

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

WEDNESDAY, JANUARY 13, 2010

No meeting at 4:00 p.m.

6:35 p.m. – County Commission Meeting

-Convene

-Consider approval of the minutes of November 18, 2009

CONSENT AGENDA

- (1)(a) Consider approval of Commission Orders; and
- (b) Consider approval of amendment to the Douglas County Purchasing Policy (Pam Madl)

REGULAR AGENDA

- (2) Consider approval of allocating the Douglas County Recovery Zone Facility Bonds to the City of Lawrence, Kansas for the purpose of issuing Recovery Zone Facility Bonds to Packerware Corporation (Berry Plastics) (Diane Stoddard)
- (3) Consider approval of resolution creating road right-of-way along N 800 Road alignment from E 1050 Road to 500 feet west of E 1050 Road (Keith Browning)
- (4) Review and work session on Access Management Standards (Linda Finger/Keith Browning)
- (5) Other Business
 - (a) Consider approval of Accounts Payable (if necessary)
 - (b) Appointments
 - (c) Miscellaneous
 - (d) Public Comment
- (6) Adjourn

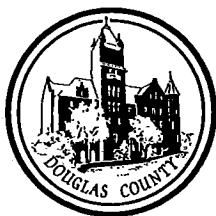
WEDNESDAY, JANUARY 20, 2010

WEDNESDAY, JANUARY 27, 2010

FRIDAY, JANUARY 29, 2010

-6:00-9:00 Lawrence Chamber of Commerce Annual Meeting at the Lawrence Holiday Inn (two or more Commissioners may attend, no Commission meeting will be held.)

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.



DOUGLAS COUNTY ADMINISTRATIVE SERVICES

1100 Massachusetts Street
Lawrence, KS 66044-3064
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Pamela J. Madl
Assistant County Administrator

MEMO TO: Board of County Commissioners
FROM: Pam Madl *[Signature]*
SUBJECT: Amendment to the Douglas County Purchasing Policy
DATE: January 8, 2010

Keith Browning and I are recommending that an amendment be included in the Douglas County Purchasing Policy to accommodate his need to contract for engineering services on some CIP projects. For some unknown reason, we eliminated this section when we revamped the policy a couple of years ago, so really all we are doing is adding back in.

Essentially this change allows Keith to select a few firms with which to negotiate for engineering services on road and bridge projects that have been approved within the Capital Improvement Plan. This avoids him having to spend weeks advertising and reviewing as many as 30-40 bids or proposals each time. As you can see from the recommended text, the approval for the negotiations and final contracts still rests with the Board. The highlighted text reflects the recommended changes.

3.5 PURCHASES OF SERVICES

C. Board of County Commissioners Approval:

1. Approval from the Board of County Commissioners is required when the purchase price of a service is greater than \$20,000. Cooperative or State Contracts, Sole Source, or Formal Bids may be utilized for such purchase.

2. For engineering services greater than \$20,000, but less than \$100,000, and are part of an approved CIP project, the department head may invite proposals from at least three firms. Pursuant to an interview of at least one firm, the department head shall request approval from the County Commissioners to negotiate a final contract and fee for the professional service; final approval of the contract must be requested from the Board of County Commissioners unless such approval authority has otherwise delegated by the Board. Engineering services greater than \$100,000 will be subject to Sections 3.11 and/or Section 3.8.

3.11 FORMAL BIDS/PROPOSALS.

A. **Notice to Commissioners.** Written notice of the intent to issue a formal request for bid or proposals must be provided to Commissioners. For purchases in which the bid is expected to exceed \$100,000, action is required as follows:

- For projects approved in the Capital Improvement Plan, written notification of the intention to solicit bids will be provided to the Board of County Commissioners prior to publication.
- For purchases or projects NOT in the CIP, commission approval is required prior to publication for soliciting bids.

(b)

- B. Publication.** Except as provided in Sections 3.5 and 3.7, all requests for formal bids/proposals shall be published at least two (2) times in a two (2) week period in the newspaper designated by the Board of County Commissioners and shall be placed on the County web site during the period of solicitation. The publication shall include the specifications (or procedures for obtaining specifications), deadline for submission, the place and manner of submission, and the date, time and place of opening.
- C. Request for Bids/Proposals.** Except as provided in Sections 3.5 and 3.7, all requests for formal bids/proposals may be handled through an on-line service. Qualified vendors may be required to receive notification through such service. Notice shall include the specifications (or procedures for obtaining specifications), deadline for submission, the place and manner of submission, and the date, time and place of opening.

We will both be at the meeting to answer any questions you might have, or feel free to contact either one of us prior to that time. Thank you for your consideration.

pjm

Memorandum City of Lawrence City Manager's Office

TO: Craig Weinaug, County Administrator
CC: David Corliss, City Manager
Diane Stoddard, Assistant City Manager
FROM: Roger Zalneraitis, Economic Development Coordinator/Planner
DATE: January 4, 2010
RE: Berry Plastics Application for Recovery Zone Facility Bonds

Berry Plastics has begun the process of locating a site to construct a new distribution center in Lawrence, Kansas. The need for a new distribution center is the result of unexpectedly large growth that occurred at their Lawrence manufacturing center due to the new thermoform line expansion that they undertook in early 2006. At the time, they were expecting the new product line to employ up to approximately 155 people. The expansion instead has created 500 new jobs for the community, more than three times the expected total.

Currently Berry's storage is logistically challenging. They are hoping to consolidate into a single storage space by constructing a new distribution center. This new facility would not in itself employ a large number of new people (11 additional jobs to Douglas County and 44 retained distribution jobs, all of which would pay \$14.75 per hour, about \$30,680 per year), but it is the result of the large growth that has already occurred and may encourage additional employment growth in the future.

At this time, Berry is seeking Facility Bonds in order to lower their financing costs. On December 15th, Berry applied for State Facility Bonds to be allocated to Lawrence. Berry is now seeking the allocation of Facility Bonds from Douglas County to Lawrence. They are requesting all of the local Facility Bonds be allocated to the City. Berry would like to use state and local Facility Bonds so that the project is 100% financed through these bonds. This will enable them to get tax-exempt interest financing on the project and thus save on interest payments. Berry intends to locate the facility in Lawrence, and while they are close to finalizing a site they have not selected one yet. They have begun seeking the Facility Bonds in order to ensure that the bond issuance can occur in a timely fashion to support their site preparation and development.

Berry is requesting that the County Facility Bonds be allocated to Lawrence for two reasons. First, there is likely to be an abatement request. As per the County policy on Facility Bonds (passed in August of 2009), any Facility Bond issuance that includes an abatement request must be allocated to a City. Second, Berry is anticipating that some of the Kansas Facility Bonds will be issued to the City as well. In order to ensure a single IRB issuance and thus keep fees low, it makes sense that the City combine the issuance of both the state and local Facility Bonds into one.

There have been other requests for the Recovery Zone Facility Bonds; however, the requests that have been received have either been ineligible (non-profits seeking the bonds), untimely (issuance of the bonds would likely occur after the County's possession of the bonds expire in July), too small (requests of less than \$1 million would not garner enough interest savings to pay the issuance fees), or have misunderstood the nature of the bonds (some applicants thought that these bonds were either grants or bonds that could fill financing gaps). Staff members at the City of Lawrence and at the Chamber are not aware of any other basic industry firms that are interested in, or contemplating applying for, these bonds. Additionally, as a reminder, the bonds are allocated from the County to the City, Berry would need to issue the bonds no more than 90 days from the date of the allocation (estimated to be April 13th), or the bonds revert back to the County.

For these reasons, we are requesting that the County allocate the County Facility Bonds to the City of Lawrence. The bonds would only be issued when Berry has met all City requirements for an IRB issuance as well as any public process associated with a tax abatement, should they request an abatement. Also, we recognize that any bond issuance would have to occur by mid-April, or the bonds will automatically revert to the County. It should be noted that if any State Facility Bonds are allocated to Lawrence for this project, they are likely to have a similar restriction.



City of Lawrence KANSAS

DAVID L. CORLISS
CITY MANAGER

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CITY COMMISSION
MAYOR
ROBERT CHESTNUT

COMMISSIONERS
MIKE AMYX
ARON E. CROMWELL
LANCE M. JOHNSON
MICHAEL DEVER

January 6, 2010

The Board of County Commissioners
1100 Massachusetts Street
Lawrence, KS 66044

Dear County Commissioners:

The City of Lawrence has been notified that Berry Plastics has submitted a request that the Douglas County Recovery Zone Facility Bonds be allocated to Lawrence, Kansas. The City recognizes that Berry Plastics would like to utilize these Facility Bonds to finance the construction of a new distribution center within Lawrence. We understand that a site has not yet been finalized.

Lawrence, Kansas, is legally entitled to receive an allocation of Recovery Zone Facility Bonds from Douglas County, as it is a sub-jurisdiction within the County and has been designated by the City Commission as a "Recovery Zone" eligible for utilizing these bonds. The City is willing to issue any Facility Bonds it is allocated for the purpose of financing Berry Plastic's new facility, provided that Berry Plastics meets all requirements for the City to issue the bonds. This includes following all procedures and processes for IRB issuance as well as any abatements they may seek.

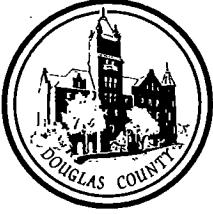
We would appreciate Douglas County's cooperation in assisting this economic development project in this next step. Thank you for your consideration.

Sincerely,

Robert Chestnut
Mayor

c: City Commission
David L. Corliss, City Manager
Craig Weinaug, County Administrator





DOUGLAS COUNTY PUBLIC WORKS

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

MEMORANDUM

To : Board of County Commissioners

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

Date : January 4, 2010

Re : Consider approval of resolution creating road right-of-way
N 800 Road west of E 1050 Road

On November 11, 2009, property owners Robert and Julie DeYoung and their contractor, Larry Wedman, appeared before the BOCC to request creation of road right-of-way along the N 800 Road alignment west of E 1050 Road. The purpose of the right-of-way creation is to allow another buildable lot for the 160-acre parcel in the southwest quadrant of the N 800 Road/E 1050 Road intersection. The BOCC conceptually approved the request. The exact configuration of the proposed right-of-way was not determined at that time.

The proposed right-of-way configuration has been determined, and is acceptable to this department. The 70'-wide right-of-way will be situated all on the south side of the section line (on DeYoungs' property) except for a 50'x 50' triangle north of the section line near the N 800 Road/E 1050 Road intersection. The proposed right-of-way extends 500' west of E 1050 Road. The property owners north of the section line, William & Lucille Rice, have indicated a willingness to grant the required right-of-way. However, both the DeYoung's and the Rice's should provide an instrument of conveyance before the new right-of-way is officially created.

In accordance with Home Rule Resolution No. 07-4-1, notice of the proposed road creation has been mailed to owners of three properties adjoining the proposed right-of-way. Those owners include the DeYoung's, the Rice's, and Barry & Caroline Lee, whose property is immediately east of the DeYoung's.

The attached resolution conditions the creation of said right-of-way on receiving an instrument of conveyance from the DeYoung's and the Rice's.

Action Required: Consider approval of the attached resolution conditionally creating 70'-wide road right-of-way along the N 800 Road alignment from E 1050 Road to 500 feet west of E 1050 Road.

RESOLUTION NO. 10- _____

A RESOLUTION EXTENDING
PERMANENT ROAD RECORD NO. 355
(N800 ROAD)

WHEREAS, pursuant to Charter Resolution 07-4-1, the Board of County Commissioners of Douglas County may lay out, alter, relocate, widen, extend, or vacate any road as the board determines appropriate and in the public interest; and

WHEREAS, the Board has received a request to extend Permanent Road Record No. 355; and

WHEREAS all permanent road easement required for extending Permanent Road Record No. 355 has been or will be donated to Douglas County; and

WHEREAS, notice of the proposed road extension was sent by first class mail to the owner of each property adjoining the proposed extension of the road; and

WHEREAS, the Board has determined the extension of said road is appropriate and in the public interest; and

WHEREAS, the county surveyor has prepared a plat indicating the location of said road; and

WHEREAS, the permanent easement required for the extension of said road is described as follows:

proposed extension of Permanent Road Record No. 355 (N800 Rd), more particularly described as follows:

tract 1: beginning at the northeast corner of the Northwest Quarter (NW ¼) of Section 9, Township 14 South, Range 19 East of the Sixth Principal Meridian in Douglas County, Kansas, thence west on the north line of said Northwest Quarter (NW ¼) a distance of 500 feet, thence south a distance of 70 feet, thence east a distance of 500 feet to the east line of said Northwest Quarter (NW ¼), thence north a distance of 70 feet to the point of beginning; also,

tract 2: beginning at the southeast corner of the Southwest Quarter (SW ¼) of Section 4, Township 14 South, Range 19 East of the Sixth Principal Meridian in Douglas County, Kansas, thence west on the south line of said Southwest Quarter (SW ¼) a distance of 75 feet, thence northeast a distance of 70.71 feet, more or less, to the west right-of-way line of Permanent Road Record No. 316/415 and a point 50 feet north and 25 feet west of the southeast corner of the Southwest Quarter (SW ¼), thence east a distance of 25 feet to the east

line of the Southwest Quarter (SW ¼), thence south on the east line of said Southwest Quarter (SW ¼) a distance of 50 feet to the point of beginning.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Douglas County, Kansas, that the above described extension of Permanent Road Record No. 355 (N800 Road) is established contingent on proper instruments of conveyance for permanent road easement being executed and delivered to Douglas County and recorded in the office of the Register of Deeds; and

BE IT FURTHER RESOLVED the road shall be placed under the maintenance jurisdiction of Willow Springs Township upon completion of construction.

ADOPTED this _____ day of _____, 2010.

BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, KANSAS

FOR INFORMATION ONLY

Nancy Thellman, Chair

ATTEST:

Jim Flory, Member

Jamie Shew, County Clerk

Mike Gaughan, Member

Memorandum to the Board of County Commissioners

SUBJECT: Access Management Standards: 3rd year staff review of regulations & implementation
DATE: December 9, 2009
FROM: Linda Finger, Keith Browning, and Evan Ice

Overview: The Access Management Regulations were adopted in October 2006 as the first part of a 3-prong revision to land development regulations in Douglas County. The two other land use regulations were adopted and took effect December 31, 2006. Revisions were made to the Zoning Regulations (primarily to the minimum parcel and frontage requirements) and to the Subdivision Regulations, (to the exemptions and procedures for land division for residential development). This set of regulatory changes and revisions to planning tools reflected the philosophies of the Board of County Commissioners and the goals in the Comprehensive Land Use Plan, Horizon 2020.

An on-going step in the land use planning process is review of the effectiveness of regulations and the administrative procedures used for implementation. Immediately after adoption of regulations that bring sweeping changes to development procedures, in 2007 and early 2008, staff monitored the administration and implementation of the new regulations. When amendments were necessary to 'tweak' the regulations, they were brought to the Commission for initiation and were adopted.

Regulatory History of Access Management Standards (AMS) & Amendments:

- ❖ Access Management Standards were adopted and amended into Chapter IX, Article 5 of the County Code by Home Rule (HR) Resolution No. 06-10-07
- ❖ AMS were amended to add a reference map to the standards until the Future Thoroughfares Map in Horizon 2020 was amended to reflect county road classifications, HR Resolution No. 07-1-1
- ❖ AMS were amended to authorize County Engineer to grant exceptions to strict compliance with minimum parcel frontage when an executed Access Restriction Agreement would allow a division with less than minimum frontage, based on control of required frontage being under the same ownership as the land division, HR Resolution No. 08-4-1.

Access Management Standards work in conjunction with the Exemptions & Vested Rights Sections¹ in the City-County Subdivision Regulations and with the administrative residential division processes [Cluster Development and Large Parcel Property Division within Urban Growth Areas² and Original Tract/Parent Parcel in the rural areas] to provide a minimum width at public road right-of-way for property divisions created after October 25, 2006. Divisions created prior to this date, and consistent with the then applicable Subdivision Regulations or County Home Rule Resolutions, were 'grandfathered' at the time of adoption of the Access Management Standards. *(In the Subdivision Regulations, land divisions of record at the Register of Deeds office that pre-date 12-31-06 are considered to have a "vested right" to a residential building permit if the property has no existing home on it.)*

The Access Management Standards apply a sliding scale of minimum road frontage requirements as shown in the following table, which is a summary of Section 9-501 of the County Code:

Road Classification	Road frontage	Road Classification	Road frontage
Local	250'	Major Collector, 55 mph	660'
Minor Collector	330'	Minor Arterial	660'
Major Collector, < 55 mph	500'	Principal Arterial	1320'
Freeway	Subject to KDOT access standards		

¹ Section 11-101(d) & (e) in County Code and Section 20-801(d) & (e) in the Lawrence City Code.

² Lawrence and Baldwin City are the only cities in the County that have adopted Urban Growth Areas.

The Access Management Standards identify and apply specific standards to three categories of land divisions:

- ❖ Divisions that occurred prior to or on August 17, 1994,
- ❖ Divisions that occurred after August 17, 1994 and on or before October 25, 2006, and
- ❖ Divisions that occur after October 25, 2006, the adoption date of the Access Management Standards.

The standards that apply to each category and the relevant section of the Access Management Standards are summarized in the table on the following pages.

Category of Properties

Specific Sections of Access Mgmt Standards that apply

Divisions that occurred on or before August 17, 1994:

- ❖ If the property takes access on to a public road classified as "Local" or "Minor Collector":
 - The frontage is grandfathered if the division qualified for an entrance permit when it was created. An entrance permit may be granted without further proceedings.
- ❖ If the property takes access on to a public road classified as anything other than "Local" or "Minor Collector":
 - If the division's frontage meets the minimum requirements in section 9-501, an entrance permit may be granted without further proceedings.
 - If the division's frontage does not meet the minimum requirements in section 9-501, an entrance permit may be issued only after following the process in section 9-512.

9-501. The Entrance Spacing Standards for Entrance Permits for platted and unplatted property onto public roads in the unincorporated areas of Douglas County (regardless of which governmental entity maintains the public road) are hereby adopted as follows:

<i>Access Class</i>	<i>(feet) Minimum Frontage</i>	<i>(feet) Desirable Entrance Spacing</i>	<i>(feet) Corner Clearance From Intersection</i>
<i>Freeway: Subject to KDOT policy</i>			
<i>Principal Arterial:*</i>	<i>1320</i>	<i>1320</i>	<i>820</i>
<i>Minor Arterial:</i>	<i>660</i>	<i>660</i>	<i>600</i>
<i>Major Collector: Posted or design speed (as determined by County Engineer)</i>			
<i>55 mph</i>	<i>660</i>	<i>660</i>	<i>600</i>
<i>less than 55 mph</i>	<i>500</i>	<i>500</i>	<i>450</i>
<i>Minor Collector:</i>	<i>330</i>	<i>330</i>	<i>250</i>
<i>Local:</i>	<i>250</i>	<i>250</i>	<i>200</i>
<i>*Access to state and federal highways subject to KDOT policy. Some Entrance Spacing Standards concepts are shown on Figure 9-501.</i>			

Notwithstanding the foregoing, no entrance permit other than a field permit may be issued for entrance onto a public road that is then designated a "minimum maintenance road" pursuant to K.S.A. 68-5,102, as amended.

Divisions that occurred after August 17, 1994 and on or before October 25, 2006:

- ❖ If the property takes access on to a public road classified as "Local" or "Minor Collector":

9-502. No property for which a deed, an affidavit of equitable interest, or plat of survey is recorded with the Office of the Douglas County Register of Deeds on or before October 25, 2006, which instrument identifies the property as a

Category of Properties

- If the property takes access on to a public road classified as "Local" or "Minor Collector", and any of the criteria in section 9-502 is satisfied, an entrance permit may be issued without further proceedings.
 - If none of the criteria in section 9-502 are met, the property is not eligible to enter the section 9-512 process and an entrance permit will not be issued. *[As currently written, it is possible for a property on a Local or Minor Collector Road to enter the 9-512 process and obtain an entrance permit, without having met one of the 9-502 criteria. This is not consistent with the former County Commission's discussion of what they intended in revising section 9-502 prior to adoption. The proposed AMS amendments address this inconsistency.]*
- ❖ If the property takes access on to a public road classified as anything other than "Local" or "Minor Collector":
- If the division's frontage meets the minimum frontage requirements in section 9-501, an entrance permit may be granted without further proceedings.
 - If the division's frontage does not meet the minimum frontage requirements specified in section 9-501, then the process outlined in section 9-512 must be followed to obtain an entrance permit. *[As currently written, it is possible to enter the 9-512 process and obtain an entrance permit, without having met any minimum frontage requirement. This is not consistent with the former County Commission's discussion of what they intended in revising section 9-502 prior to adoption. The proposed AMS amendments address this inconsistency.]*

Specific Sections of Access Mgmt Standards that apply

- separate tract of real estate, shall be denied an entrance permit onto a public road classified as Minor Collector or Local for purposes of construction of a residential dwelling solely for the reason that the property does not have sufficient frontage along a public road if the property has not been further divided since the effective date of Section 9-501 and any of the following apply with respect to the subject property:*
- a. *It has 250 feet of frontage along a public road right-of-way and the dwelling or mobile home gains its primary access directly to and from an existing public roadway within such public road right-of-way; or*
 - b. *It has 250 feet of frontage along a public road right-of-way and the dwelling or mobile home will gain its primary access directly to and from a public roadway to be constructed within such public road right-of-way if: (1) engineered plans for construction or improvement of the public roadway to current county standards have been approved by the County Engineer, and (2) a sufficient bond or letter of credit, in an amount determined by the County Engineer, is provided to ensure construction or improvement of the public roadway to current County standards; or*
 - c. *It has access to a public road by virtue of a private drive approved by the Board prior to the effective date of this Article; or*
 - d. *Is located within a subdivision which has been platted as provided in the Subdivision Regulations for the unincorporated area of Douglas County; or*
 - e. *A deed or an affidavit of equitable interest for the property was recorded with the Register of Deeds on or before August 17, 1994 describing the property as a single tract under one ownership; or*
 - f. *A variance of the above requirements is granted by the Board of Douglas County Commissioners, based upon a finding that all of the following conditions have been met:*
 - (1) *That the variance requested arises from such condition which is unique and is created by this Article and not by an action or actions of the property owner;*
 - (2) *That the granting of this variance will not adversely affect the rights of adjacent property owners or residents;*
 - (3) *That the strict application of the provisions of this Article will constitute unnecessary hardships upon the property owner represented in the application;*
 - (4) *That the variance desired will not adversely affect the public health, safety, morals, order, convenience, or general welfare; and*
 - (5) *That granting the variance desired will not be opposed to the general spirit and intent of this Article.*

The provisions of this Section shall not apply to property divided after the effective date of this Article.

Category of Properties

Specific Sections of Access Mgmt Standards that apply

Divisions that occurred after October 25, 2006:

- ❖ The road classification is not a distinguishing factor. All divisions must meet the frontage requirements specified in 9-501 to obtain an entrance permit. These divisions are not eligible for the 9-512 process.

9-512 *If any owner of a tract of property for which a deed, affidavit of equitable interest, or plat of survey is recorded with the Office of the Douglas County Register of Deeds on or before October 25, 2006, which instrument identifies the property as a separate tract of real estate and which separate tract of real estate has not been subsequently divided since the effective date of Section 9-501, is denied an entrance permit onto a public road for purposes of construction of a residential dwelling solely for the reason that the property does not have sufficient frontage along a public road, the owner may file an application with the Douglas County Department of Public Works for a variance to the strict application of this Article. Such request shall provide justification for the requested variance and shall be heard by the designee of the Board of County Commissioners within a reasonable time after the filing of the application. In addition to other relevant issues, the person hearing the owner's application may consider and require alternatives to the requested entrance permit so as to reduce the number of entrances onto the public road, including but not limited to requiring shared entrances, frontage roads, obtaining an entrance from a different road, or combining adjacent tracts of property under the same ownership or control into one tract. In reaching a decision on the owner's application, the designee of the Board of County Commissioners shall consider the economic impact of the denial of an entrance permit or the requirement of an alternative entrance, the extent to which the denial or alternative requirement interferes with the owner's reasonable investment-backed expectations, and the adverse impacts of the proposed access to the safety of the public road. The designee's decision shall be in writing and shall be promptly conveyed to the owner. Any owner adversely affected by the decision of the designee of the Board of County Commissioners may appeal the decision to the Board of County Commissioners by written notice filed with the Board within 30 days of the written decision of the designee, specifically stating the basis for the appeal and the requested relief. The Board of County Commissioners may affirm, reverse, or affirm in part and reverse in part the decision of the designee, or may remand the application back to the designee for further consideration in accordance with instructions provided by the Board.*

Implementation Summary:

In the past year, staff has had discussions with multiple individuals concerning landlocked properties, properties with less than minimum frontage, and properties with frontage onto a private road/private drive that take access from a public road. As part of the ensuing discussions regarding these properties between staff and Evan Ice, County Counselor, an issue has been identified with the Access Management Standards. There is a clarification needed for implementation of the process in section 9-512 by the County Engineer and there is a discrepancy in the written content and the original intent of section 9-512.

The County Engineer, acting as the County Commission's designee, has followed the procedures in section 9-512 based on the written text, with an understanding that if a division was created consistent with previous regulations (meaning frontage could have been less than 250'), it is eligible for review under section 9-512. The process in section 9-512 applies to properties that are located on roads with classifications of: Principal Arterial, Minor Arterial, or Major Collector. Although consistent with direction from the previous County Commission, no official action was taken by the Commission to make the County Engineer's action consistent with section 9-512, to act as the Commission's designee. In staff's discussion with Evan Ice to clarify this point, a discrepancy between the written text and the intent of section 9-512 was identified.

INTENT OF BOCC FOR EXISTING PROPERTIES: The intent of section 9-512 was that a property eligible for an entrance permit before the Access Management Standards were adopted would continue to be eligible for an entrance permit after the Access Management Standards were adopted, with one exception, which was based on those with access to the higher classifications of roads (Arterials and Major Collectors). Undeveloped properties with access to these roads that did not meet the new frontage requirements, if they were eligible for an entrance permit before the Access Management Standards were adopted, must go through the process in section 9-512 to negotiate the location and conditions for a residential entrance permit.

PRIMARY REASON FOR AMENDMENT: The reason section 9-512 was added was to provide a mechanism to obtain an entrance permit onto a Principal Arterial, Minor Arterial, and Major Collector when the sole reason the property could not obtain an entrance permit under section 9-502 was because of the classification of the road accessed. Although this was the intent, section 9-512 is currently written broader, allowing the section 9-512 process to apply to properties that were not eligible to obtain an entrance permit when the Access Management Standards were adopted. To correct this, staff and the county counselor recommend the following amendment be adopted.

Recommended Amendments:

To correct the two issues identified in this year's review of the Access Management Standards, Evan Ice has prepared revisions to the Access Management Standards that would make the following clarifications:

1. Divisions that occurred on or before August 17, 1994:
 - a. If the property takes access on to a public road classified as "Local" or "Minor Collector":
 - i. The frontage is grandfathered if the division qualified for an entrance permit when it was created. An entrance permit may be granted without further proceedings.
 - b. If the property takes access on to a public road classified as anything other than "Local" or "Minor Collector":
 - i. If the division's frontage meets the minimum requirements in section 9-501, an entrance permit may be granted without further proceedings.
 - ii. If the division's frontage does not meet the minimum requirements in section 9-501, an entrance permit may be issued only if the division qualified for an entrance permit when it was created and after following the process in section 9-512.

2. Divisions that occurred between August 18, 1994 and October 25, 2006:
 - a. If the property takes access on to a public road classified as "Local" or "Minor Collector":
 - i. If any of the criteria in section 9-502 is satisfied, an entrance permit may be issued without further proceedings.
 - ii. If none of the criteria in section 9-502 are met, the property is not eligible to enter the section 9-512 process and an entrance permit will not be issued.
 - b. If the property takes access on to a public road classified as anything other than "Local" or "Minor Collector":
 - i. If the division's frontage meets the minimum requirements in section 9-501, an entrance permit may be granted without further proceedings.
 - ii. If the division's frontage does not meet the minimum requirements in section 9-501, but the division satisfies any of the criteria in section 9-502, the property is eligible to enter the section 9-512 process and an entrance permit may be issued upon completion of that process.
3. Divisions that occurred after October 25, 2006, the date Access Management Standards were adopted, must meet the frontage requirements specified in section 9-501 to obtain an entrance permit. These divisions are not eligible to enter the section 9-512 process.

Attachment: draft revisions to Access Management Standards for discussion and initiation by Board of County Commissioners