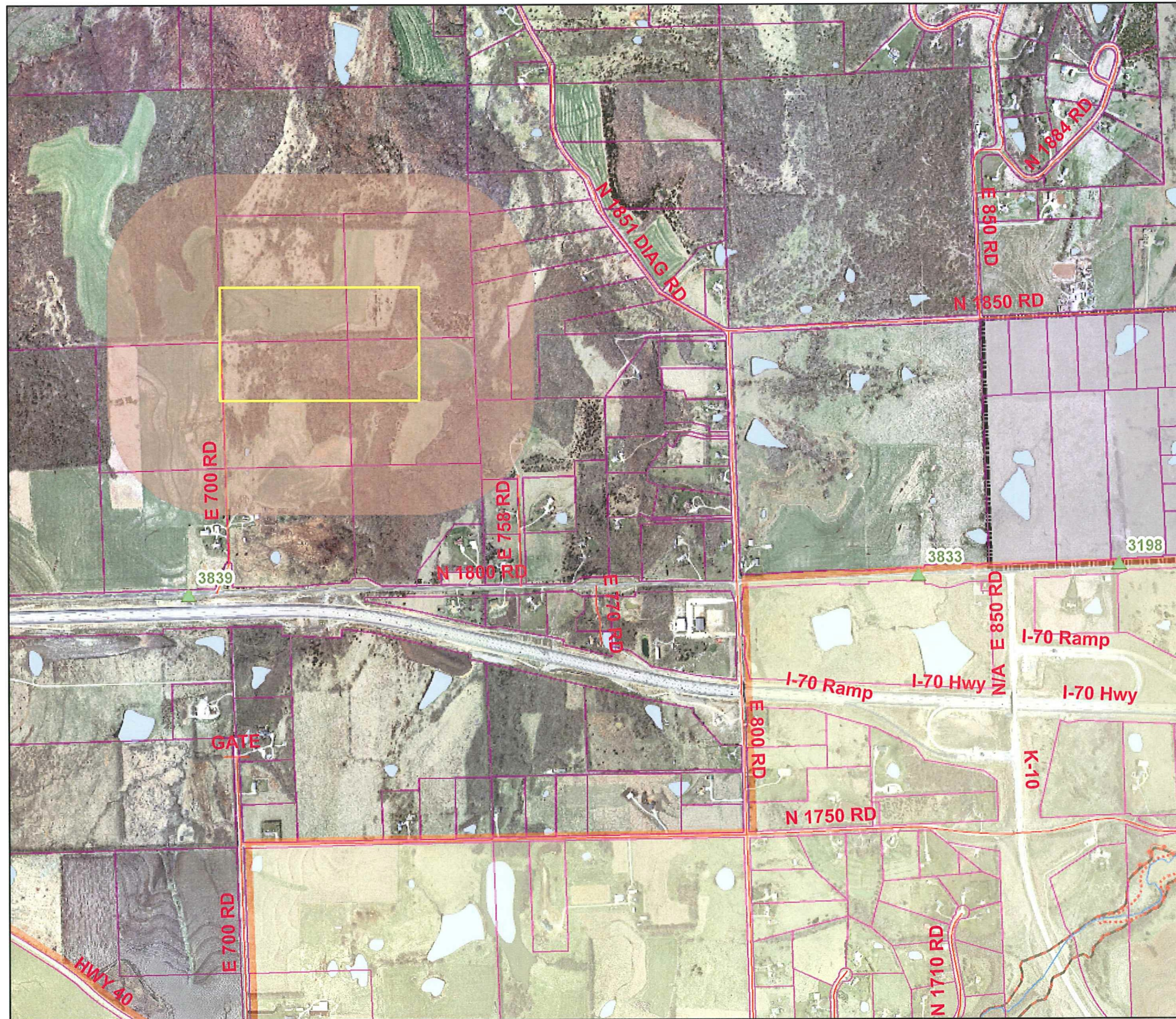
Motioned by Commissioner Carter, seconded by Commissioner Finkeldej, to approve the Preliminary Plat of the Rockwall Farms Addition and referring it to the Board of County Commissioners for consideration of dedication of easements and rights-of-way subject to the following conditions of approval:

1. The applicant shall execute a temporary set-aside agreement for the environmentally sensitive areas designated for protection. The Book and Page Number of the recorded agreement shall be noted on the face of the final plat.




2. Evidence shall be submitted to the planning office showing that the applicable Fire Department has approved the dry hydrant and its location as being adequate to support firefighting needs prior to the recording of the final plat,
3. The plat shall be revised with the following changes:
  - a. Note 10 revised to read: "An access easement providing public access to N 1800 Road in a location approved by the County Engineer shall be dedicated by separate instrument and the Book and Page Number noted on the final plat."
  - b. Note 11 revised to read: "An easement containing the off-site sewage management system and its connection to the platted lot shall be dedicated by separate instrument. The Book and Page Number of the recorded easement shall be noted on the face of the final plat."
  - c. The following note shall be added regarding the use of a lagoon as a sewage management system: "In the event that a lagoon is used for sanitary waste management, the system shall be designed to allow for future connection to a public sewer system and a copy of the Kansas Department of Health and Environment approval documentation shall be provided the Planning Office. In addition, the easement shall note the appropriate entity for maintenance of a future lagoon".
  - d. A note shall be added which states that direct public access from Lot 1 to N 1800 Road is not permitted. "Public access to Lot 1 shall be from the access easement described in Note 10."

Unanimously approved 8-0. (Commissioner Dominguez not present for the vote.)

# PP-8-4-09



**PP-8-4-09**

-  PP-8-4-09
-  uga
-  city\_limits09

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.



**DOUGLAS COUNTY ADMINISTRATIVE SERVICES**

**Division of Purchasing**

1100 Massachusetts Street  
Lawrence, KS 66044-3064  
(785) 832-5286 Fax (785) 838-2480  
www.douglas-county.com

MEMO TO: The Board of County Commissioners  
Craig Weinaug, County Administrator

FROM: Jackie Waggoner, Purchasing Director  
Division of Purchasing

SUBJECT: Consider Fuel Options

DATE: November 18, 2009

The County has outsourced their fuel for years. Our contract is established as a fixed mark-up over the daily OPIS (Oil Price Index Survey). The total cost per gallon over OPIS represents the supplier's freight, applicable taxes, and their fixed per gallon mark-up.

Our current contract with Capital City Oil was established in December 2006 with the option to renew up to four additional years. As we were looking at renewing our contract last year for the third year, our contractor, Capital City Oil, asked us to consider participating in a fixed price contract for both diesel and unleaded fuel. Fixed price contracts provide a way to budget our fuel cost and statistically offers cost savings. We received approval to participate on a trial basis with a report to the Board at the end of the trial. We committed approximately 50% of both fuel types (38,600 gallons diesel and 48,720 gallons unleaded).

For your review, I have attached a summary of the past ten months which reflects the cost difference between the fixed price and the OPIS contract (both include freight and fees but excludes taxes). As you can see, the unleaded fixed contract price produced a cost savings over the OPIS contract. Below identifies our cost based on the average cost difference and our volumes:

Diesel:	average difference of \$0.490 x 38,600 gallons	= \$18,914
Unleaded:	average difference of <b>-\$0.172</b> x 48,720 gallons	= <b>\$ 8,380</b>
<b>AVERAGE COST DIFFERENCE</b>		<b>\$10,534</b>

Under a fixed price approach, Capital City would purchase fuel in December 2009 based on volumes from the participating agencies. The County could commit to a specific number of gallons desired at the prices offered per quarter/trimester. If we participate, next year we would again bring information back to the Board identifying the results for the purpose of discussing future participation.

Keith Browning, Mike Perkins, and I will be available at the commission meeting to answer any questions you may have.

**SUGGESTED MOTION:** The Board of County Commissions provides staff direction as to whether the County wants to participate in a fixed price contract for diesel and/or unleaded fuel.

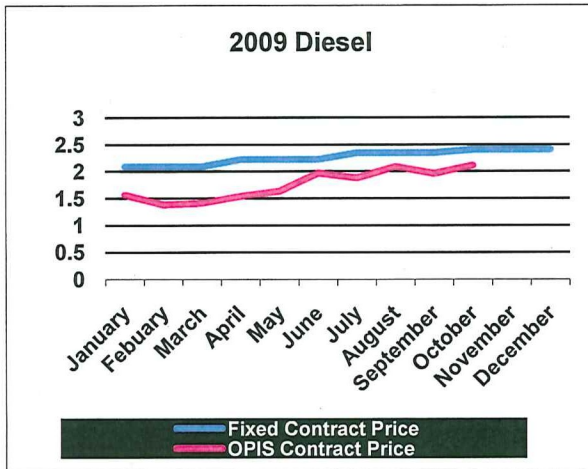
### Diesel - 2009

Month	Fixed Contract Price	OPIS Contract Price	Difference
January	2.092	1.564	0.528
February	2.092	1.379	0.713
March	2.092	1.411	0.681
April	2.229	1.541	0.688
May	2.229	1.634	0.595
June	2.229	1.970	0.259
July	2.352	1.875	0.477
August	2.352	2.085	0.267
September	2.352	1.959	0.393
October	2.407	2.112	0.295
November	2.407		
December	2.407		
Average			0.490

### Unleaded - 2009

Month	Fixed Contract Price	OPIS Contract Price	Difference
January	1.428	1.317	0.111
February	1.428	1.331	0.097
March	1.428	1.448	-0.02
April	1.428	1.478	-0.05
May	1.638	1.831	-0.193
June	1.638	2.096	-0.458
July	1.638	1.904	-0.266
August	1.638	2.080	-0.442
September	1.676	1.818	-0.142
October	1.676	2.031	-0.355
November	1.676		
December	1.676		
Average			-0.172

#### 2009 Diesel



#### 2009 Unleaded

