

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

WEDNESDAY, JULY 14, 2010

6:35 p.m.

CONSENT AGENDA

- (1)(a) Consider approval of Commission Orders;
- (b) Consider authorization for County Commission Chair to sign a letter addressed to Dave White, Chief of the NRCS Office, requesting support in obtaining federal funding for rehabilitation costs on the Yankee Tank dam (Craig Weinaug)

REGULAR AGENDA

- (2) Consider approval to revised Text Amendment **TA-10-22-09** to the Zoning Regulations for the Unincorporated Territory of Douglas County to create a new Business District to support rural conference, recreational, and tourism sites. *Initiated by the Board of County Commissioners on 6/24/09. Recommended for approval by the Planning Commission on 1/27/10. (Mary Miller is the Planner)*
- (3) Discussion of noxious weed control, the problem of drift spray on specialty crops (Nancy Thellman)
- (4) Other Business
 - (a) Consider approval of Accounts Payable (if necessary)
 - (b) Appointments
 - (c) Miscellaneous
 - (d) Public Comment
- (5) Adjourn

MONDAY, JULY 19, 2010

Beginning at 8:00 a.m.

8:00 – 8:15: Community Corrections and Courts (Koester-Vogelsang and Stegall)

8:15 -10:15: Discussion of various administrative budget issues including pay/benefit issues, Capital Improvement Program (CIP), and building fund.

10:15-10:30: break

10:30 - : Discussion of Heritage, Open Space, and Economic Development Initiatives (Weinaug and Thellman)

TUESDAY, JULY 20, 2010

8:00 a.m. Discussion of decisions on changes to the budget as presented

WEDNESDAY, JULY 21, 2010 (Cancelled)

-No Commission Meeting

MONDAY, JULY 26, 2010

8:00 a.m. If necessary, continued budget discussion

TUESDAY, JULY 27, 2010

8:00 a.m. If necessary, continued budget discussion

WEDNESDAY, JULY 28, 2010

-FY2011 Financial Approval for Community Corrections.

WEDNESDAY, AUGUST 11, 2010 (Light Agenda)

WEDNESDAY, AUGUST 18, 2010

-Public Hearing for 2011 Budget

WEDNESDAY, OCTOBER 13, 2010

-Discussion on SmartStar program from Westar Energy (Eileen Horn)

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.*

Memorandum

City of Lawrence

City Manager's Office

TO: David L. Corliss, City Manager

FROM: Cynthia Wagner, Assistant City Manager

CC: Charles Soules, Director of Public Works
Matt Bond, Stormwater Engineer

DATE: July 8, 2010

RE: Consent Agenda Item: Authorize Mayor to Sign Joint Letter to the NRCS in Support of Funding for Yankee Tank Dam Improvements

Please consider placing the above referenced item on the City Commission Consent Agenda July 13, 2010.

As has previously been discussed, a federal earmark has been identified for rehabilitation work for the Yankee Tank Dam - Structure No. 24 (more commonly referred to as Lake Alvamar Dam). This earmark is to the Natural Resources Conservation Service (NRCS), an agency of the US Department of Agriculture, and is specifically to be spent on Yankee Tank.

The total project cost for dam rehabilitation is currently estimated at \$1,988,600. A federal earmark of \$1 million has been secured for this project. Discussions regarding a local match for this project, currently estimated at \$522,000, have been on-going since April, 2010 and have included representatives of the Wakarusa Watershed District, local property owners, KDOT, NRCS, Douglas County and the City of Lawrence. Meetings have been facilitated by Herb Graves of the State Association of Kansas Watersheds.

Funding partners have come together to identify a funding allocation which includes participation by all parties affected by the dam.

Property Owners (through special assessment district)	180,000
State Water Office (Conservation Commission)	100,000
KDOT	75,000
City of Lawrence	75,000
Douglas County	<u>50,000</u>
	\$480,000

The remaining costs would be the responsibility of the Wakarusa Watershed District, the owner of the dam facility. That cost is estimated at \$42,000, however it could change depending upon the actual costs of land acquisition and construction. The District would assume all risks and receive the benefits related to the project.

City involvement would include the requirement that the dam facility be annexed into the City of Lawrence. As part of this annexation, staff also recommends that the easement elevation for the Watershed District be modified to correspond with the final design of the proposed dam height and emergency spillway elevations. This would help to alleviate the encroachment of the residents along Burning Tree Court upon the exiting easement.

No funding requests have been made nor have commitments been made by any entity at this time. However the local funding steering committee has recommended that a joint letter supporting allocation of funds for this project by the NRCS be signed by the executive officers of each participating body. A copy of this [letter](#) is attached as is a more extensive historical [review](#) of this project.



Wakarusa Watershed Joint District No. 35
Douglas – Osage – Shawnee – Wabaunsee Counties Kansas
wakarusa-watershed35@embarqmail.com

P.O. Box 139

Overbrook, KS 66524

1-785-665-7231

July 6, 2010

Dave White, Chief
USDA, NRCS, Office of the Chief
1400 Independence Ave., SW, Room 5105-A
Washington, DC 20250

Dear Dave,

The Yankee Tank Dam (Wakarusa Watershed Joint District No. 35, site 24) rehabilitation local planning committee is made up of representatives of the City of Lawrence, Kansas; Douglas County; Alvamar, Inc. (and other landowners); the Kansas Department of Transportation; the State Association of Kansas Watersheds (SAKW); and the Wakarusa Watershed District. This group requests your support in obtaining the federal dollars being requested to fund this necessary rehabilitation project to address concerns with the Yankee Tank Dam which serves as a flood control structure in the community. The total project cost is projected to be \$1,988,600.

A federal earmark of \$1 million has been secured for this project. A local commitment of at least \$522,000 is expected from the city, county, state, local landowners, and the watershed district to secure landrights, permits, and a share of the construction costs. Kansas NRCS has requested the remaining federal technical and financial assistance dollars in FY2011 and FY2012 to complete the project.

This rehabilitation project is a direct result of a hazard class change for Yankee Tank Dam. A failure of this dam would directly impact recreation facilities; city and state highway traffic; and other area properties.

The fact that this is a top priority for Kansas NRCS rehabilitation in FY2011 speaks volumes about the merits of the project. The contributions all local partners are willing to make demonstrates its commitment to the project as a major flood control initiative and demonstrates their willingness to be part of the solution to this flood control issue.

Thank you for considering our request and we all look forward to the time that Yankee Tank Dam rehabilitation is a reality.

Sincerely,

Carl Quarnstrom
Board Counsel

John J. Schoenick
Maintenance
Board of Directors

Hope Koger
Business Manager

Larry Butel-President * Alden B. Bradley-Vice President * Hayden K. Wood-Secretary * Alva Sowers-Treasurer
Lee Palmer * Max Friesen * Robert O. Bierly * Barry Brown * Wayne Wulfkuhle * Malcolm Moore * Dick Stuntz * Otis L. Heine
Darrel Kinney * Earl R. Langley * Merlin Bevitt * Virgil K. Koci * Wayne Copp * John Vesecky



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Larry Butel, President
Wakarusa WJD No. 35

Nancy Thellman, Chairman
Douglas County Board of Commissioners

Mike Amyx, Mayor
City of Lawrence, Kansas

Dick Stuntz, President
Alvamar, Inc.

Jerome Younger, Deputy Secretary
Kansas Department of Transportation

Herbert R. Graves Jr., Executive Director
State Association of Kansas Watersheds

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Memorandum

City of Lawrence

City Manager's Office

TO: David L. Corliss, City Manager

FROM: Cynthia Wagner, Assistant City Manager
Matt Bond, Stormwater Engineer

CC: Diane Stoddard, Assistant City Manager
Charles Soules, Director of Public Works

DATE: June 8, 2010

RE: Report on Yankee Tank Dam Rehabilitation Project and Local Funding Discussions

A federal earmark has been identified for rehabilitation work for the Yankee Tank Dam - Structure No. 24 (more commonly referred to as Lake Alvamar Dam). This earmark is to the Natural Resources Conservation Service (NRCS), an agency of the US Department of Agriculture, and is specifically to be spent on Yankee Tank.

Discussions regarding a local match for this project, currently estimated at \$522,000, have been on-going since April, 2010 and have included representatives of the Wakarusa Watershed District, local property owners, KDOT, NRCS, Douglas County and the City of Lawrence. Meetings have been facilitated by Herb Graves of the State Association of Kansas Watersheds.

The following provides a brief history of this project, an update on project cost estimates, federal match and options discussed to date regarding local funding match requirements.

Background

The dam was originally designed and constructed through a federal Soil Conservation Service (SCS) program as a low-hazard facility but is now classified as high-hazard due to downstream development. The construction of Clinton Parkway, K-10 highway and the athletic fields immediately downstream necessitated the reclassification from its original "*low-hazard*" designation to "*high-hazard*". The reclassification does not reflect the integrity of the dam itself only the development downstream. It currently meets state regulations but not federal for this designation.

Estimated Project Costs and Federal Earmark

Based on information received from the project engineer in early May, the most current cost estimate for this project is \$1,988,600. Construction estimates total \$1,172,500 – sixty-five percent (65%) of which can be matched through the federal earmark through NRCS. Engineering, design and project administration costs are covered 100% through the earmark. Property and easement acquisition are one hundred percent (100%) local responsibility and are currently estimated at \$239,900. However, this estimate could change significantly. Changes to property acquisition affect the total earmark available due to the fact that, while a local

responsibility, the total costs affect total construction cost and, thus the amount available in federal match. The [attached NRCS spreadsheet outlines project cost estimates and cost-shares](#). As noted above, the current estimated local match is \$522,000.

Field Code Changed

Consequences of No Action

The group assembled has identified consequences to various entities or individuals if no action were taken at this time.

- Wakarusa Watershed District – if remediation to federal standards were not accomplished using the earmark, at some date in the future, the state could require remediation – with estimates for that work totaling at least the estimate for dam elimination. No federal funding would be available if there is no action at this time.
- KDOT – risk of infrastructure damage to K10 in the event of a 100-year flood event.
- City of Lawrence – potential reductions to assessed valuations of properties facing an empty lake; risk of infrastructure damage to Clinton Parkway in the event of a 100-year flood event.
- Douglas County – potential reductions to assessed valuations of properties facing an empty lake.
- Property Owners – potential reductions to property values.

Local Funding Discussions

It has been generally agreed that rehabilitation of the lake benefits all parties. Determining an equitable allocation of local share has been the topic of multiple meetings. In addition to property owner participation, all discussions have included participation by the watershed district, county, city, KDOT, and the state conservation commission.

The county has explored the possibility of using the new Community Improvement District Act to form a county/resident initiated special assessment benefit district, focusing primarily on those who most directly benefit from a fully functioning lake. Approximately 35 lots with a direct view of the lake have been identified for a potential district. There have been discussions regarding a special assessment benefit district which would encompass more properties. However, that discussion has stalled for fear of not attaining the necessary fifty-five percent (55%) of landowner support required for a county-initiated district.

City legal staff has advised that the City could initiate a procedure to authorize a General Improvement District for improvements within the city limits by resolution. Generally, the process to establish such a district would include ordering a public hearing on the advisability of the improvement. Applicable notice requirements must be met. After the hearing, the governing body must adopt a resolution and make findings as to the advisability of the improvement, the nature of the improvement, estimated cost, the boundaries of the district, the method of assessment and the apportionment of the cost between the district and city at large. The improvement cannot be commenced, however, if within 20 days after publication of the resolution ordering the improvement, written protests signed by fifty-one percent (51%) or more of the resident owners of record of property within the district and the owners of record of more than half of the total area of such district are filed with the City Clerk.

Alternatively, similar to the process for a county district, petitions may be submitted to the governing body requesting authorization of an improvement and creation of an improvement district. A petition must be signed by a majority of resident owners or property liable for the assessment, the resident owners of more than one-half of the area liable for the assessment or

owners of record, whether resident or not of more than one-half of the area liable to be assessed.

| City staff and the County Administrator have reviewed watershed maps in order to identify potential boundaries for a city-initiated special assessment benefit district. Due to the size of the watershed (extending from the lake as far north as 6th Street in some areas) and the number of potentially affected property owners in a city district, it may be most beneficial to pursue the county benefit district option outlined above, which would assess those with direct lake view.

Field Code Changed

A potential funding allocation, which has not been reviewed by the larger working group, follows. This allocation includes participation by all parties affected by the dam.

Property Owners (through special assessment district)	180,000
State Water Office (Conservation Commission)	100,000
KDOT	75,000
City of Lawrence	75,000
Douglas County	<u>50,000</u>
	\$480,000

The remaining costs would be the responsibility of the Wakarusa Watershed District, the owner of the dam facility. That cost is estimated at \$42,000, however it could change depending upon the actual costs of land acquisition and construction. The District would assume all risks and receive the benefits related to the project.

City staff also discussed the stipulation that city involvement would include the requirement that the dam facility be annexed into the City of Lawrence. As part of this annexation, staff also recommends that the easement elevation for the Watershed District be modified to correspond with the final design of the proposed dam height and emergency spillway elevations. This would help to alleviate the encroachment of the residents along Burning Tree Court upon the exiting easement.

It should be stressed that no funding requests have been made nor have commitments been made by any entity at this time.

Next Steps

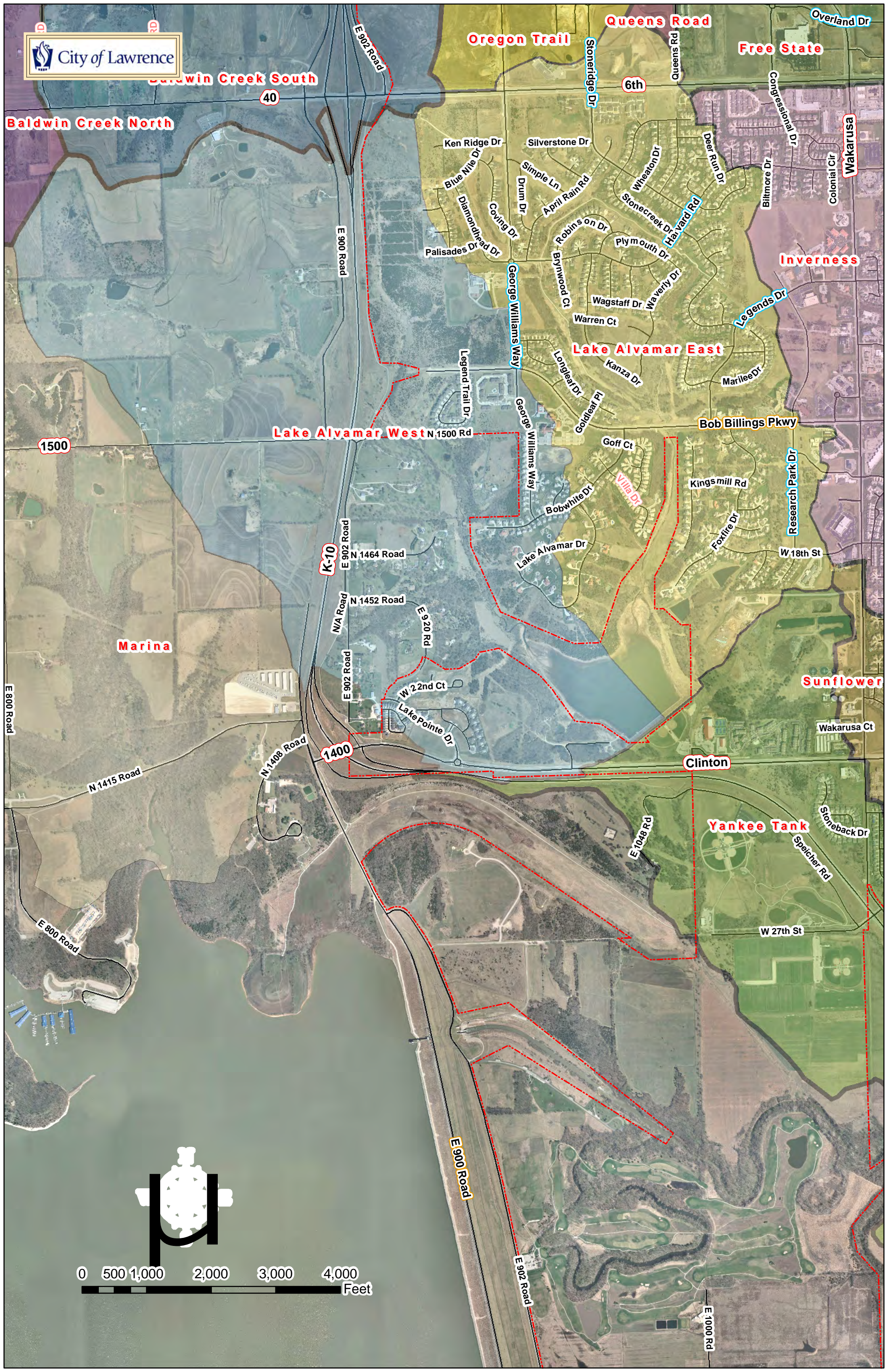
In order to maintain the federal earmark, a Project Agreement between local sponsors and the NRCS to obligate the funds must be in place by the end of federal fiscal year 2011 – September 30, 2011.

The next meeting of the group of interested parties is scheduled for Thursday, June 17, at which time it is anticipated the funding scenario outlined above would be discussed.

State: Kansas
 Watershed Rehabilitation Project: Wakarusa
 Alternative: Site 24

Computation of Table 2 "Installation Cost" and "Eligible Project Cost" for Watershed Agreement Cost-Share Computation

BlueTint = Input Fields, Zero Fill Required if not Applicable		Table 2	Watershed Agreement Cost-Share		
Project Component	Input Costs	Installation Costs	Total Eligible Project Cost	Cost share	
				NRCS	Sponsor
Technical Assistance:					
NRCS planning (info only) 1/	\$300,000	NA	NA	NA	NA
NRCS engineering design 2/	\$200,000	\$200,000	NA	NA	NA
NRCS engineering construction 2/	\$151,750	\$151,750	NA	NA	NA
NRCS project administration 2/	\$145,410	\$145,410	NA	NA	NA
Sponsor planning 3/	\$0	NA	\$0	NA	\$0
Sponsor engineering design 4/		\$0	\$0	NA	\$0
Sponsor engineering construction 4/	\$0	\$0	\$0	NA	\$0
Sponsor project administration 4/ 5/	\$58,950	\$58,950	\$58,950	NA	\$58,950
Landrights Acquisition (Land and Easements)	\$239,900	\$239,900	\$239,900	NA	\$239,900
Relocation Payments 7/					
Replacement in-kind 8/	\$20,000	\$20,000	\$20,000	\$0	\$20,000
Required decent, safe, sanitary 9/	\$0	NA	\$0	\$0	\$0
Beyond required decent, safe, sanitary 9a/	\$0	NA	NA	NA	NA
Natural Resource Rights 10/	\$0	\$0	NA	NA	NA
Federal, state, and local permits 11/	\$0	\$0	NA	NA	NA
Construction 12/	\$1,172,500	\$1,172,500	\$1,172,500	\$969,378	\$203,123
Table 2 Total Installation Cost:		\$1,988,510			
Eligible Project Cost for Cost-Share Computation			\$1,491,350	\$969,378	\$521,973
Resultant Cost-Share Percentages for the Watershed Agreement			100%	65.0%	35.0%
			Sponsor cash required for Construction & Relocation		\$223,123



Baldwin Creek South

Oregon Trail

Queens Road

Free State

Baldwin Creek North

40

6th

Overland Dr

Ken Ridge Dr

Silverstone Dr

Queens Rd

Congressional Dr

Wakarusa

Blue Nile Dr

Simple Ln

Stoneridge Dr

Deer Run Dr

Colonial Cir

Diamondhead Dr

Coving Dr

April Rain Rd

Wheaton Dr

Biltmore Dr

Palisades Dr

Robins on Dr

Stonycreek Dr

Plymouth Dr

Harvard Rd

Drum Dr

Brynmood Ct

Wagstaff Dr

Waverly Dr

Inverness

Legend Trail Dr

George Williams Way

Warren Ct

Longlear Dr

Kanza Dr

Marilee Dr

Goldleaf Pl

Legend Trail Dr

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Lake Alvarum West

Lake Alvarum East

Bob Billings Pkwy

1500

K-10

E 902 Road

N 1464 Road

N/A Road

N 1452 Road

E 902 Road

E 920 Rd

E 902 Road

W 22nd Ct

Lake Pointe Dr

1400

Marina

Sunflower

Wakarusa Ct

Clinton

N 1415 Road

N 1408 Road

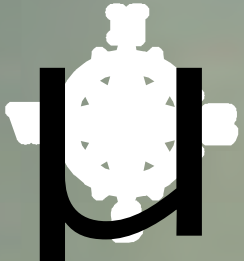
E 1048 Rd

Yankee Tank

Stoneback Dr

Speicher Rd

W 27th St



0 500 1,000 2,000 3,000 4,000 Feet

E 900 Road

E 902 Road

E 1000 Rd

PROPOSED REVISIONS TO RURAL TOURISM BUSINESS DISTRICT TEXT AMENDMENT

The Planning Commission considered the draft language for this text amendment [TA-10-22-09] at their November 18, 2009 meeting and voted to have the locational criteria removed (Section 12-309B-3.02). The draft language was revised with this change and brought back to the Planning Commission on January 27, 2010, at which time the Commission voted to forward the revised draft language to the Board of County Commissioners with a recommendation for approval. The County Commissioners considered the amendment at their February 17, 2010 meeting and expressed concern about the possibility that individual uses, which are not in themselves 'rural tourism' uses, may be permitted in this district. The language has been revised to clarify that accessory uses (non-rural tourism uses) would be permitted in this district *only* when they are associated with a rural tourism use.

The revised language, below, is formatted as follows:

1. New wording is shown in **bold** print.
2. Deleted wording is shown as ~~struckthrough~~.

A clean copy of the draft text amendment is attached, with all changes incorporated.

Action requested:

Approval of the proposed amendment [TA-10-22-09 to Chapter XII, Article 3 of Douglas County Code (Zoning Regulations) establishing the R-T Business District]

12-309B 'R-T RURAL TOURISM BUSINESS DISTRICT REGULATIONS

12-309B-1. The regulations set forth in this section, or elsewhere in these Regulations, when referred to in this section, are the regulations in the 'R-T' Rural Tourism Business District. This district is designed to provide a suitable zoning ~~district~~ **exclusively for uses associated with rural tourism, such as** recreation and conference **uses. These uses which are typically** more intense and larger in scale than similar uses which may be permitted by right or with a Conditional Use Permit in the Agricultural Zoning District.

12-309B-2. Definition of Rural Tourism.

Rural tourism showcases the rural life and heritage at rural locations. Rural tourism can take many forms including nature, adventure, historical, cultural, and ecological (eco-) tourism. Rural tourism is typically experience oriented, is located predominantly in a natural environment in areas of low population, and **contributes to** ~~is based on~~ the preservation of the character of the area.

12-309B-3. The following criteria apply to Rural Tourism uses:

12-309B-3.01 Rural Tourism uses may exist alone, ~~or~~ may be several uses combined **and may include accessory uses.** For instance, a corporate retreat may have meeting rooms, recreational facilities and a restaurant. **Uses which are associated with the Rural Tourism use but do not constitute a rural tourism use themselves are permitted as accessory uses and may be located (operate) on the site only when the Rural Tourism use is present and active.**

12-309B-3.02 The following site design criteria apply to Rural Tourism uses:

- a. Rural Tourism uses shall integrate with **and maintain or enhance** ~~and/or provide benefit from~~ the rural character of the area.
- b. Facilities shall be designed to preserve natural resources and integrate with the rural environment through appropriate land use, site design, buffering, or other methods.
- c. A site specific site plan shall be submitted with rezoning applications to demonstrate that the site design criteria noted above have been met. The following items are required on all site plans for rural tourism areas:
 - 1) A minimum 200 ft buffer area provided around the perimeter of the site.
 - 2) Uses permitted within this buffer area shall be limited to agriculture or other low-impact uses. These uses shall be noted on the site plan along with the party or entity responsible for maintenance of the buffer area.

12-309B-4 USE REGULATIONS

~~The following **ancillary** uses may be permitted within the R-T District only in those cases where they constitute or are a part of a rural tourism use as defined in Section 12-309B-2.~~

The only uses permitted in the R-T District are uses which have been determined to constitute Rural Tourism Uses as defined in Section 12-309B-2 and their accessory uses.

The site plans submitted for the project, including the concept plan submitted with the rezoning request, must clearly identify the uses which are accessory uses and those which constitute the 'rural tourism' use as defined in Section 12-309B-2.

Accessory uses may occur on the property only when the 'rural tourism' use is active.

The following list has been divided into two categories, those which are typically considered 'rural tourism' and those which are typically considered 'accessory.'

Typical rural tourism uses:

- | | |
|---------------------|--|
| 12-309B-4.01 | 12-309B-4.01 Outdoor recreation, including parks, playgrounds, swimming pools, skating rinks, golf courses, driving ranges and other similar uses. |
| 12-309B-4.02 | Open air theatre (excluding drive-ins). |
| 12-309B-4.03 | Reception hall, conference center, or other places of social assembly. |
| 12-309B-4.04 | Lodging which includes hotels, motels, bed and breakfasts, or campgrounds. |
| 12-309B-4.05 | Libraries, cultural center, exhibit hall, museums, art galleries and other similar uses. |

Typical rural tourism accessory uses:

- 12-309B-4.06** Personal service uses including barber shops, beauty parlors, spas, photographic or artists' studios, and other personal service uses of a similar character.
- 12-309B-4.07** Restaurants, (excluding drive-in or drive-thru restaurants), and taverns.
- 12-309B-4.08** Retail stores, but there shall be no slaughtering of animals or poultry on the premises of any retail store. Retail stores are limited individually to a maximum area of 10,000 sq ft.
- 12-309B-4.09** Amusement places, skating rinks, and dance halls; all in a completely enclosed building, auditorium or theater.
- 12-309B-4.10** Indoor sports or recreation, including bowling alleys, billiard parlors, swimming pools, physical fitness centers, and other similar uses.
- 12-309B-4.11** Agricultural uses.
- 12-309B-4.12** Commercial riding stable.
- 12-309B-4.13** Commercial greenhouse.
- 12-309B-4.14** Residential dwellings when associated with the tourism use as caretaker, manager, or as part of a living museum.
- 12-309B-4.15** Religious institutions such as a convent, church, temple or mosque.
- 12-309B-4.16** Community buildings.
- 12-309B-4.17** Child care center
- 12-309B-4.18** Animal hospital or clinic when accessory to a tourism use; 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 (have it's own sewage management system). Accessory buildings and uses.
- 12-309B-4.19** Outdoor advertising signage, with the requirement than any outdoor advertising structure or sign in excess of 100 square feet in area shall be attached flat against a wall or building. See Section 12-306-2.18 for requirements pertaining to the height and location of signage.
- 12-309B-4.20** Temporary signs pertaining to the lease, hire, or sale of a building or premises on which such sign is located.
- 12-309B-4.21** Utility installations for sewer, water, gas, electric and telephone mains and incidental appurtenances.
- 12-309B-4.22** Railroad rights-of-way, including a strip of land with tracks and auxiliary facilities for track operations and passenger stations.
- 12-309B-4.23** Temporary buildings, the uses of which are incidental to construction operations and which shall be removed upon completion or abandonment of such construction, or upon the expiration of a period of two years from the time of erection of such temporary buildings, whichever is sooner.

12-309B-5. PARKING REGULATIONS

The parking regulations for permitted uses are contained in Section 12-316.

12-309B-6. OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in Section 12-317.

12-309B-7. HEIGHT, AREA AND BULK REGULATIONS

Height and area regulations shall be as set forth in the chart of Section 12-318.

12-309B-8. SUPPLEMENTARY USE REGULATIONS

Supplementary use regulations are contained in Section 12-319.

12-309B-9. SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS

Supplementary height, area and bulk regulations are contained in Section 12-321.

12-309B 'R-T RURAL TOURISM BUSINESS DISTRICT REGULATIONS

12-309B-1. The regulations set forth in this section, or elsewhere in these Regulations, when referred to in this section, are the regulations in the 'R-T' Rural Tourism Business District. This district is designed to provide a suitable zoning exclusively for uses associated with rural tourism, such as recreation and conference uses. These uses are typically more intense and larger in scale than similar uses which may be permitted by right or with a Conditional Use Permit in the Agricultural Zoning District.

12-309B-2. Definition of Rural Tourism.

Rural tourism showcases the rural life and heritage at rural locations. Rural tourism can take many forms including nature, adventure, historical, cultural, and ecological (eco-) tourism. Rural tourism is typically experience oriented, is located predominantly in a natural environment in areas of low population, and contributes to the preservation of the character of the area.

12-309B-3. The following criteria apply to Rural Tourism uses:

12-309B-3.01 Rural Tourism uses may exist alone, or may be several uses combined and may include accessory uses. For instance, a corporate retreat may have meeting rooms, recreational facilities and a restaurant. Uses which are associated with the Rural Tourism use but do not constitute a rural tourism use themselves are permitted as accessory uses and may be located (operate) on the site only when the Rural Tourism use is present and active.

12-309B-3.02 The following site design criteria apply to Rural Tourism uses:

- a. Rural Tourism uses shall integrate with and maintain or enhance the rural character of the area.
- b. Facilities shall be designed to preserve natural resources and integrate with the rural environment through appropriate land use, site design, buffering, or other methods.
- c. A site specific site plan shall be submitted with rezoning applications to demonstrate that the site design criteria noted above have been met. The following items are required on all site plans for rural tourism areas:
 - 1) A minimum 200 ft buffer area provided around the perimeter of the site.
 - 2) Uses permitted within this buffer area shall be limited to agriculture or other low-impact uses. These uses shall be noted on the site plan along with the party or entity responsible for maintenance of the buffer area.

12-309B-4 USE REGULATIONS

The only uses permitted in the R-T District are uses which have been determined to constitute Rural Tourism Uses as defined in Section 12-309B-2 and their accessory uses.

The site plans submitted for the project, including the concept plan submitted with the rezoning request, must clearly identify the uses which are accessory uses and those which constitute the 'rural tourism' use as defined in Section 12-309B-2.

Accessory uses may occur on the property only when the 'rural tourism' use is active.

The following list has been divided into two categories, those which are typically considered 'rural tourism' and those which are typically considered 'accessory.'

Typical rural tourism uses:

- 12-309B-4.01** 12-309B-4.01 Outdoor recreation, including parks, playgrounds, swimming pools, skating rinks, golf courses, driving ranges and other similar uses.
- 12-309B-4.02** Open air theatre (excluding drive-ins).
- 12-309B-4.03** Reception hall, conference center, or other places of social assembly.
- 12-309B-4.04** Lodging which includes hotels, motels, bed and breakfasts, or campgrounds.
- 12-309B-4.05** Libraries, cultural center, exhibit hall, museums, art galleries and other similar uses.

Typical rural tourism accessory uses:

- 12-309B-4.06** Personal service uses including barber shops, beauty parlors, spas, photographic or artists' studios, and other personal service uses of a similar character.
- 12-309B-4.07** Restaurants, (excluding drive-in or drive-thru restaurants), and taverns.
- 12-309B-4.08** Retail stores, but there shall be no slaughtering of animals or poultry on the premises of any retail store. Retail stores are limited individually to a maximum area of 10,000 sq ft.
- 12-309B-4.09** Amusement places, skating rinks, and dance halls; all in a completely enclosed building, auditorium or theater.
- 12-309B-4.10** Indoor sports or recreation, including bowling alleys, billiard parlors, swimming pools, physical fitness centers, and other similar uses.
- 12-309B-4.11** Agricultural uses.
- 12-309B-4.12** Commercial riding stable.
- 12-309B-4.13** Commercial greenhouse.
- 12-309B-4.14** Residential dwellings when associated with the tourism use as caretaker, manager, or as part of a living museum.
- 12-309B-4.15** Religious institutions such as a convent, church, temple or mosque.
- 12-309B-4.16** Community buildings.
- 12-309B-4.17** Child care center
- 12-309B-4.18** Animal hospital or clinic when accessory to a tourism use; 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 (have it's own sewage management system). Accessory buildings and uses.
- 12-309B-4.19** Outdoor advertising signage, with the requirement than any outdoor advertising structure or sign in excess of 100 square feet in area shall be

attached flat against a wall or building. See Section 12-306-2.18 for requirements pertaining to the height and location of signage.

- 12-309B-4.20** Temporary signs pertaining to the lease, hire, or sale of a building or premises on which such sign is located.
- 12-309B-4.21** Utility installations for sewer, water, gas, electric and telephone mains and incidental appurtenances.
- 12-309B-4.22** Railroad rights-of-way, including a strip of land with tracks and auxiliary facilities for track operations and passenger stations.
- 12-309B-4.23** Temporary buildings, the uses of which are incidental to construction operations and which shall be removed upon completion or abandonment of such construction, or upon the expiration of a period of two years from the time of erection of such temporary buildings, whichever is sooner.

12-309B-5. PARKING REGULATIONS

The parking regulations for permitted uses are contained in Section 12-316.

12-309B-6. OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in Section 12-317.

12-309B-7. HEIGHT, AREA AND BULK REGULATIONS

Height and area regulations shall be as set forth in the chart of Section 12-318.

12-309B-8. SUPPLEMENTARY USE REGULATIONS

Supplementary use regulations are contained in Section 12-319.

12-309B-9. SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS

Supplementary height, area and bulk regulations are contained in Section 12-321.

12-309B 'R-T RURAL TOURISM BUSINESS DISTRICT REGULATIONS

12-309B-1. The regulations set forth in this section, or elsewhere in these Regulations, when referred to in this section, are the regulations in the 'R-T' Rural Tourism Business District. This district is designed to provide a suitable zoning district for tourism, recreation, and conference uses which are more intense and larger in scale than similar uses which may be permitted by right or with a Conditional Use Permit in the Agricultural Zoning District.

12-309B-2. Definition of Rural Tourism.

Rural tourism showcases the rural life and heritage at rural locations. Rural tourism can take many forms including nature, adventure, historical, cultural, and ecological (eco-) tourism. Rural tourism is typically experience oriented, is located predominantly in a natural environment in areas of low population, and is based on the preservation of the character of the area.

12-309B-3. The following criteria apply to Rural Tourism uses:

12-309B-3.01 Rural Tourism uses may exist alone or may be several uses combined. For instance, a corporate retreat may have meeting rooms, recreational facilities and a restaurant.

~~12-309B-3.02 The following locational criteria apply to Rural Tourism uses:~~

- ~~a. Shall take direct access to an improved arterial roadway;~~
- ~~b. Shall be served with a public water supply;~~
- ~~c. Minimum distance from an existing Rural Business facility is 3 miles, or other appropriate distance as determined by the County Commission.~~

12-309B-3.02 The following site design criteria apply to Rural Tourism uses:

- a. Rural Tourism uses shall integrate with and/or benefit from the rural character of the area.
- b. Facilities shall be designed to preserve natural resources and integrate with the rural environment through appropriate land use, site design, buffering, or other methods.
- c. A site specific site plan shall be submitted with rezoning applications to demonstrate that the site design criteria noted above have been met. The following items are required on all site plans for rural tourism areas:
 - 1) A minimum 200 ft buffer area provided around the perimeter of the site.
 - 2) Uses permitted within this buffer area shall be limited to agriculture or other low-impact uses. These uses shall be noted on the site plan along with the party or entity responsible for maintenance of the buffer area.

12-309B-4 USE REGULATIONS

The following uses may be permitted within the R-T District only in those cases where they constitute or are a part of a rural tourism use as defined in Section 12-309B-2:

12-309B-4.01 Personal service uses including barber shops, beauty parlors, spas, photographic or artists' studios, and other personal service uses of a similar character.

12-309B-4.02 Restaurants, (excluding drive-in or drive-thru restaurants), and taverns.

12-309B-4.03 Retail stores, but there shall be no slaughtering of animals or poultry on the premises of any retail store. Retail stores are limited individually to a maximum area of 10,000 sq ft.

12-309B-4.04 Amusement places, skating rinks, and dance halls; all in a completely enclosed building, auditorium or theater.

12-309B-4.05 Indoor sports or recreation, including bowling alleys, billiard parlors, swimming pools, physical fitness centers, and other similar uses.

12-309B-4.06 Outdoor recreation, including parks, playgrounds, swimming pools, skating rinks, golf courses, driving ranges and other similar uses.

12-309B-4.07 Open air theatre (excluding drive-ins).

12-309B-4.08 Lodging which includes hotels, motels, bed and breakfasts, or campgrounds.

12-309B-4.09 Reception hall, conference center, or other places of social assembly.

12-309B-4.10 Agricultural uses.

12-309B-4.11 Commercial riding stable.

12-309B-4.12 Commercial greenhouse.

12-309B-4.13 Residential dwellings when associated with the tourism use as caretaker, manager, or as part of a living museum.

12-309B-4.14 Religious institutions such as a convent, church, temple or mosque.

12-309B-4.15 Libraries, cultural center, exhibit hall, museums, art galleries and other similar uses.

12-309B-4.16 Community buildings.

12-309B-4.17 Child care center

12-309B-4.18 Animal hospital or clinic when accessory to a tourism use; 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 (have it's own sewage management system). Accessory buildings and uses.

12-309B-4.19 Outdoor advertising signage, with the requirement than any outdoor advertising structure or sign in excess of 100 square feet in area shall be attached flat against a wall or building. See Section 12-306-2.18 for requirements pertaining to the height and location of signage.

12-309B-4.20 Temporary signs pertaining to the lease, hire, or sale of a building or premises on which such sign is located.

12-309B-4.21 Utility installations for sewer, water, gas, electric and telephone mains and incidental appurtenances.

12-309B-4.22 Railroad rights-of-way, including a strip of land with tracks and auxiliary facilities for track operations and passenger stations.

12-309B-4.23 Temporary buildings, the uses of which are incidental to construction operations or sale of lots during development being conducted on the same or adjoining tract or subdivision and which shall be removed upon completion or abandonment of such construction, or upon the expiration of a period of two years from the time of erection of such temporary buildings, whichever is sooner.

12-309B-5. PARKING REGULATIONS

The parking regulations for permitted uses are contained in Section 12-316.

12-309B-6. OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in Section 12-317.

12-309B-7. HEIGHT, AREA AND BULK REGULATIONS

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12-309B-8. SUPPLEMENTARY USE REGULATIONS

Supplementary use regulations are contained in Section 12-319.

12-309B-9. SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS

Supplementary height, area and bulk regulations are contained in Section 12-321.

Project Good Neighbor

Update report by Billy D. Wood, Douglas County Extension Director
July 8, 2010

In the winter of 2002-2003 the Douglas County Extension Agriculture Program Development Committee met to discuss needs of the county and what educational programs were needed in meeting those needs. Dan Nagengast, an organic farmer and director of the Kansas Rural Center, raised the concern of pesticide damage to sensitive crops.

In March 2003, an informational meeting was held at the Extension office to bring together those individuals who had a stake in the issue. Present were: Greg Shipe and Dan Ward, Grape Growers, David and Mark Wulfkuhle, Commercial Pesticide Applicators, Jr. Starkebaum, Douglas County Noxious Weed Director, Gary Boutz, Kansas Department of Agriculture - Pesticide Division, Kassim Al-Khatib, Kansas State University Extension Weed Specialist, Sorkel Kadir, KSU Extension Horticulture Department, Dan Nagengast, and Bill Wood, Extension agent.

The goal was to educate sensitive crop growers and herbicide users in working together as neighbors to minimize herbicide damage to crops. Steps to achieve this were listed:

1. Mapping sensitive crops showing where they were grown. Kansas Department of Agriculture would work on this.
2. Encourage sensitive crop growers to register on the Kansas Department of Agriculture website.
3. Provide a "Sprayer Tune-up" training for citizens. Extension would work on this.
4. Educate herbicide users on product selection, timing of application, and drift issues. All parties should play a part in this.
5. Develop an easily understood bulletin available at point-of-purchase sites where phenoxy herbicides are sold. Extension takes the lead.
6. Develop bright signs for sensitive crop producers to post near crops. Extension and Kansas Department of Agriculture cooperate.
7. Use the news media in promoting the issue. Extension and Kansas Department of Agriculture cooperate.

The Kansas Department of Agriculture and the Kansas State University Agronomy and Horticulture Departments offered input and suggested a grant be looked into to help develop educational products. Dan Nagengast wrote a grant application which was received from the USDA SARE (Sustainable Agriculture Research and Education) program.

"The Rookies Guide to Responsible and Sensible Herbicide Use" was a tri-fold bulletin developed in 2003. Bill Wood prepared a rough draft using publications and information from Kansas State University and the Kansas Department of Agriculture. Kansas State University Extension Specialists proofed the rough draft, and the Kansas State University Department of Communications designed and printed the brochure with funding from SARE.

Approximately 700 “Guides” were placed in nine businesses throughout Douglas County which sold herbicides, in the spring of 2003. These businesses included: Douglas County Noxious Weed Department, Baldwin Grain, Ottawa COOP Elevator, Eudora Grain, Lawrence Feed and Farm Supply, Midland Farm Store, Lone Pine Farm, MB Applicating, and Earl May.

The “Guides” were also placed in the Farm Service Agency and Soil Conservation District offices, and sent to Greg Shipe, a local grape grower, Bill Scott of Kansas Department of Agriculture, Sedgwick County Extension, Will Boyer, Lower Kansas River Watershed Specialist, and 100 copies to the Kansas Farm Bureau.

Bill Wood revisited the businesses in the spring of 2004. Earl May placed the “Guides” in a bulletin rack adjacent to the 2,4-D herbicides. The “Guides” were placed in two new businesses: Orscheln Farm Supply, and Sunrise Garden.

Approximately 200 “Guides” were passed out at Lawrence Earth Day, and the Water Celebration in April of 2004. A number of “Guides” continue to be restocked at the above businesses when possible.

In July of 2004, Bill Wood and Greg Shipe worked with the Lawrence Journal World to run an article along with photos explaining the herbicide problem, and what the *Good Neighbor Project* was doing to solve it. The Lawrence Journal World has a subscription list of more than 15,000 homes.

There was an educational booth for the *Good Neighbor Project* at the Douglas County Fair in the horticulture department. The “Guides,” herbicide damaged grape vines, and the Lawrence Journal World article made up the booth. An estimated 500 persons viewed the booth.

Twenty-five citizens attended a “Help Prevent Herbicide Damage” meeting in October of 2004 for sensitive crop growers and their neighbors sponsored by Douglas County Extension.

In 2004, the Kansas Department of Agriculture rolled out the *Project Good Neighbor* logo and signs to post near sensitive crops. Information on *Project Good Neighbor* was posted under the “Sensitive Crops” section of the Kansas Department of Agriculture website. It included information on herbicide use and damage, a registration list for sensitive crop growers, and a map showing where sensitive crops are grown. The Kansas Department of Agriculture developed a tri-fold bulletin promoting *Project Good Neighbor* to educate the public about spray drift damage.

Bill Wood helped in making a video about *Project Good Neighbor* which shown at the State Commercial Applicators Annual Continuing Education Conferences in February 2005.

In February 2005, twenty-nine sprayer owners learned to better utilize their sprayers and about *Project Good Neighbor* at a “Shoot Straight” workshop sponsored by the Douglas County Extension Office.

The Douglas County Noxious Weed Department developed a map which was posted in the office showing where sensitive crops are grown to those purchasing herbicides. The department also changed their spraying practices to lessen the chance of herbicide damage when spraying road ditches.

News articles are sent to the media and used in Extension newsletters yearly.

Twenty-four landowners attended an “Agriculture Sprayer” workshop in February 2010 at the Douglas County Extension Office.

Rick Hird and Greg Shipe, grape growers in Douglas County, had more herbicide drift damage in 2010. Along with Rick Hird and Greg Shipe, Bill Wood is making an educational “You Tube” video on the topic.

There is still work to be done to educating pesticide users about being “responsible good neighbors”.

Milton Bland
1123 E. 2000 Rd.
Eudora, KS 66025

Mr. John Landon
Noxious Weeds Director
Douglas county Noxious Weed Department
1242 Massachusetts Street
Lawrence, KS 66044

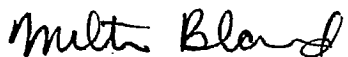
June 29, 2010

Mr. Landon,

This is in response to your "Legal Notice" dated 6/24/2010. I have completed treating my property with the chemical PastureGuard.

As I stated during our telephone conversation, I feel it is unfair of the State of Kansas and Douglas County to place the burden of sericea lespedeza control on the property owner. KDOT introduced the seed to the state, and then it has been spread by the wild turkeys (also re-introduced by the state). In addition the County furnished the seed sewn in my CRP ground and that seed apparently included sericea lespedeza.

I have spent considerable effort and expense over the years controlling noxious weeds. Other noxious weeds were "controllable" in that every subsequent year I noted improvement. But that is not the case with the lespedeza. In spite of concerted spraying last year, it appears to be worse this year. State and County officials need to develop a suitable plan that will address this problem. The present solution of threatening the landowners is insufficient and simply not working.



Milton Bland

Cc: Douglas County Commissioner Jim Flory