

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

Amended Agenda

WEDNESDAY, JANUARY 5, 2011

4:00 p.m.

CONSENT AGENDA

- (1) (a) Consider approval of Commission Orders;
- (b) Consider approval of a resolution directing the County Counselor to institute a judicial tax foreclosure action in the District Court of Douglas County, Kansas (Paula Gilchrist);
- (c) Consider approval of outdoor warning siren maintenance contract (Jackie Waggoner); and
- (d) Consider approve of Agreement for Housing Inmates for the City of Baldwin in the Douglas County Jail (Sheriff's Office); and
- (e) Consider approval of bids for crushed rock for road maintenance (Keith Browning)

REGULAR AGENDA

- (2) Consider motion supporting the initiative from the Lecompton Historical Society to invite officials from the Kansas State Government to return to Lecompton for one day as a part of the 150th anniversary of Kansas State Hood (Paul Bahnmaier)
- (3) Consider approval of \$16,667 grant match for the District Attorney's Violence Against Women's Act Grant (Charles Branson)-No backup
- (4) Consider approval of Conditional Use Permit [CUP-9-4-10] for Jayhawk Excavating, truck storage, in the NW ¼ of S10-T14-R20, located at 1724 N 780 Road, on approximately 20 acres. Submitted by Allen and Teresa Rockhold, property owners of record. (PC Item 1; approved 9-0 on 12/13/10) (Sandra Day is the Planner)
- (5) Consider Comprehensive Plan Amendment [CPA-3-1-10] to Horizon 2020 for an update to Chapter 8 – Transportation. *Initiated by Planning Commission on 2/22/10.* (Todd Girdler is the Planner)
- (6) Other Business
 - (a) Consider approval of Accounts Payable (if necessary)
 - (b) Appointments
 - (c) Miscellaneous
 - (d) Public Comment
- (7) Adjourn

MONDAY, JANUARY 10, 2011

9:00 a.m.

-Swearing in of Commission Gaughan

CONSENT AGENDA:

- Consider approval to transfer \$130,000 to the Reserve Technology Fund to be used by other Douglas County land records offices (Kay Pesnell)
- Consider approval to execute medical contracts for the jail with Dennis Sale, Bert Nash Community Mental Health, Visiting Nurses Association and Dr. Pattison (Jackie Waggoner)

WEDNESDAY, JANUARY 12, 2011

-No Commission Meeting

WEDNESDAY, JANUARY 19, 2011

6:35 p.m.

- Consider approval of the minutes of November 17, December 1 and December 8, 2010
- Consider approval of a Site Plan [SP-11-58-10] for a 662,626 square foot Berry Plastics warehouse and printing facility on approximately 97.16 acres located northwest of the intersection of N 1800 and E 700 Roads. Site plan was submitted by Paul Werner Architects for Rockwall Farms, LC, property owner of record. (Mary Miller is the Planner)
- Consider approval of a Temporary Set Aside Agreement and Cross Access Easement and Maintenance Agreement for Certificate of Survey [CSU-3-2-10] a 20-acre site located in Section 31, Township 13S, Range 20E for May-West, LC Property owner of record. Property is located southeast of the intersection of N 1000 and E 1450 Roads.(Mary Miller is the Planner)
- Consider approval of a Cross Access Easement and Maintenance Agreement [CSU-3-1-10] on a 25 acre site located in Section 31, Township 13S, Range 20E for May-West, LC Property owner of record. Property is located on E 1450 Road south of the intersection of N 1000 and E 1450 Roads.(Mary Mille is the Planner)

WEDNESDAY, JANUARY 26, 2011

WENDESDAY, FEBRUARY 2, 2011

- Public Hearing on the Resolution of Intent to issue IRBs for Berry Plastics project;
- Consider approval of application for tax abatement for Berry Plastics and consideration on infrastructure funding request.

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.*

RESOLUTION NO. 11 - _____

A RESOLUTION DIRECTING THE COUNTY COUNSELOR TO INSTITUTE A JUDICIAL TAX FORECLOSURE ACTION IN THE DISTRICT COURT OF DOUGLAS COUNTY, KANSAS

WHEREAS, K.S.A. 79-2801, and amendments thereto, requires that in all cases in which real estate has been or shall be sold and bid in by the county at any delinquent tax sale, and shall remain unredeemed on September 1 of the second year after such sale, or any extension thereof as provided by subsection (b) of K.S.A. 79-2401a, and amendments thereto, or whenever real estate described by subsection (a)(2) of K.S.A. 79-2401a, and amendments thereto, has been or shall be sold and bid in by the county at any delinquent tax sale and remains unredeemed on September 1 of the first year after the sale, the Board of County Commissioners shall order the County Counselor to institute a real estate tax foreclosure action in the District Court in the name of The Board of County Commissioners, to judicially foreclose on the County's real estate tax liens.

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

Section 1. Action to be Instituted. The County Counselor of Douglas County, Kansas, in the name of the Board of County Commissioners of Douglas County, Kansas, is directed to institute judicial tax foreclosure action pursuant to K.S.A. 79-2801, *et seq.*, against the owners or supposed owners of such real estate and all persons having or claiming to have any interest therein or thereto, to enforce the lien of Douglas County, Kansas and its taxing authorities, for taxes, charges, assessments, interest, and penalties on unredeemed real estate bid in by Douglas County for real estate having unpaid real estate taxes and assessments for 2006 and prior years.

Section 2. Effective Date. This Resolution shall take effect and be in full force from and after its adoption by the Board of County Commissioners.

ADOPTED this _____ day of January 2011.

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

Attest:

Nancy Thellman, Chair

Jameson D. Shew, County Clerk

James Flory, Member

Mike Gaughan, Member

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

FROM: Jackie Waggoner, Purchasing Director
Division of Purchasing

SUBJECT: Approve Outdoor Warning Siren Maintenance Contract

DATE: December 23, 2010

Douglas County participated in a Mid America Regional Council (MARC) cooperative contract for outdoor warning sirens. The contract established with Blue Valley Public Safety (BVPS) includes both equipment and maintenance.

The maintenance agreement includes 33 sirens, 35 siren controls, 140 batteries, 2 encoders, and 1 software upgrade at a cost of \$22,656.

The County was scheduled to go to narrow banding of the 2-way radio system in 2010. This requires reprogramming the 2-way radio in each of the outdoor warning sirens. BVPS has agreed to include the narrow banding (estimated cost of \$3,000 - \$5,000) at no additional cost although it typically is not covered under the maintenance agreement.

The County is eligible for a 10% discount if payment is made in full by 1/31/11. We intend on taking advantage of this discount that would reduce our annual cost to \$20,390.40. I will be available at the commission meeting to answer any questions you may have.

SUGGESTED MOTION: The Board of County Commissioners approves the 2011 outdoor warning siren maintenance agreement in the amount of \$20,390.40 with Blue Valley Public Safety.

MEMORANDUM

To : Board of County Commissioners

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

Date : December 30, 2010

Re : Consent Agenda Approval of Bids for Crushed Rock for Road Maintenance

Sealed bids were opened December 27 for crushed rock aggregates used for road maintenance. A bid tabulation is attached.

This department requests the BOCC accept the following bids:

<u>Aggregate</u>	<u>Vendor</u>	<u>Quantity (tons)</u>	<u>Quarry</u>	<u>Unit Price</u>
Shot Rock	Mid-States	1,000-3,000	Big Springs	\$11.00
	Hunt Martin	1,000-3,000	Sunflower	\$ 8.25
AB-3	Mid-States	3,000-7,500	Big Springs	\$ 9.35
	Hamm	3,000-7,500	Harrell	\$ 8.80
	Hunt Martin	3,000-7,500	Sunflower	\$ 5.70
Road Rock (Special)	Hamm	3,000-7,500	Harrell	\$ 8.95
	Mid-States	3,000-7,500	Big Springs	\$10.50
Rip Rap	Mid-States	500-1,500	Big Springs	\$19.30

Accepting bids from two or more vendors for a particular aggregate allows us to consider haul costs to the project site when determining where to obtain rock.

Hunt Martin's Sunflower quarry is in DeSoto. We would use rock from this quarry for roads in the eastern part of the county. With the difference in price we believe rock from this quarry will be cost effective on a limited basis. We will likely store much of this rock at our Vinland site.

Road & Bridge Fund 201 has \$235,240 allocated in the Road Rock and Rip Rap line items. There is an additional \$11,700 in the Parks budget for Rip Rap.

Action Required: Consent Agenda acceptance of the bid from Mid-States Materials (Big Springs quarry) for the supply of 1,000-3,000 tons Shot Rock, 3,000-7,500 tons AB-3 base rock, 3,000-7,500 tons Road Rock (Special), and 500-1,500 tons Rip Rap, and the bid from Hamm Quarries (Harrell quarry) for the supply of 3,000-7,500 tons AB-3 base rock and 3,000-7,500 tons Road Rock (Special), and the bid from Hunt Martin (Sunflower quarry) for 1,000-3,000 tons Shot Rock, and 3,000-7,500 tons AB-3 base rock.

SHOT ROCK

		Quarry # 1	Quarry # 2	Quarry # 3
VENDOR	QTY/TON	\$/Ton	\$/Ton	\$/Ton
Hamm's	1000-3000			
		Big Springs		
Mid States	1000-3000	\$11.00		
		Sunflower	Ottawa	
Hunt Martin	1000-3000	\$8.25	\$8.75	

AB-3

AB-3

		Quarry #1	Quarry #2	Quarry #3		Quarry # 1	Quarry # 2	Quarry # 3
VENDOR	QTY/TON	\$/Ton	\$/Ton	\$/Ton	QTY/TON	\$/Ton	\$/Ton	\$/Ton
		Eudora	Harrell	N. Law.		Eudora	Harrell	N. Law.
Hamm's	3000-7500	\$8.25	\$8.80	\$8.40	7501-12000	\$8.25	\$8.80	\$8.40
		Bid Springs						
Mid States	3000-7500	\$9.35			7501-12000			
		Sunflower	Ottawa			Sunflower	Ottawa	
Hunt Martin	3000-7500	\$5.70	\$6.20		7501-12000	\$5.70	\$6.20	

SS-3

SS-3

		Quarry #1	Quarry #2	Quarry #3		Quarry #1	Quarry #2	Quarry #3
VENDOR	QTY/TON	\$/Ton	\$/Ton	\$/Ton	QTY/TON	\$/Ton	\$/Ton	\$/Ton
		Eudora	Harrell	N. Law		Eudora	Harrell	N. Law.
Hamm's	100-3000	\$8.50	\$8.95	\$8.65	3001-10000	\$8.50	\$8.95	\$8.65
		Bid Springs						
Mid States	100-3000	\$10.50			3001-10000			
		Sunflower	Ottawa			Sunflower	Ottawa	
Hunt Martin	100-3000	\$7.15	\$7.65		3001-10000	\$7.15	\$7.65	

ROAD ROCK SPECIAL

ROAD ROCK SPECIAL

		Quarry # 1	Quarry # 2	Quarry # 3		Quarry # 1	Quarry # 2	Quarry # 3
VENDOR	QTY/TON	\$/Ton	\$/Ton	\$/Ton	QTY/TON	\$/Ton	\$/Ton	\$/Ton
		Eudora	Harrell			Eudora	Harrell	
Hamm's	3000-7500	\$8.50	\$8.95		7501-12000	\$8.50	\$8.95	
		Bid Springs						
Mid States	3000-7500	\$10.50			7501-12000			
		Sunflower	Ottawa			Sunflower	Ottawa	
Hunt Martin	3000-7500	\$7.15	\$7.65		7501-12000	\$7.15	\$7.65	

STONE FOR RIP RAP

		Quarry # 1	Quarry # 2	Quarry # 3
VENDOR	QTY/TON	\$/Ton	\$/Ton	\$/Ton
		N. Law.		
Hamm's	500-1500	\$22.75		
		Big Springs		
Mid States	500-1500	\$19.30		
Hunt Martin	500-1500			

Keith A. Browning, P.E.
 Director of Public Works

12/27/2010

Jamison Shew
 Douglas County Clerk

**AGREEMENT FOR HOUSING OF INMATES IN
DOUGLAS COUNTY JAIL**

THIS AGREEMENT ("Agreement") is entered into between the **BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS** (hereinafter referred to as "County") and **THE CITY OF BALDWIN CITY, KANSAS** (hereinafter referred to as "Baldwin City") effective January 1, 2011.

RECITALS

WHEREAS, County operates the Douglas County Jail (hereinafter the "Facility"); and

WHEREAS, Baldwin City desires to contract with and pay County to house one or more inmates in the Facility as a place of confinement; and

WHEREAS, the County is desirous of accepting and keeping in its custody such inmate(s) in the Facility for a rate of compensation mutually agreed upon by the parties hereto; and

WHEREAS, K.S.A. 12-2908, as amended, authorizes any municipality to contract with any other municipality to perform any governmental service, activity or undertaking which each municipality is authorized by law to perform; and

WHEREAS, the governing bodies of each of the parties hereto have determined to enter into this Agreement as authorized and provided for by K.S.A. 12-2908, as amended.

TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of the above and foregoing recitals, the payments to be made, the mutual promises and covenants herein contained, and for other good and valuable consideration, the sufficiency of which is acknowledged, the parties hereto agree as follows:

1. **DURATION AND NUMBER OF INMATES**

This Agreement shall become effective January 1, 2011 and end December 31, 2011, subject to earlier termination as provided by Section 2 herein. This Agreement may be renewed for successive twelve-month periods by written addenda executed by the parties hereto under such terms and conditions as the parties may determine. Nothing in this Agreement shall be construed to require Baldwin City to have inmates housed continuously in the Facility.

2. **TERMINATION**

This Agreement and any renewals may be terminated by written notice of either party, provided that termination shall become effective 15 working days after receipt of such notice. Within said 15 working days, Baldwin City agrees to remove its inmate(s) from the Facility. Upon termination of this Agreement, Baldwin City shall pay County compensation for maintenance of each of Baldwin City's inmates equal to the County's average cost per inmate per day that Baldwin City's inmates are housed at the Facility, together with all medical expenses of all of Baldwin City's inmates.

3. MAILING ADDRESSES

All notices, reports, and correspondence to the respective parties of this Agreement shall be sent to the following:

County: Administrative Lieutenant
Douglas County Jail
3601 E. 25th Street
Lawrence KS 66046-5616

With a Copy to: Douglas County Sheriff
Judicial and Law Enforcement Center
111 E. 11th Street
Lawrence KS 66044

Baldwin City: Municipal Court
P.O. Box 86
803 8th Street
Baldwin City KS 66006

With a Copy to: Chief of Police, Baldwin City
P.O. Box 86
803 8th Street
Baldwin City KS 66006

4. COMPENSATION

County agrees to accept and house inmates for compensation at the daily rate equal to one-half of the County's per inmate average cost over the prior three years, which is agreed to be \$70.73 per day. The daily rate for any renewal terms of this Agreement will be determined in a similar manner, based upon the most recent three calendar years. Baldwin City also will pay for out-of-pocket medical expenses as set forth in Paragraph 9 below.

5. RESPONSIBILITY FOR INMATE'S CUSTODY

It shall be the responsibility of the County to confine the inmate or inmates; to provide treatment, including the furnishing of food and all necessary medical and hospital services and supplies; to provide for their physical needs; to retain them in said custody; to supervise them; to maintain proper discipline and control; to provide conditions of confinement and treatment in compliance with all constitutionally protected rights of inmates; to make certain that they receive no special privileges and that the sentence and orders of the committing court are faithfully executed, provided that nothing herein contained shall be construed to require County, or any of its agents, to provide treatment, facilities or programs for any inmate confined pursuant to this Agreement, which the County does not provide for similar inmates not confined pursuant to this Agreement.

6. FURLONGHS AND PASSES

County agrees that no furloughs or passes shall be granted to any inmate(s) housed pursuant to this Agreement without written authorization of Baldwin City.

7. INMATE ACCOUNTS

County shall establish and maintain an account for each inmate received from Baldwin City and shall credit to such account all money which is received and shall make disbursements, debiting such account in accurate amounts for the inmate's personal needs. Disbursements shall be made in a manner consistent with all other inmates at the Facility. The County shall be accountable to Baldwin City for such inmate funds. At either the termination of this Agreement, the inmate's death, release from incarceration or return to either Baldwin City or indefinite release by the court, the inmate's money shall be paid to the inmate or the inmate's estate, as the case may be.

8. INSURANCE

County shall maintain a liability insurance policy with an insurance company authorized to sell policies in the State of Kansas or that is otherwise acceptable to Baldwin City. Said coverage shall cover the operations of the jail and law enforcement activities of County. Upon execution of this Agreement and each renewal thereof, County shall provide a Certificate of Insurance to Baldwin City certifying the existence of said insurance coverage in an amount not less than \$500,000 per occurrence.

9. MEDICAL SERVICES

(a) County shall provide inmates from Baldwin City with medical and dental treatment consistent with constitutionally protected rights of confined inmates, the financial burden of which shall be borne by Baldwin City. Except in the event of a medical emergency, County shall obtain consent from a representative of Baldwin City prior to incurring expenses with third-party medical providers, provided that if Baldwin City refuses to consent to such third-party treatment, Baldwin City shall indemnify and hold County harmless from any claim, liability, or judgment of the inmate predicated upon the failure to provide medical care and/or County may release the inmate from custody if County determines that continued confinement without medical care creates an unacceptable risk to County.

(b) An adequate record of all such services shall be kept by County for review by Baldwin City upon request. Any medical or dental services of major consequence shall be reported to Baldwin City as soon as time permits. County agrees to provide and Baldwin City agrees to receive and use any records containing "protected health information" (as defined in the Health Insurance Portability and Accountability Act of 1996) (the "Act") solely for purposes of payment of medical or dental services. Baldwin City further agrees:

i. to implement and use appropriate safeguards to prevent the use and disclosure of protected health information for purposes except as permitted by this Agreement or the Act (determined as if the Act applies to County and/or Baldwin City);

ii. to incorporate any corrections to protected health information when notified of such correction;

iii. to not use or disclose protected health information that would violate the regulations promulgated pursuant to the Act if done by the County (determined as if the Act applies to County);

iv. to require any subcontractor or agent by whom protected health information is received from the other party to agree to the same restrictions and conditions that apply to Baldwin City with respect to such information;

v. to provide access to non-duplicative protected health information to the individuals which are the subject of that information in accordance with the regulations promulgated pursuant to the Act including the right of inspection and copying (determined as if the Act applies to County and/or Baldwin City);

vi. to give the County access to data pertaining to protected health information for the purpose of auditing compliance with Baldwin City's obligations under this Agreement or the Act;

vii. to make available its respective internal practices, books and records relating to the use and disclosure of protected health information to the United States Department of Health and Human Services and its duly authorized representatives (determined as if the Act applies to County and/or Baldwin City).

(c) Should medical or dental services of third party medical providers be required, Baldwin City agrees to compensate County dollar for dollar any amount expended or cost incurred in providing the same; provided that nothing herein shall preclude Baldwin City from retaking the ill or injured inmate(s) and seeking the necessary medical attention; and provided further that Baldwin City is not responsible for medical or dental expenses related to injuries suffered by an inmate which were inflicted by other inmates or County personnel while in the custody of the County and attributable to gross negligence on the part of the County.

10. DISCIPLINE

County shall have physical control over and power to execute disciplinary authority over all inmates from Baldwin City. However, nothing contained herein shall be construed to authorize or permit the imposition of a type of discipline prohibited by the laws of the State of Kansas or the procedural and substantive due process rights guaranteed by the Constitution of the United States.

11. RECORDS AND REPORTS

(a) Baldwin City shall forward to County before or at the time of delivery of inmate(s): an admission classification, and any findings or indications of any special consideration or treatment programs that have been recommended or prescribed.

(b) County shall keep all necessary and pertinent records concerning such inmate(s). Subject to the provisions of Section 9, during the inmate's incarceration in the Facility, Baldwin City shall be entitled to receive, and upon request, be furnished with copies of any such reports or records.

12. REMOVAL FROM THE JAIL

An inmate of Baldwin City legally confined in the Facility shall not be removed therefrom by any person without a written order from Baldwin City or a court of competent jurisdiction. This paragraph shall not apply to an emergency necessitating the immediate removal of the inmate for medical, dental, psychiatric treatment or other catastrophic condition presenting an eminent danger to the safety of the inmate or to the inmates or personnel of the County. In the event of any removal for such an emergency cause, County shall inform Baldwin City of the whereabouts of the inmate or inmates so removed, at the earliest practicable time, and shall exercise all reasonable care for the safe keeping and custody of such inmate or inmates.

13. ESCAPES

In the event any such inmate(s) shall escape from custody, County will use all reasonable means to recapture the inmate(s). The escape shall be reported immediately to Baldwin City. County shall have the primary responsibility for and authority to direct the pursuit and retaking of the inmate or inmates within its own jurisdiction. Any cost in connection therewith shall be chargeable to and borne by County.

14. DEATH OF AN INMATE

(a) In the event of the death of an inmate, County shall comply with all statutory notification and investigatory requirements. Baldwin City shall receive copies of any records made at or in connection with such notifications.

(b) County shall immediately notify Baldwin City of the death of an inmate, furnish information as requested and follow the instructions of Baldwin City with regard to the disposition of the body. The body shall be delivered to the Douglas County Coroner for autopsy if required by then applicable state law or County jail policies. Once delivered to the Douglas County Coroner, or upon death if the body is not required to be delivered to the Douglas County Coroner, the body shall not be released except on written order of the appropriate officials of Baldwin City, unless Baldwin City's written order violates County's or the Coroner's other legal obligation for disposition of the body. As between Baldwin City and the County, all expenses relative to any necessary preparation of the body and shipment or express charges shall be paid by Baldwin City. Baldwin City and County may arrange to have County take care of burial and all matters related to or incidental thereto, and all such expenses shall be paid by Baldwin City. The provisions of this paragraph shall govern only the relations between or among the parties hereto and shall not affect the liability of any relative of the person for the disposition of the deceased or for any expenses connected therewith.

(c) Baldwin City shall receive a certified copy of the death certificate for any of its inmates who have died while in the Facility.

15. RETAKING OF INMATES

Baldwin City Police Department will retake any inmate(s), upon request of County, within ten (10) days after receipt of such request to retake. In the event the confinement under which any of the said inmate(s) is (are) terminated for any reason, Baldwin City agrees to accept delivery of the inmate(s) at the Facility and at Baldwin City's expense, return such inmate(s) to the jurisdiction of Baldwin City.

16. RESPONSIBILITY FOR LEGAL PROCEEDINGS

Provided the terms of this Agreement have not been breached by County, Baldwin City agrees to indemnify County for any judgment, liability or damages not covered by insurance arising from any action or proceeding involving the custody of any inmate(s) from Baldwin City, provided that any such action or proceeding does not arise from any allegations of any intentional, willful or negligent act on the part of County or any Sheriff, deputy, officer, agent or employee thereof.

17. JAIL ADMINISTRATION AND MANAGEMENT

County further represents and warrants that its jail facility and its administration and management of inmates substantially complies with all constitutionally guaranteed rights of confined inmates and will continue to comply throughout the term of this Agreement and further agree to notify Baldwin City of any material changes in the physical structure or policies and procedures of the operation of the jail.

18. BILLING AND PAYMENT

Following each calendar quarter, County shall provide the Baldwin City Municipal Court with an itemized bill, listing all names of inmates who were housed, the number of days housed, and the dollar amount due for each inmate (the "Invoice"). Baldwin City agrees to pay County the amount due within 30 days of receipt of the Invoice.

19. RIGHT TO REFUSE

(a) County shall have the right to refuse to accept any inmate(s) from Baldwin City when, in the opinion of County, its inmate census is at capacity or so near capacity that there is a substantial risk that, through usual operation of the Facility, the legal capacity limits of the Facility might be reached or exceeded.

(b) County shall further have the right to refuse to accept any inmate(s) from Baldwin City who, in the judgment of County, has a history of serious medical problems or who presents a substantial risk of escape from the Facility or a substantial risk of injury to other persons or property.

20. TRANSPORTATION

Baldwin City inmates incarcerated by the County in the Facility pursuant to this Agreement shall be transported to County by and at the expense of Baldwin City Police Department and shall be returned, if necessary, to Baldwin City by Baldwin City Police Department and at Baldwin City's expense. Except for transportation to a medical facility in the case of a medical emergency, County is not responsible for transportation of Baldwin City inmates under this Agreement. Baldwin City shall reimburse County for any actual expenses incurred in transport of an inmate if, in fact, transportation of an inmate by County personnel becomes necessary.

21. MISCELLANEOUS

This Agreement contains the entire agreement of the parties hereto and all prior agreements, negotiations and discussions are merged herein. This Agreement may not be modified except by a written modification signed by both parties hereto. Any determination by a Court that one term or provision of this Agreement is invalid or unenforceable shall not void or invalidate the entire agreement. The laws and administrative rules and regulations of the State of Kansas shall govern in any matter relating to an inmate(s) confined pursuant to this Agreement.

22. CASH BASIS LAW

The parties to this Agreement acknowledge that this Agreement is subject to the Cash Basis Law, K.S.A. 10-1101 *et seq.*, and that the obligation of Baldwin City to compensate the County shall be subject to and in accordance with the Cash Basis Law.

[remainder of page intentionally blank, signature page to follow]

The Lecompton Historical Society

Lecompton, Kansas 66050

27 December 2010



Dear Legislator,

You and Governor-elect Brownback recently received an invitation to return to Lecompton, the only official Territorial Capital of Kansas from 1855-1861, for one day as part of the 150th anniversary of Kansas Statehood.

Events in Territorial Lecompton reflected the national turmoil of the time. It is where the Lecompton Constitution was drafted. While ultimately rejected by the U. S. House because it endorsed slavery, it was passed by the U.S. Senate and supported by President Buchanan. Subsequent elections in Kansas demonstrated that the Territory contained far more abolitionists than slave holders. Slavery began to die with the rejection of this document which was a significant factor resulting in breaking the gridlock by splitting the Democratic Party and leading to the election of President Lincoln in 1860. A visit to Lecompton as part of the State's 150th Anniversary Celebration should include passage and signing of a Proclamation declaring Kansans' historic opposition to slavery – 1861 to 2011 –in the U. S. and the world. The Lecompton Historical Society as well as the Kansas Historical Society will welcome the opportunity to help draft such a Resolution.

This is to update you with Information about publicity already received for the State of Kansas. Newspapers from Bridgeport, CT to San Francisco and locations between have carried a story about the invitation. There have also been several stories on TV and radio stations outside of Kansas. All of this is great for the Kansas Travel & Tourism industry and, most of all, economic development for our state. We are receiving very positive responses from travel industry professionals in the area.

The actual visit potentially would provide national media coverage. It will not only highlight 150 years of Kansas Statehood; but provide added attention to the 29 Kansas counties newly designated as part of "Freedom's Frontier National Heritage Area" passed by Congress and signed into law by President George W. Bush in 2008. Plans are to have vintage carriages, and re-enactors present. Some legislators have indicated they would ride to the event on horseback. What a visual this would provide for the news media!

As stated in the original letter of invitation, the Lecompton Historical Society will provide transportation to Lecompton and, if desired, a meal. We hope to see you at a future date of your preference in Lecompton.

Respectfully,

Paul M. Bahnmaier

Paul M. Bahnmaier, President
Lecompton Historical Society
PO Box 68, Lecompton, KS 66050
lanemuseum@aol.com
Museum: 785.887.6148
Home: 785.887.6275

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

COUNTY:
Board of County Commissioners of Douglas County,
Kansas

ATTEST:

By: _____
Nancy Thellman, Chair

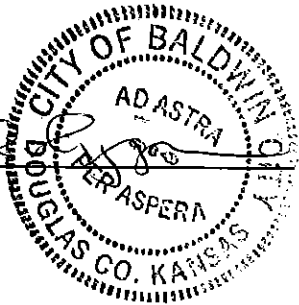
County Clerk

CITY:
CITY OF BALDWIN CITY, KANSAS

By: *Ken Wagner*
Ken Wagner, Mayor

ATTEST:

Nancy Thellman
City Clerk



PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
12/13/10

ITEM NO. 1 CONDITIONAL USE PERMIT; 1724 N 780 RD (SLD)

CUP-9-4-10: Consider a Conditional Use Permit for Jayhawk Excavating, truck storage, in the NW ¼ of S10-T14-R20, located at 1724 N 780 Road, on approximately 20 acres. Submitted by Allen and Teresa Rockhold, property owners of record.

STAFF RECOMMENDATION: Staff recommends approval of a Conditional Use Permit for the truck storage building at 1724 N 780 Road in the NW¼ of section 10-14-20 and forwarding of this application to the County Commission with a recommendation for approval, based upon the findings of fact presented in the staff report, and subject to the following conditions:

1. Approval of the truck storage use, as long as the use is associated with the Home Business, for a period of ten years expiring on July 1, 2020.
2. Provision of a copy of a permit approved by the County Public Works Department for "Over Size/Over Weight Vehicles" prior to the commencement of the operation from 1724 N 780 Road.
3. Submittal of a revised site plan to show the following revisions and/or additions to the site plan notes as follows:
 - a. The Conditional Use Permit is approved for 10 years and shall expire July 1, 2020 unless a request for an extension is submitted for approval by the Board of County Commission prior to that date;
 - b. A review of the Conditional Use Permit in five years, on or before July 1, 2015, by county staff for compliance with the conditions of approval.
 - c. The conditional use permit is limited to the use only for the storage of Jayhawk Excavating equipment and personal property of the owner/resident of 1724 N 780 Road.
 - d. Exterior storage of business equipment and materials shall be restricted to the areas shown on the face of the site plan.
 - e. Dumping of construction debris is prohibited on this site.
 - f. Wholesale and retail sales are prohibited on this site.
 - g. Maintenance and repair of equipment shall be limited to that equipment owned by Jayhawk Excavating and personal property of the owner/resident of 1724 N 7800 Road.
 - h. Exterior lighting proposed to be added to the site to serve the business shall be approved by the County Zoning Administrator. All lighting shall be shielded and directed downward.
 - i. The applicant is responsible for dust control between the applicant's residence/place of business and the nearest paved road. Dust control measures shall be coordinated with the Township Board. Depending on weather and the time of year, different types of dust control measures may be required to mitigate dust. The Board of County Commissioners retains the right to review the dust prevention methods based on complaints from County Public Works, Township Staff, or neighbor calls to determine if the methods used are sufficient and to direct the applicant to mitigate dust disturbance for future events through an approved treatment for dust control.

Reason for Request: Applicant response: *"Downsize, because of economy. I do not need two similar large properties/buildings for storage of equipment."*

Staff Summary of Request This request is for the use of accessory buildings for storage of materials and equipment associated with the operation of Jayhawk Excavating. This location is also the primary residence of the applicant.

Applicable Code Citation: Section 12-319-6.02 addresses Type II Rural Home Occupations. The purpose is to *"permit the establishment of certain incidental and accessory home business occupations that can be conducted within the dwelling unit, or within an accessory building, that is ancillary to the primary residential use of the property."* Specific conditions must be met to accommodate home occupations.

- General provisions of rural home occupations require that all equipment, materials, goods and vehicles shall be stored indoors or otherwise completely screened from view of adjacent parcels and rights-of-way.
- A distinction between Type I and Type II Rural Home Occupations includes allowing up to 4 nonresident employees in Type II Rural Home Occupations.
- Home business activity shall be conducted within the dwelling unit or within an accessory building that is no greater than 3,600 square feet in gross area.
- The proposed building is 40' by 72' or 2,880 SF.

The Applicant requested an informal hearing (following the procedures of 12-319-6.04 for appeals of administrative decisions concerning home occupations) to determine if the use qualified as a Type II Rural Home Occupation. The Hearing Officer, Board of County Commissioner, Mike Gaughan, concurred with the County Zoning Administrator that the relocation of the business to 1724 N 780 Road would not comply with the provisions of a Type II Rural Home Occupation. The hearing concluded the number of buildings already being used and their gross square footage exceeded 3,600. A Conditional Use Permit is required for this activity.

KEY POINTS

- As a service-oriented business it generates no on-site customer traffic and is the type of existing industrial/business use *Horizon 2020, Chapter 7*, encourages supporting.
- Building is intended for use of personal property associated with business or property owner's use only.
- Storage of equipment for other businesses or persons not a resident of 1724 N 780 Road is prohibited.

ASSOCIATED CASES/OTHER ACTION REQUIRED

- Approval by the County Commission.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

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

GENERAL INFORMATION

Current Zoning and Land Use: A (Agricultural) District; existing residence and farmland.

Surrounding Zoning and Land Use: A (Agricultural) District in all directions including scattered rural residential homes, accessory buildings and cropland.

Site Summary: Subject Property: Buildings:	19.64 acres 1. Residence 2. Ag. Building 3. Building previously removed 4. 56' x 60' Garage 5. 40' x 72' proposed storage building
Required Parking:	1 space per 2 employees required Minimum 3 employees Maximum 10 employees
Parking Provided:	Minimum 5 spaces shall be shown on face of revised site plan.

I. ZONING AND USES OF PROPERTY NEARBY

Staff Finding – The subject property is located on the south side of N 7800 Rd. The surrounding properties are used for agriculture or agricultural related purposes. Several rural residences are located in the vicinity located along the existing County roads. The subject property and the properties in all directions are zoned A (Agricultural).

II. CHARACTER OF THE AREA

Staff Finding – The area lays beyond any designated Urban Growth Area of Lawrence, Baldwin or Eudora and outside of the 3 mile buffer of any incorporated city. The area is predominantly rural residential/agricultural in nature. (See Map 1).

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

Applicant response:

"Ag area, have worked excavating jobs in this area for several years."

Staff Finding – A Conditional Use Permit (CUP) does not change the base, underlying zoning. The suitability of the property for agricultural or rural residential use will not be altered. The A

District permits agricultural uses and related uses. The use is suitable to the site and to the uses to which it is restricted.

The proposed structure is of a size and nature that it could be reused for other residential/agricultural purposes if in the future the business element is removed. Storage of personal property is an allowed use in the "A" District. Accessory buildings are allowed when a primary building (residence) exists.

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

Staff Finding – County Zoning Regulations were adopted in 1966; this property has been zoned "A (Agricultural)" since that adoption. The property includes multiple improvements.



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

Applicant Response:

"Will not affect property in any way. We have always been here since 1977, with different equipment and trucks before CUP was ever even discussed."

This request does not propose to remove restrictions related to the base A (Agricultural) Zoning District. Certain uses are allowed within the "A" District provided that certain conditions are met. This proposed request is to allow an existing business to downsize and relocate to the business owner's place of residence. Home Occupations are allowed uses in the A (Agricultural) District. Specific standards must be met to comply with home occupations standards. It was determined that the total sum of building space on the site exceeds the maximum allowed for a home occupation (3,600 SF). Therefore, a Conditional Use Permit is required. (See Applicable Code Citation summary at beginning of report.)

Section 12-319-1.01 of the County Zoning Regulations recognize: *"certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district...when found to be in the interest of the public health, safety, morals and general welfare of the community may be permitted, except as otherwise specified in any district from which they are prohibited."*

The proposed use falls under section 319 -4.24 of the Chapter XII, (Zoning Regulations) of the County Code. The use enumerated in this section is: *"12-319-4. 24. Truck storage facility ancillary uses, open or enclosed, provided that wholesale and retail sales (are) not be permitted on the premises. Open storage must meet the minimum yard requirements of the district in which it is located and must be screened by a view reducing wall, fence or landscaping material from adjacent public roads and adjoining properties."*

Approval of a Conditional Use Permit does not remove restrictions imposed by the A (Agricultural) zoning of the property.

Several notes are recommended on the face of the CUP plan to address screening, lights, and noise issues. Approval of this application would allow a use that is essentially operated as a home occupation.

The storage building's purpose is for providing additional enclosed storage space for excavation equipment associated with Jayhawk Excavating. The applicant has indicated that the space may also be used for his own storage of personal property but in no way shall it be used for storage of equipment for other businesses or as "mini storage" or storage of personal property such as recreational vehicles not owned by the property owner of record.

There is no retail traffic associated with this use. However, employees may park at the property to take equipment to off-site jobs. Areas for vehicular employee parking are located along the existing driveway of the site.

Staff Finding – No detrimental impacts have been identified for this proposed use.

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

Applicant Response:

"Allows property owner to continue business in ag. environment."

This factor is a test of balance; weighing the relative gain to the public against the hardship imposed upon the property owner/applicant if the application is denied. As the use proposed conveys no specific public benefit, does denial of it convey an unreasonable hardship? In this case, the test of balance weighs in the favor of the property owner/applicant. The hardship imposed by denial of this Conditional Use Permit (CUP) application would not allow the applicant to downsize the business. Relocating the business to the residence allows the applicant to reduce the overhead associated with business operation. The current location, 1603 N 779 road (Highway 40) may be sold or repurposed for another use.

With the exception of the total square feet associated with existing buildings on the property this use could be operated as a Type II Rural Home Occupation. The applicant would be limited to not more than 4 employees as a home occupation. Because the total square feet of the buildings exceed 3,600 SF to was determined by County staff that a Conditional Use Permit is required.

Allowing the use to relocate to the residential home base through the approval of a CUP conveys no gain to the public –conversely, a denial would convey a loss to the community if the loss of the business operation occurred.

Staff Finding – Approval of the Conditional Use Permit would allow the continued operation of an existing business at a smaller scale than currently operated. The Conditional Use Permit provides a clearly enforceable document regarding the expectation of use of the property.

VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant Response—

"Comprehensive plan does not address a CUP."

An evaluation of the conformance of a Conditional Use Permit request with the comprehensive plan is based on the strategies, goals, policies and recommendations contained within *Horizon 2020*. The comprehensive plan does not address special or conditional use permits. The Plan does address agriculturally zoned/used land. *Horizon 2020* recommends; "Agricultural uses should continue to be the predominant land use within the areas of the county beyond the designated urban growth/service areas (rural area). Uses permitted in the rural area should continue to be limited to those which are compatible with agricultural production and uses..." (Page 5-6, *Horizon 2020*). *Horizon 2020* also speaks to existing businesses in the county and the need to: "Continue to address the needs of existing businesses and industries to ensure their retention in the community and to help facilitate expansion plans of those businesses and industries for the future". (Chapter 7) This request does not represent an expansion of an existing business. Approval of the request does facilitate the retention of an existing business.

Staff Finding – The issuance of special or conditional use permits is not discussed in *Horizon 2020*. However, the Plan does speak to the need to consider and support existing businesses in

the county by continuing “to address the needs of existing businesses and industries to ensure their retention in the community...”

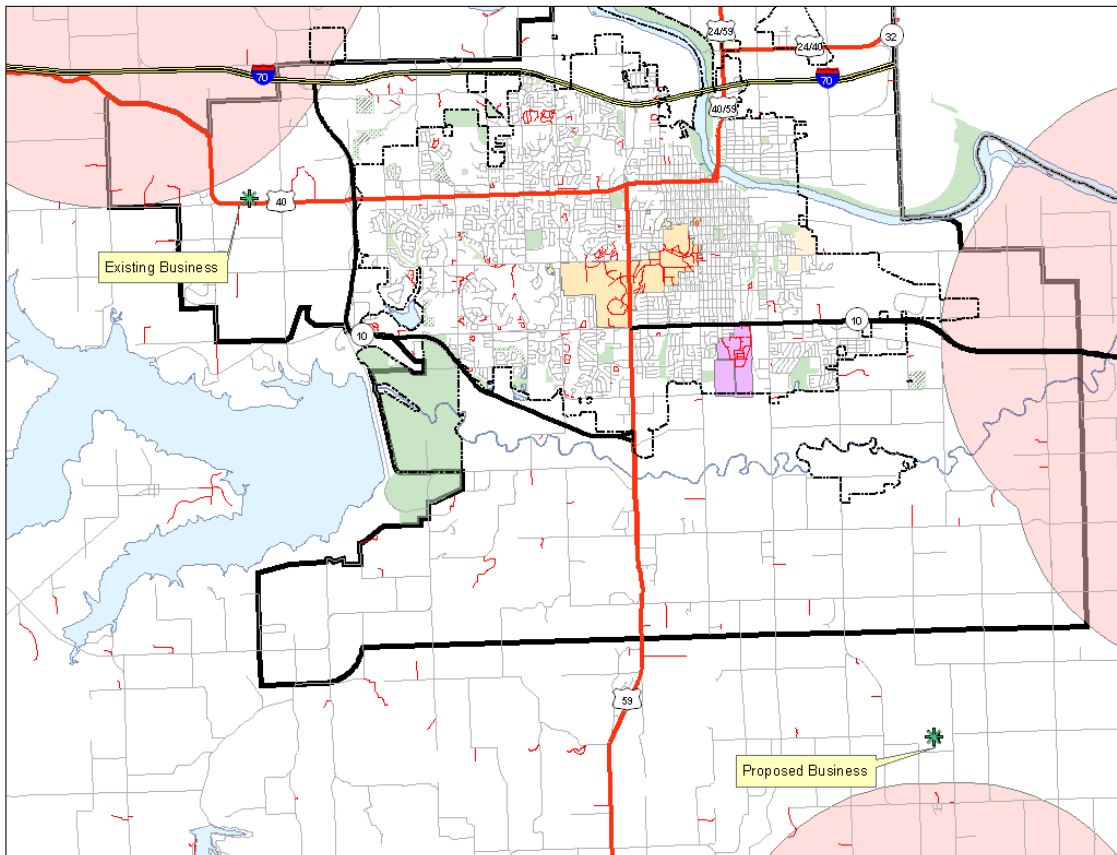
STAFF REVIEW

This request is for the approval of a Conditional Use Permit to allow for an excavation company to be operated from a residence. The property includes multiple accessory/storage buildings. A building has recently been constructed which is intended to store equipment associated with the business. The applicant has indicated that storage of large equipment and materials will occasionally be located outside of any of the structures (exterior storage). The site plan is being revised by the applicant to show the location of exterior storage areas and the associated parking area for employees.

The applicant has stated that the business currently employees up to 4 part time employees. The business would typically operate where employees would meet at a particular job site with the property owner moving equipment form the home location to the job site. The applicant has also stated that in some cases up to 10 employees could be employed and may require meeting at the home site to pick up equipment before heading to a specific job site.

History of Use Associated with Home Business: The County’s home occupation regulations were revised in 2001 to categorize existing, and future uses, into three different types of rural home businesses. Development standards were adopted for each type the three types of rural home business.

The applicant started the business in 1977. Equipment included dump trucks and generally supported agricultural activities. According to the applicant, the business grew through the 1990’s In 1992 it became Jayhawk Excavating. At the pinnacle, the business included more than 15 employees and more than 30 pieces of equipment. The business operated from 1603 E 779 Road (north side of Highway 40) in western Douglas County under CUP-9-12-97. The original CUP was revised in 2006, CUP-3-2-06, to allow other excavation businesses to operate from the same site. This proposed CUP, CUP-9-4-10, will allow the relocation of the Jayhawk Excavation operation to the residence at 1724 N 780 Road. The CUP for the property at 1611 E 779 Road may continue to operate per the previous approval unless revised. This application does not alter or amend the CUP-03-02-06.



Proposed Site Improvements

This CUP includes a newly constructed 40' by 72' building to be used for equipment storage, but may also be used for personal property storage of the owner. The setbacks for the building exceed the minimum front, side and rear yard setbacks for the A District.

A formal parking lot is not proposed with this application. The applicant indicates that there will typically be 3 employees associated with the business and occasionally up to a maximum of 10 employees. Primarily, the owner/operator will be moving equipment from the storage building to a particular job site. Regardless, adequate area exists on site for employee parking in the area north of the residence and along the existing driveway.

Travel Route:

N 780 Road is a rock road, as are E 1700, E 1750 and N 790. The property is located within ½ mile of a hard surface road. The applicant will be subject to permitting by the County Public Works Department for "Over Size/Over Weight Vehicles." Staff recommends that, as a condition of approval, the applicant provide a copy of the permit for the file. (See Map 2.)

While a hard surface road is located within close proximity to the proposed business, the applicant shall be subject to standards for controlling dust that result from the increased activity. Staff recommends that a condition be added to the approval that subjects the applicant to being responsible for dust treatment and that the County Commission reserves the right to

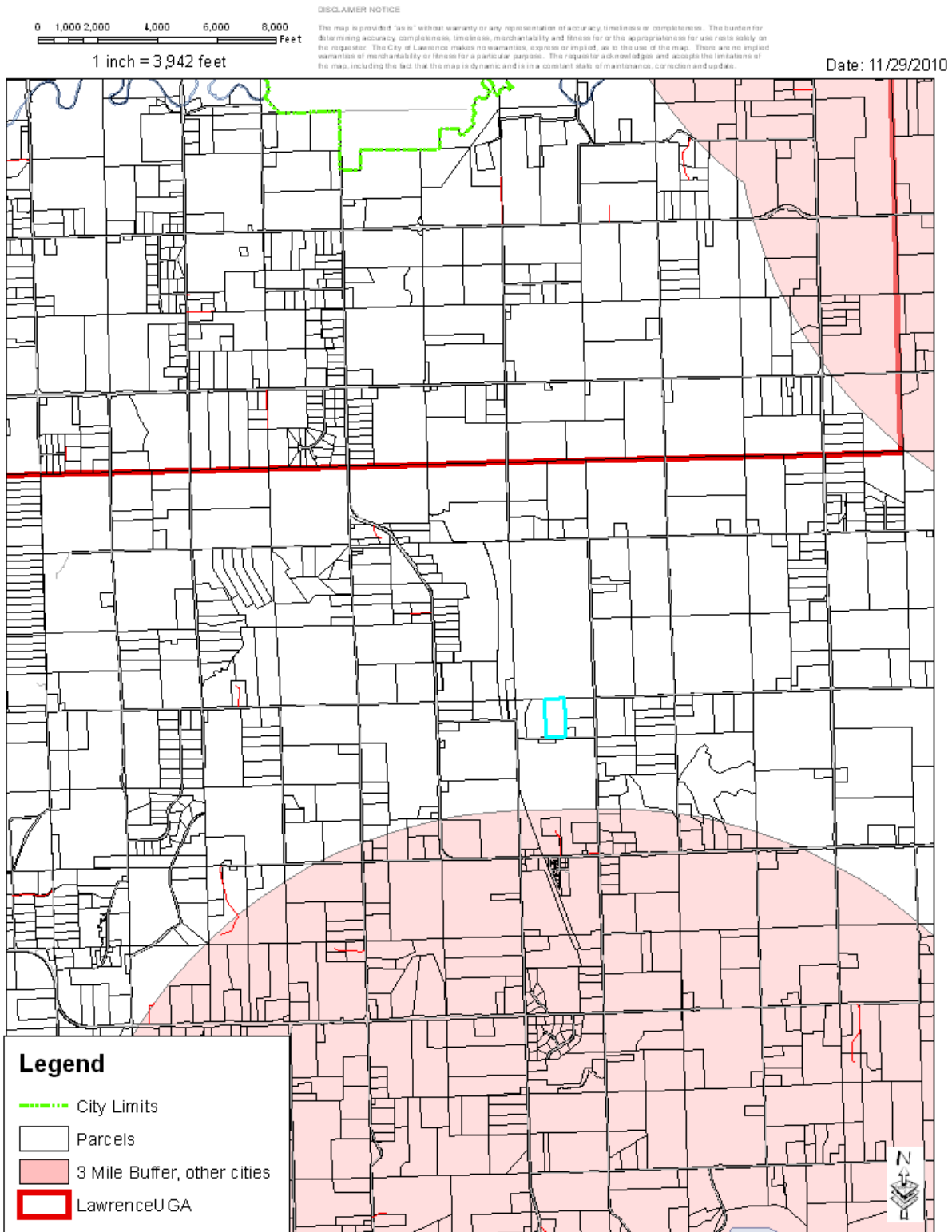
review the application to assure that compliance is met or if complaints are received from the County Public Works, Township, or surrounding neighbors.

Conclusion:

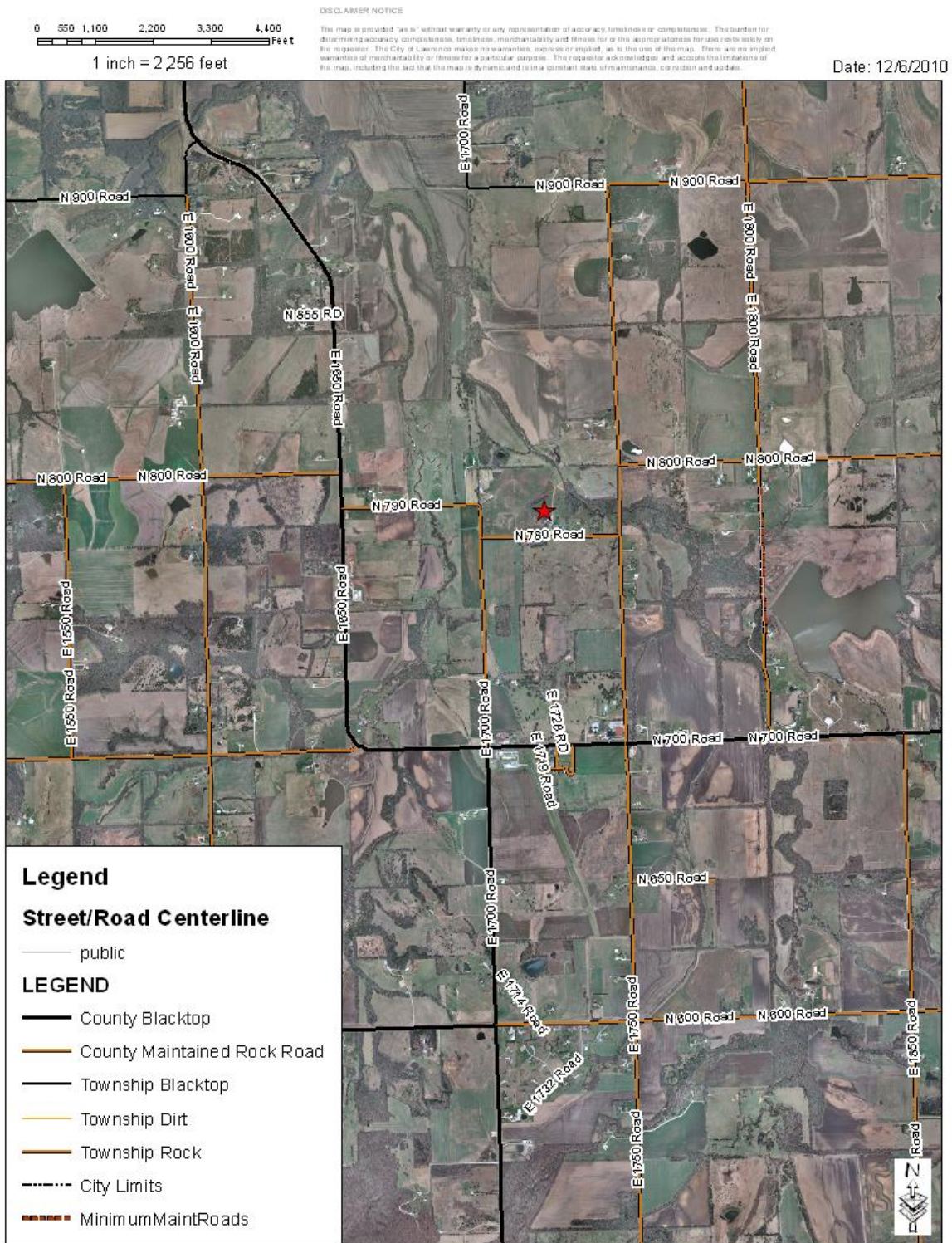
The use proposed is an appropriate application of the Conditional Use Permit regulations in the Zoning Regulations.

The notes are recommended to clarify the use of the property and comply with minimum standards of a site plan.

Map 1: Character of Area



Map 2: Travel Route



DISCLAIMER NOTICE - The map is provided "as is" without warranty or any representation of accuracy, timeliness or completeness. The burden for determining accuracy, completeness, timeliness, merchantability and fitness for or the appropriateness for use rest solely on the requester. Douglas County makes no warranties, express or implied, as to the use of the map. There are no implied warranties of merchantability or fitness for a particular purpose. The requester acknowledges and accepts the limitations of the map, including the fact that the map is dynamic and is in a constant state of maintenance, correction and update.



Allen Rockhold - 1724 N 780 RD

- Legend
- Future Thoroughfares
- FUTCLASS
- major collector
 - freeway
 - minor arterial
 - minor collector
 - principal arterial
 - overseht10
 - Driveways

03-T14S-R20E

CRAIG ELOISE F TRUSTEE
700018A
321.484202
813 E 1750 RD

RAPP PATRICK B
700671B
15.150354

DUNCAN CHARLES W
700072
18.361631

ROCKHOLD ALLEN L
700072B
18.640818
1724 N 780 RD

19.64 acres

10-T14S-R20E

MUSGRAVE CLEON G
700071A01
11.960737
1740 N 780 RD



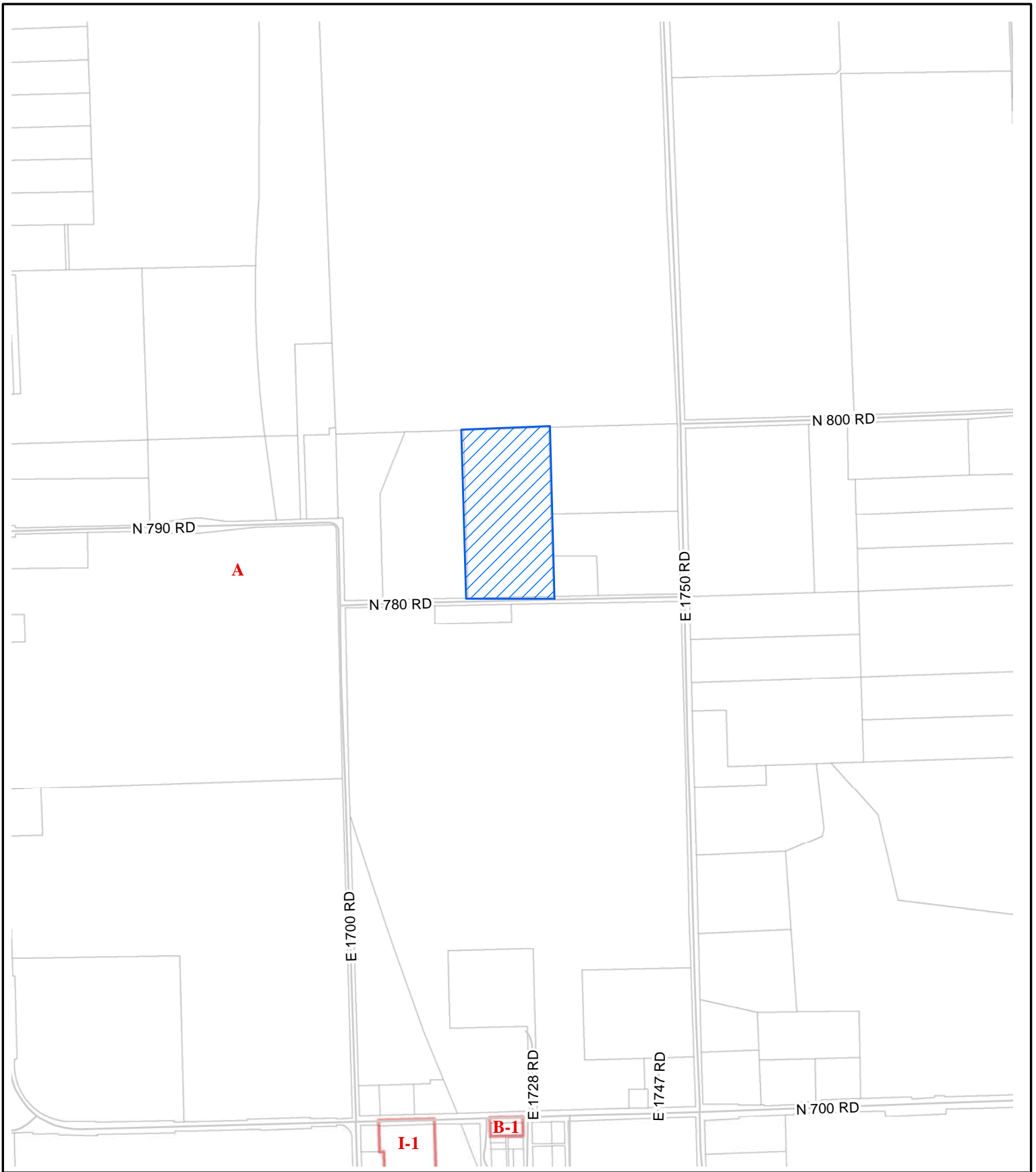
MORRISON JULIA K
700071C
2.445019
1734 N 780 RD

N 780 RD

MAYCOCK DAVID P
700073A
185.144097
713 E 1728 RD

VONSCHLEMMER MARK R
700073-01
1.866519
1717 N 780 RD


MAYCOCK DAVID P
700073A
185.144097
713 E 1728 RD



CUP-09-04-10
1724 N 780 Rd

Lawrence-Douglas County Planning Office
December 2010



 Area Requested
Scale: 1 Inch = 1000 Feet

ITEM NO. 1 CONDITIONAL USE PERMIT; 1724 N 780 RD (SLD)

CUP-9-4-10: Consider a Conditional Use Permit for Jayhawk Excavating, truck storage, in the NW ¼ of S10-T14-R20, located at 1724 N 780 Road, on approximately 20 acres. Submitted by Allen and Teresa Rockhold, property owners of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. Allen Rockhold, was present for questioning.

Commissioner Liese inquired about the number of accessory buildings without a Conditional Use Permit.

Ms. Day said that was a determination that came from the County Administrators Office. The applicant had a preliminary hearing with one of the County Commissioners as part of the appeal process and the determination from that Board was that a Home Occupation was limited to a certain amount of square footage for those accessory buildings. There are a number of accessory buildings onsite and it was not the applicant's intent to use those buildings for the business. County Administration Staff found that this was a difficult manor to enforce so they have been ridged in their interpretations when talking about accessory structures and Home Occupations.

Commissioner Liese asked what the neighbors thought.

Mr. Rockhold said he tried to contact all the neighbors and they were all fine with it. He said one of the neighbors was present in the audience. He said some of the neighbors were scared by the wording of 'truck storage' used in the staff report.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Rasmussen, seconded by Commissioner Singleton, to approve a Conditional Use Permit for the truck storage building at 1724 N 780 Road in the NW¼ of section 10-14-20 and forwarding of this application to the County Commission with a recommendation for approval, based upon the findings of fact presented in the staff report, and subject to the following conditions:

1. Approval of the truck storage use, as long as the use is associated with the Home Business, for a period of ten years expiring on July 1, 2020.
2. Provision of a copy of a permit approved by the County Public Works Department for "Over Size/Over Weight Vehicles" prior to the commencement of the operation from 1724 N 780 Road.
3. Submittal of a revised site plan to show the following revisions and/or additions to the site plan notes as follows:
 - a. The Conditional Use Permit is approved for 10 years and shall expire July 1, 2020 unless a request for an extension is submitted for approval by the Board of County Commission prior to that date;
 - b. A review of the Conditional Use Permit in five years, on or before July 1, 2015, by county staff for compliance with the conditions of approval.
 - c. The conditional use permit is limited to the use only for the storage of Jayhawk Excavating equipment and personal property of the owner/resident of 1724 N 780 Road.
 - d. Exterior storage of business equipment and materials shall be restricted to the areas shown on the face of the site plan.
 - e. Dumping of construction debris is prohibited on this site.
 - f. Wholesale and retail sales are prohibited on this site.

- g. Maintenance and repair of equipment shall be limited to that equipment owned by Jayhawk Excavating and personal property of the owner/resident of 1724 N 7800 Road.
- h. Exterior lighting proposed to be added to the site to serve the business shall be approved by the County Zoning Administrator. All lighting shall be shielded and directed downward.
- i. The applicant is responsible for dust control between the applicant's residence/place of business and the nearest paved road. Dust control measures shall be coordinated with the Township Board. Depending on weather and the time of year, different types of dust control measures may be required to mitigate dust. The Board of County Commissioners retains the right to review the dust prevention methods based on complaints from County Public Works, Township Staff, or neighbor calls to determine if the methods used are sufficient and to direct the applicant to mitigate dust disturbance for future events through an approved treatment for dust control.

Unanimously approved 9-0.

**PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item**

**ITEM NO. 3: COMPREHENSIVE PLAN AMENDMENT TO HORIZON 2020;
AMENDMENT TO CHAPTER 8 (RTG)**

CPA-3-1-10: REPLACE EXISTING HORIZON 2020 - CHAPTER 8-TRANSPORTATION WITH A NEW CHAPTER THAT REFERENCES THE METROPOLITAN TRANSPORTATION PLAN APPROVED BY THE LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING ORGANIZATION AS THE TRANSPORTATION ELEMENT OF THE COMPREHENSIVE PLAN

STAFF RECOMMENDATION: APPROVAL OF AMENDMENT TO REPLACE CHAPTER 8 AND INSERT NEW CHAPTER 8 INTO THE HORIZON 2020 COMPREHENSIVE PLAN

SUMMARY

This new Chapter 8 of the Lawrence-Douglas County Comprehensive Plan does not state transportation policies but instead references the latest MPO approved Metropolitan Transportation Plan (MTP) as amended. This Chapter 8 Amendment simply states that the MTP document constitutes the Transportation Element of the Comprehensive Plan. By approving this new Chapter 8 the Lawrence City Commission and the Douglas County Board of County Commissioners approve the use of this MTP document as the transportation policy guide for comprehensive planning activities conducted by the Lawrence-Douglas County Planning & Development Services Department and the Lawrence-Douglas County Metropolitan Planning Commission, and agree to use this document as local and regional policy in their decision-making process.

STAFF REVIEW

The regional transportation planning process conducted in Douglas County by the Lawrence-Douglas County Metropolitan Planning Organization (L-DC MPO) and the land use planning activities conducted by the Lawrence-Douglas County Planning & Development Services Department (PDS) and the Lawrence-Douglas County Metropolitan Planning Commission (L-DC MPC) are related and have been since 1982 when the L-DC MPO was designated. This amendment explains how both transportation planning and land use planning programs for the area are documented in the regional comprehensive plan and improves the coordination between these two planning processes.

The MPO transportation planning process is designed to provide a regional forum for decision-making for the development and operation of a multi-modal transportation system designed to provide safe and efficient mobility for all of the region's residents and businesses. The L-DC MPO covers the entirety of Douglas County including the

three smaller cities (Baldwin City, Eudora, and Lecompton) which are not included in this comprehensive plan and may produce their own land use plans.

The Metropolitan Transportation Plan (MTP) is a major document produced by the L-DC MPO. The MTP sets regional transportation policies, and it articulates goals and objectives for the creation of a multi-modal transportation system that complements land use plans, economic development plans, environmental plans, parks and open space plans, and other comprehensive plan elements for the region. The MTP document is designed to assist state and local government agencies in improving the quality of life for area residents by developing a safe and efficient transportation system.

The MTP has been used by both the City of Lawrence and Douglas County officials for many years in their reviews of land development proposals and the creation of other planning documents like neighborhood and area plans. In practice, the MTP has been used as if it was part of the Lawrence-Douglas County Comprehensive Plan. However, it has not been part of the comprehensive plan nor has it been approved by either the Lawrence City Commission or the Douglas County Board of County Commissioners. The MTP (including the current edition called the Transportation 2030 - Lawrence/Douglas County Long Range Transportation Plan) has only been approved by the L-DC MPO. This is the mismatch between the use of the MTP and its formal approval status. This new Chapter 8 is designed to correct that situation.

It has been both confusing and repetitive to have one transportation plan produced through the MPO process and another transportation plan approved as part of the comprehensive plan adopted by the City and County. Based on its past and present use by City and County staffs and its nature as a regional level transportation policy document which complements land use planning policies stated elsewhere in this comprehensive plan, the MTP should be formally adopted by the City of Lawrence and Douglas County as part of their Comprehensive Plan.

COMPREHENSIVE PLAN AMENDMENT REVIEW

A. Does the proposed amendment result from changed circumstances or unforeseen conditions not understood or addressed at the time the plan was adopted?

YES - when Horizon 2020 was adopted the current transportation plan was Transportation 2020 and now that transportation plan has been superseded by the adoption of the current Transportation 2030 document. This change in circumstance has created differences between Chapter 8-Transportation in Horizon 2020 and the regional transportation plan Transportation 2030 that has lead to confusion. This amendment updates Chapter 8 of Horizon 2020 to bring consistency between those two documents and avoid that confusion.

In addition to making the Horizon 2020 and Transportation 2030 more consistent with each other, there have also been major changes in the MPO composition and operations since Chapter 8 of the Comprehensive Plan was last reviewed and updated. Between

1982 when the Lawrence Area was first designated as an MPO area and the end of 2008 the Lawrence-Douglas County Metropolitan Planning Commission served as the MPO for the region. On December 8, 2008 this changed. On that date the MPO for our area was re-designated to a new group composed of primarily local elected officials and the Planning Commission was no longer serving as the MPO. The Planning commission no longer has the dual roles of being both the land use planning body and the MPO for Lawrence and Douglas County. This is a major change not foreseen when Horizon 2020 was adopted in 1996-98.

B. Does the proposed amendment advance a clear public purpose and is it consistent with the long-range goals and policies of the plan?

YES - this amendment furthers the goal of coordinating land use and transportation system planning throughout the Lawrence-Douglas County Area.

C. Is the proposed amendment a result of a clear change in public policy?

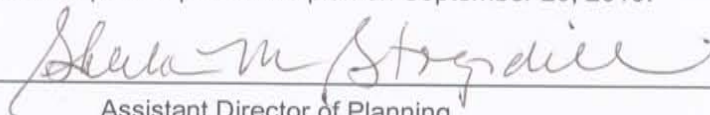
YES - this amendment to Horizon 2020 Chapter 8-Transportation recognizes the changes to public policy represented by the March 26, 2008 adoption of a new transportation plan Transportation 2030.

PROFESSIONAL STAFF RECOMMENDATION

Planning Staff and the Lawrence-Douglas County Metropolitan Planning Organization (L-DC MPO) Staff recommend that the Lawrence City Commission and the Douglas County Board of County Commissioners approve the use of the latest L-DC MPO approved Metropolitan Transportation Plan (MTP) as amended as the transportation policy guide for comprehensive planning activities conducted by the Lawrence-Douglas County Planning & Development Services Department and Lawrence-Douglas County Metropolitan Planning Commission and agree to use that document as local and regional policy in their decision-making process for all transportation related matters.

Transportation

I hereby certify that this is a true and correct copy of the comprehensive plan or part of the plan;
that the Lawrence-Douglas County Metropolitan Planning Commission adopted said
comprehensive plan or part of the plan on September 20, 2010.

A handwritten signature in cursive script, reading "Sheila M. Stogdill", is written over a horizontal line.

Assistant Director of Planning

CHAPTER EIGHT - TRANSPORTATION

This chapter references the Metropolitan Transportation Plan (MTP) as the Transportation Chapter of Horizon 2020, reflects the goals of the MTP as adopted, and presents a brief explanation of the regional transportation planning process conducted in Douglas County by the Lawrence-Douglas County Metropolitan Planning Organization (L-DC MPO) and how that regional transportation planning program relates to the land use planning activities conducted by the Lawrence-Douglas County Metropolitan Planning Commission. This chapter also explains how both transportation planning and land use planning for the area are documented in the regional comprehensive plan.

Metropolitan Transportation Plan

The MTP, currently titled Transportation 2030 Lawrence Douglas County Long-Range Transportation Plan (T2030), is a document produced and approved by the L-DC MPO. The MTP sets regional transportation policies and it articulates goals and objectives for the creation of a multi-modal transportation system that complements land use plans, economic development plans, environmental plans, parks and open space plans, and other comprehensive plan elements for the region. The MTP assists state and local government agencies in improving the quality of life for area residents by developing a safe and efficient transportation system. The library of L-DC MPO documents, including the MTP, along with a description of the MPO process can be found on the web at <http://www.lawrenceks.org/pds/MPO>.

In addition to the regional scale planning policies found in the MTP which show major transportation corridors and services in a systematic way, there are smaller scale planning and design issues that are also important to the safe and efficient development of a multi-modal transportation system. Although many of these detailed items are more traffic engineering concerns than planning level issues, it is important to note that some items that need to be included in the transportation element of a comprehensive plan are not included in the MTP. However, the MTP does reference the need for corridor and access management and other traffic engineering items designed to protect the operational integrity of the major roads in the region. This is important to support system planning for the regional multi-modal transportation system that is described in the MTP. For this reason, the state and local policies that address traffic engineering and transportation planning need to be used along with this chapter and the MTP in the review of proposed developments and infrastructure improvements. Local development codes should be supportive of the transportation planning policies set forth in this chapter and in the MTP.

09/20/2010 PC approval date

Transportation Goals and Objectives

Transportation Goals and detailed Objectives are provided in T2030, Chapter 4. A summary of the Goal Statements is included in this chapter:

- Goal 1: Support the Economic Vitality of the Region
Approve guidelines that enhance economic activity and foster the principles of accessibility, convenience, cooperation, and aesthetic character.
- Goal 2: Maintain, Expand and Enhance the Existing Transportation Network
Advance policies that promote roadway connectivity and expand multimodal services.
- Goal 3: Promote Efficient System Management and Operation
Create policies that promote transportation system management, efficient operation, multimodal transportation, and access management standards.
- Goal 4: Protect the Environment and Promote Energy Conservation
Preserve the environment by adopting criteria that promote smart growth patterns to help sustain healthy air quality levels and minimize land use conflicts.
- Goal 5: Emphasize Transportation System Safety
Develop criteria that focus on the safety aspect of projects and require that the safety element of projects be addressed properly before approval is considered.
- Goal 6: Increase Transportation System Security
Increase the ability of the transportation system to support homeland security and to safeguard the personal security of all motorized and non-motorized system users.
- Goal 7: Coordinate Land Use and Transportation
Ensure that land use planning and transportation planning is coordinated.
- Goal 8: Pedestrian and Bicycle Transportation System
Establish an integrated system of bicycle and pedestrian improvements that provides for safe and efficient connections throughout the community, and offers viable choices of travel.
- Goal 9: Public Transportation System
Implement a coordinated public transportation system that offers a viable choice of travel that addresses the needs of individuals and the community as a whole.

Detailed Action Steps are provided in the subsequent chapters of the MTP and a summary of actions and policies is provided in Chapter 16: Implementation of the Transportation Plan.

09/20/2010 PC approval date

MPO Planning Process

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The MPO planning process is called the 3 C (Continuing, Comprehensive, Cooperative) process. It is a continuing process that does not end when a new transportation plan document is approved. The MPO produces a new transportation plan at least once every five years (may change to every four years in the foreseeable future due to air quality issues), but as soon as a new plan is approved the MPO begins to work on related documents and improvements to put in the next edition of the transportation plan. The MPO process is comprehensive in that it views transportation system planning as one part of a larger planning process where various types of planning (transportation, land use, environmental, economic, etc.) work together to improve the quality of life for all people in the region. Transportation planning is intricately tied together with land use planning since much of the planning for mobility corridors is predicated on the types and intensities of land uses planned along those routes. Likewise, the land uses planned for an area depend on the access afforded by the transportation network. Transportation and land use planning have a symbiotic relationship. MPO activities are also part of a cooperative process involving several different government agencies and an ample amount of public review. Two federal agencies (Federal Highway Administration and Federal Transit Agency), the Kansas Department of Transportation, Douglas County, and the four city governments in Douglas County all participate in the MPO process and its committee meetings. This regional transportation planning process is open to the public which is welcome to attend meetings and encouraged to send comments about transportation planning issues to the MPO staff.

Summary

This chapter of the Lawrence-Douglas County Comprehensive Plan establishes the current version of the MTP as the transportation element of the Comprehensive Plan for the City of Lawrence and Douglas County. The MTP is the transportation policy guide for comprehensive planning activities to be used in the local and regional policy decision-making process.

ITEM NO. 3 COMPREHENSIVE PLAN AMENDMENT; H2020 CHP 8; TRANSPORTATION (RTG)

CPA-3-1-10: Consider Comprehensive Plan Amendment to Horizon 2020 for an update to Chapter 8 – Transportation. *Initiated by Planning Commission on 2/22/10.*

STAFF PRESENTATION

Mr. Todd Girdler presented the item.

Commissioner Harris asked if there was anything in the current Transportation Chapter that was contradicted by Transportation 2030.

Mr. Girdler said the current chapter heralds back to the Transportation 2020 timeframe and things have moved forward since then and are not consistent. He said the text was out of sync, as well as the map, and the new chapter would alleviate confusion.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Finkeldei, seconded by Commissioner Singleton, to approve the use of the latest L-DC MPO approved Metropolitan Transportation Plan (MTP) as amended as the transportation policy guide for comprehensive planning activities conducted by the Lawrence-Douglas County Planning & Development Services Department and Lawrence-Douglas County Metropolitan Planning Commission and agree to use that document as local and regional policy in their decision-making process for all transportation related matters.

Unanimously approved 9-0. Student Commissioner Davis voted in the affirmative.

Motioned by Commissioner Finkeldei, seconded by Commissioner Harris, to approve and authorize the Planning Commission Chair to sign the PC Resolution (PCR-6-2-10).

Unanimously approved 9-0. Student Commissioner Davis voted in the affirmative.

PCR-6-2-10

A RESOLUTION ADOPTING AMENDMENTS TO HORIZON 2020, THE COMPREHENSIVE PLAN FOR THE CITY OF LAWRENCE AND UNINCORPORATED DOUGLAS COUNTY, KANSAS PERTAINING TO THE TRANSPORTATION CHAPTER.

WHEREAS, the City Commission of Lawrence, Kansas and the Board of County Commissioners of Douglas County, Kansas, for the purpose of promoting the public health, safety, morals, comfort and general welfare, conserving and protecting property values throughout Lawrence and Douglas County, are authorized by K.S.A. 12-741 *et seq.* to provide for the preparation, adoption, amendment, extension and carrying out of a comprehensive plan; and

WHEREAS, the Lawrence-Douglas County Metropolitan Planning Commission, the City Commission of Lawrence, Kansas and the Board of County Commissioners of Douglas County, Kansas have adopted an official comprehensive plan for the coordination of development in accordance with the present and future needs and to conserve the natural resources of the City and County, ensure efficient expenditure of public funds and promote the health, safety, convenience, prosperity and general welfare of the citizens of Lawrence and Douglas County; and

WHEREAS, the Lawrence-Douglas County Metropolitan Planning Commission held a public hearing on September 20, 2010, for the proposed amendments to Horizon 2020, the comprehensive plan, to replace existing Chapter 8 Transportation and insert new Chapter 8 – Transportation into the Comprehensive Plan, after notice by publication in the official city and county newspaper.

BE IT RESOLVED BY THE LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION:

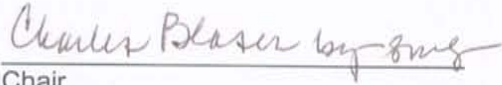
SECTION ONE: The above stated recitals are by reference incorporated herein, and shall be as effective as if repeated verbatim.

SECTION TWO: Pursuant to K.S.A. 12-747, the Lawrence-Douglas County Metropolitan Planning Commission adopts and recommends for approval the amendments to Horizon 2020, the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, to replace Chapter 8 with a new version of Chapter 8 that references the latest Metropolitan Transportation Plan approved by the Lawrence-Douglas County Metropolitan Planning Organization (L-DC MPO) as the Transportation Chapter of the Lawrence-Douglas County Comprehensive Plan.

SECTION THREE: The amendment to *Horizon 2020*, Chapter 8 – Transportation is attached to this resolution as Exhibit 1.

SECTION FOUR: This resolution together with a certified copy of the amendments to Horizon 2020, the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County, and a written summary of the public hearing shall be submitted to the City Commission and the Board of County Commissioners.

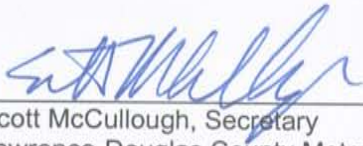
Adopted by the Lawrence-Douglas County Metropolitan Planning Commission on this, the 20th day of September, 2010.



Chair
Lawrence-Douglas County Metropolitan
Planning Commission



Vice-Chair
Lawrence-Douglas County Metropolitan
Planning Commission



Scott McCullough, Secretary
Lawrence-Douglas County Metropolitan
Planning Commission

ORDINANCE NO. 8590
RESOLUTION NO. _____

JOINT ORDINANCE OF THE CITY OF LAWRENCE, KANSAS, AND RESOLUTION OF
THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS
AMENDING THE COMPREHENSIVE LAND USE PLAN "HORIZON 2020" BY
AMENDING CHAPTER 8 – TRANSPORTATION.

WHEREAS, pursuant to K.S.A. 12-747, a comprehensive plan or part thereof shall constitute the basis or guide for public action to insure a coordinated and harmonious development or redevelopment which will best promote the health, safety, morals, order, convenience, prosperity and general welfare as well as wise and efficient expenditure of public funds; and

WHEREAS, the City Commission of Lawrence, Kansas and the Board of County Commissioners of Douglas County, Kansas has adopted a comprehensive land use plan labeled "Horizon 2020"; and

WHEREAS, after due and lawful notice and hearing the Lawrence-Douglas County Metropolitan Planning Commission on September 20, 2010, by Resolution No. PCR-6-2-10, recommended amendments to "Chapter 8 – Transportation"; and

WHEREAS, a certified copy of the Chapter 8– Transportation amendments contained in planning staff report CPA-3-1-10 adopted by the Planning Commission in Resolution No. PCR-6-2-10 on September 20, 2010 together with the written summaries of the public hearings thereon held by the Lawrence-Douglas County Metropolitan Planning Commission on September 20, 2010 has been submitted to the Governing Bodies.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS; AND BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS:

Section 1. The above recitals are incorporated by reference as if fully set forth herein and shall be as effective as if repeated verbatim.

Section 2. The Governing Bodies of the City of Lawrence, Kansas, and Douglas County, Kansas, hereby find that the provisions of K.S.A. 12-743 and K.S.A. 12-747 concerning the amendment of comprehensive plans has been fully complied with in consideration and adoption of and amendment to "Horizon 2020".

Section 3. Pursuant to K.S.A. 12-747, the Governing Bodies of Douglas County, Kansas and the City of Lawrence, Kansas do hereby amend "Horizon 2020" by approving the recommendation of the Planning Commission, adopting amendments to Chapter 8 – Transportation, contained in Resolution No. PCR-6-2-10 and adopted by the Planning Commission on September 20, 2010.

Section 4. Chapter 8 – Transportation in "Horizon 2020" is hereby amended to read as follows:

CHAPTER EIGHT - TRANSPORTATION

This chapter references the Metropolitan Transportation Plan (MTP) as the Transportation Chapter of Horizon 2020, reflects the goals of the MTP as adopted, and presents a brief explanation of the regional transportation planning process conducted in Douglas County by the Lawrence-Douglas County Metropolitan Planning Organization (L-DC MPO) and how that regional transportation planning program relates to the land use planning activities conducted by the Lawrence-Douglas County Metropolitan Planning Commission. This chapter also explains how both transportation planning and land use planning for the area are documented in the regional comprehensive plan.

Metropolitan Transportation Plan

The MTP, currently titled Transportation 2030 Lawrence Douglas County Long-Range Transportation Plan (T2030), is a document produced and approved by the L-DC MPO. The MTP sets regional transportation policies and it articulates goals and objectives for the creation of a multi-modal transportation system that complements land use plans, economic development plans, environmental plans, parks and open space plans, and other comprehensive plan elements for the region. The MTP assists state and local government agencies in improving the quality of life for area residents by developing a safe and efficient transportation system. The library of L-DC MPO documents, including the MTP, along with a description of the MPO process can be found on the web at <http://www.lawrenceks.org/pds/MPO>.

In addition to the regional scale planning policies found in the MTP which show major transportation corridors and services in a systematic way, there are smaller scale planning and design issues that are also important to the safe and efficient development of a multi-modal transportation system. Although many of these detailed items are more traffic engineering concerns than planning level issues, it is important to note that some items that need to be included in the transportation element of a comprehensive plan are not included in the MTP. However, the MTP does reference the need for corridor and access management and other traffic engineering items designed to protect the operational integrity of the major roads in the region. This is important to support system planning for the regional multi-modal transportation system that is described in the MTP. For this reason, the state and local policies that address traffic engineering and transportation planning need to be used along with this chapter and the MTP in the review of proposed developments and infrastructure improvements. Local development codes should be supportive of the transportation planning policies set forth in this chapter and in the MTP.

Transportation Goals and Objectives

Transportation Goals and detailed Objectives are provided in T2030, Chapter 4. A summary of the Goal Statements is included in this chapter:

- Goal 1: Support the Economic Vitality of the Region
Approve guidelines that enhance economic activity and foster the principles of accessibility, convenience, cooperation, and aesthetic character.
- Goal 2: Maintain, Expand and Enhance the Existing Transportation Network
Advance policies that promote roadway connectivity and expand multimodal services.
- Goal 3: Promote Efficient System Management and Operation
Create policies that promote transportation system management, efficient operation, multimodal transportation, and access management standards.
- Goal 4: Protect the Environment and Promote Energy Conservation
Preserve the environment by adopting criteria that promote smart growth patterns to help sustain healthy air quality levels and minimize land use conflicts.
- Goal 5: Emphasize Transportation System Safety
Develop criteria that focus on the safety aspect of projects and require that the safety element of projects be addressed properly before approval is considered.
- Goal 6: Increase Transportation System Security
Increase the ability of the transportation system to support homeland security and to safeguard the personal security of all motorized and non-motorized system users.
- Goal 7: Coordinate Land Use and Transportation
Ensure that land use planning and transportation planning is coordinated.
- Goal 8: Pedestrian and Bicycle Transportation System

Establish an integrated system of bicycle and pedestrian improvements that provides for safe and efficient connections throughout the community, and offers viable choices of travel.

Goal 9: Public Transportation System

Implement a coordinated public transportation system that offers a viable choice of travel that addresses the needs of individuals and the community as a whole.

Detailed Action Steps are provided in the subsequent chapters of the MTP and a summary of actions and policies is provided in Chapter 16: Implementation of the Transportation Plan.

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Section 5. Severability. If any section, clause, sentence, or phrase of this joint ordinance or resolution is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this joint ordinance and resolution.

Section 6. This Joint Ordinance and Resolution shall be in full force and effect upon its adoption by the Governing Bodies of the City of Lawrence and Douglas County, Kansas and publication as provided by law.

Passed by the Governing Body of the City of Lawrence this _____ day of December, 2010.

APPROVED:

Michael Amyx, Mayor.

ATTEST:

Jonathan M. Douglass, City Clerk

APPROVED AS TO FORM AND LEGALITY:

Toni Ramirez Wheeler, Director of Legal Services

Adopted by the Board of County Commissioners of Douglas County, Kansas, this ____ day of _____,
20____.

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

Nancy Thellman
Chair

Mike Gaughan
Commissioner

Jim Flory
Commissioner

ATTEST:

Jameson D. Shew, County Clerk