

AGENDA

RILEY COUNTY PLANNING BOARD/ BOARD OF ZONING APPEALS

Monday, October 13, 2014
7:30 p.m.

Commission Meeting Room
Courthouse Plaza East

(Procedure: Open joint meeting of the Riley County Planning Board/Board of Zoning Appeals.)

I. OPEN PUBLIC COMMENTS

II. CONSENT AGENDA

1. Consider the minutes of the September 8, 2014 meeting.
2. Consider the Report of Fees for the month of September 2014.
3. Tegtmeier Winery Final Development Plan (LAW, LLC)

(Procedure: Adjourn the joint meeting of the Riley County Planning Board/Board of Zoning Appeals and reconvene as the Riley County Board of Zoning Appeals.)

III. GENERAL AGENDA- RILEY COUNTY BOARD OF ZONING APPEALS

1. Public Hearing to consider the request of Wayne Kendall, petitioner and L M Kendall Trust, owner, for a **variance** authorization to reduce the front yard requirement of the north property line from 25 feet to two (2) feet.
2. Public Hearing to consider the request of Bill Carson, petitioner and Russell Briggs Trust, owner, for a **variance** authorization to permit construction of a detached accessory structure (garage) 2.8 feet below the required elevation of one (1) foot above base flood elevation.

(Procedure: Adjourn as the Riley County Board of Zoning Appeals and reconvene as the Riley County Planning Board.)

IV. GENERAL AGENDA- RILEY COUNTY PLANNING BOARD

1. Public Hearing at the request of Charles J. Lake, petitioner and owner, to **rezone** a tract of land from "AG" (Agricultural District) to "SF-5" (Single Family Residential) **and plat** the aforementioned tract of land into one (1) lot, all in Manhattan Township, Section 34, Township 10 South, Range 8 East, in Riley County, Kansas. **ACTION NEEDED: Recommend approval/denial of the rezoning to the Board of County Commissioners and approve/deny Concurrent Plat of Lake Subdivision.**
2. Work session on draft of proposed Sign Regulations.
3. Manhattan Urban Area Comprehensive Plan update.
4. Big Blue Floodplain Management Plan update.

(Procedure: Adjourn the Riley County Planning Board meeting.)

MINUTES

RILEY COUNTY PLANNING BOARD/ BOARD OF ZONING APPEALS

Monday, September 8, 2014
7:30 pm

Courthouse Plaza East
Commission Meeting Room
115 North 4th Street

Members Present: Dr. Tom Taul, Vice-Chairman
Diane Hoobler
Julie Henton
John Wienck

Members Absent: Lorn Clement, Chairman

Staff Present: Monty Wedel – Director, Bob Isaac – Planner, Lisa Daily –
Administrative Assistant

Others Present: David & Danielle Tegtmeier, Martha & Gerald Powell, David & Susan
Mitchell, Sammy & Donna Campbell, Dave & Carol Adams, Miriam
Millerel, Jeff Hancock, Dan Knight, Mike & Karen Sheffield, Leon
Hobson, and Bob Boyd.

OPEN PUBLIC COMMENTS

None.

CONSENT AGENDA

The minutes of the August 11, 2014 meeting were presented and approved. The Report of Fees for the month of August (\$2,279.25) were presented and approved.

Julie Henton moved to adjourn the joint meeting of the Riley County Planning Board/Board of Zoning Appeals and convene as the Board of Zoning Appeals. John Wienck seconded. Carried 4-0.

BOARD OF ZONING APPEALS

Roberts - Variance

Vice-Chairman Tom Taul opened the public hearing at the the request of Stacy Roberts, petitioner and owner, for a variance authorization to permit the construction of a detached garage 4.7 feet below the required elevation of one (1) foot above base flood elevation.

Bob Isaac presented the request explaining that after the application was received, a site investigation revealed that the chosen location for the proposed accessory structure was over an existing utility easement for a City of Manhattan water main. Mr. Isaac said the Applicant elected to relocate the proposed structure, which necessitated a new elevation certificate. He said that the variance request was changed from 4.7 to 3.6 feet below the required elevation of one (1) foot above base flood elevation. Staff recommended approval of the request.

The Board didn't have any questions for Mr. Isaac and the Applicant was not present.

Vice-Chairman Taul asked if the public had anything to add. There were none.

John Wienck moved to close the public hearing. Diane Hoobler seconded. Carried 4-0.

John Wienck moved to approve the amended request for a variance authorization to permit the construction of a detached garage 3.6 feet below the required elevation of one (1) foot above base flood elevation. Julie Henton seconded. Carried 4-0.

Diane Hoobler moved to adjourn the Board of Zoning Appeals meeting and convene as the Riley County Planning Board. John Wienck seconded. Carried 4-0.

RILEY COUNTY PLANNING BOARD

LAWE,LLC (Tegtmeier) – Plat & Rezone

Take from the table a public hearing at the request of LAWE, LLC (David H. Tegtmeier, Registered Agent), petitioner, and LAWE, LLC (David & Danielle Tegtmeier), owners, to rezone a tract of land from "AG" (Agricultural District) to "C-PUD" (Commercial Planned Unit Development) and plat a 6.61-acre portion of said tract of land into one (1) lot, all in Wildcat Township, Section 8, Township 10 South, Range 7 East, in Riley County, Kansas.

Bob Isaac presented the request stating that Jeff Hancock from SMH Consultants is representing the Applicant. He described the history, location and physical characteristics of the subject property. He stated the existing structures on site will be removed. He explained that the portion of the site to be platted would be referenced as Lot 1 and the remainder of the site would be referenced as Tract A.

Mr. Isaac explained that the development plan will govern the uses and structures that will occur on the site. He reviewed the list of permitted uses, list of permitted structures, notes and schedule of improvements for Tract A and Lot 1 Tegtmeier Addition.

Mr. Isaac reviewed the potential concerns of the proposed development, such as:

1. Traffic – Capacity of Wildcat Creek Road; adequacy of existing bridges and culverts; signage; visibility; dust.
2. Stormwater Drainage – Impact of the proposed parking area and access ways on existing run-off.
3. Sound/Noise – Unreasonable levels of sound from events that include amplification of sound (e.g. DJ, MC, live bands, etc.)
4. Sanitary sewer – Compliance with sanitary code.
5. Commercial Zoning – Conformance to the Comprehensive Plan, "spot zoning" and setting precedent that will attract more commercial development to the area.
6. Compliance with fire codes.
7. Alcohol served/consumed on premises.
8. Residual radioactivity from previous land use.

Staff recommended that the Planning Board forward a recommendation of approval of the request to the Board of County Commissioners of Riley County to rezone the proposed property based upon the following:

- The predominant use of the tract will be agriculture and/or open space;
- Concerns of adverse impacts related to noise, traffic, dust, stormwater runoff, fire protection, residual radioactivity etc. have been addressed through studies and use limitations on the development plan;

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- The location of the proposed use is in a transitional area between the urban uses of the City and the farming community

Staff also recommended approval of the concurrent plat of Tegtmeier Addition, as it was determined that it met the minimum requirements of the Riley County Subdivision Regulations.

Vice-Chairman Taul asked the Board if they had any questions for Mr. Isaac.

Monty Wedel reminded the Board members that they are a quasi-judicial body which essentially means a court. He explained that their decision must be based on the evidence presented in either the staff report, during the hearing or what they may have collected on their own and presented into the record.

Vice-Chairman Taul asked the Applicant's if they wished to speak.

David Tegtmeier stated that he and his wife, Danielle, own 1745 Wildcat Creek Road. He said he was originally from northeast Kansas and comes from a farming background. Mr. Tegtmeier stated that his great and great-great grandfathers grew grapes and he got started in high school. He said he attended K-State for two years, met his wife and convinced her to go into the wine marketing sales side of the business. Mr. Tegtmeier said he then attended Fresno State and graduated with a degree in viniculture and enology.

Mr. Tegtmeier stated he took a position in the State of Washington where he was head wine and cider maker. He said he designed a new facility for this employer and was then sought out by a group of investors in Colorado. Mr. Tegtmeier said he built an entire new facility and made them a nation-wide brand of hard cider. He explained that his wife got into the sales of wine and spirits with E. & J. Gallo of California and continued this career in Washington and Colorado.

Mr. Tegtmeier said he participated in a study abroad program in France where he was placed with a family who had a winery in the finest grape growing region in the world. He explained that while there he learned the importance of soil and topography. He said he came back to Kansas and realized the soil and the topography are the same. He said land that would otherwise be useless other than for maybe grazing cattle and can't be farmed by conventional farming is ideal for growing great grapes. Mr. Tegtmeier said he knew then he would come back to Kansas and change the Midwest wine scene.

Mr. Tegtmeier said the reason we are all here tonight is the event center, the venue. He said the winery is one part of it and the event center is the finance part for the start-up years. He said without the event center, the winery is a huge capital investment. He stated the event center will allow people to come to the site to see what has been built, take in the view of the Flint Hills and talk about our wines. Mr. Tegtmeier said the winery can be done in the AG zoning district, but the C-PUD will allow for the event center. He said they can even have wedding ceremonies in the AG zoning district but are limited on the number of events. He explained the special zoning will allow them freedom and allows the neighbors and everybody else to know what they will be allowed to do. He said it is a set list of what we can and can't do; what we have to follow and abide by so that we can make money.

Vice-Chairman Taul asked if there were any proponents. There were none.

Vice-Chairman Taul asked if there any opponents.

Karen Sheffield stated she lives at 1700 Wildcat Creek Road, directly across from the proposed site and her concerns were:

1. The large event center seems out of character with the peaceful, rural, agricultural setting of the neighborhood.
 - a. Large tract zoned commercial
 - b. Noise
 - c. Adequate construction of the proposed building to attenuate sound
 - d. Lighting
2. Safety and security.
 - a. No Storm shelter
 - b. Prairiewood event center and guest coming onto their property by mistake
 - c. Wildcat Creek Road
3. Roadway infrastructure is not adequate.
 - a. Road is winding, rural, gravel road with sheer drop-offs into a creek bed
 - b. Statistics used in the traffic study were taken from the spring 2012 before Prairiewood was fully functioning
 - c. Conservative trip counts and the calculation method
 - d. Dust
 - e. Traffic Impact Study is questionable because it was prepared by SMH Consultants who are also the Applicant's representatives

Mrs. Sheffield said it concerns her that the project seems to be more about the event center than about the growing of grapes and wine making operation. She said this is assuming it takes three (3) to five (5) years for your first grape crop before making or marketing wine from grapes grown on your own property.

Mrs. Sheffield stated her biggest concern if the winery business doesn't work out for the Tegtmeiers, she will be sitting across the road from 153 acres of commercially zoned property. She said that once property is zoned commercial, there is no turning back. She said that if another commercial operation wants to set up business, there is nothing she can do to stop them.

Mrs. Sheffield asked the county if there is no other zoning for ag-tourism operations than commercial. She stated she fears in the name of ag-tourism, commercial zoning will take over the few remaining rural pockets. She asked could there not be a zoning category for ag-tourism such that if the operation fails, then only another ag-tourism business could take its place without applying for rezoning. She said that this would take away the fear of commercial take over. She proposed that Tegtmeiers narrow the scope of their endeavor initially, perhaps start with the winery, getting the first grape crop in, before jumping into a large event center. In the meantime the County could continue to study the road and the infrastructure issues as well develop a specific zoning for ag-tourism.

Dave Adams stated he lives at 1725 Wildcat Creek Road and he and his wife Carol have some of the same concerns. He said the road is his primary concern and the traffic study needs to be redone with current information from the wedding season, April through November. Mr. Adams said he was not able to determine the exact location of the outdoor wedding site on the plan and asked for clarification.

Carol Adams said her concern also is dust and understands that a lot of time went into completing the traffic and road studies; however, the studies don't speak to the reality of life on a country road that is gravel and doesn't have graded curves or line of site. She said the dust abatement applications usually last two to three weeks, with the increased traffic, more frequent dust control applications will be needed. She stated that they are the closest neighbors to the site and had concerns about the amount of traffic on the road between this proposed event center and

Prairiewood during the peak of wedding season. She stated the dust coming from the west to east is tremendous.

Mrs. Adams said they will always be the “uninvited guest” to the outdoor wedding ceremonies. She said the proposed outdoor wedding site is within 735 feet of the property line and although they are much further away from the other event center, they hear their music, conversations, and often times their vowels. Mrs. Adams said you can’t always attenuate sound and it doesn’t stop at the trees. She said, for us, we will have an event center on either side of us.

Mrs. Adams said it been discussed about an additional creation of 35 mph speed limits but doesn’t do any good unless it is enforced. She said the apartment complex on Scenic Drive has drawn far more bicycle riders and runners, many with child carrier seats, to Wildcat Creek Road.

Mrs. Adams stated that the last two years have been very difficult because when you start opening up rural property to commercial development, it changes the character of the neighborhood.

Susan Mitchell stated she lives east of the property and north of Prairiewood. She said her concerns are the traffic and referred to the stipulations on the development plan, such as “no parking on the road”. She stated that an event was recently held at Prairiewood and vehicles were parked up and down Wildcat Creek Road, with no one to enforce these rules. She asked the Applicant since it will take 5-plus years to grow grapes, will grapes be trucked in to make wine and what size of vehicles will be using the road.

David Mitchell said when they are outside they can hear normal conversations at Prairiewood and the sound comes down off the hill. He said there has been inappropriate language and doesn’t want something like this to start on the other side of their property. Mr. Mitchell said he wanted the Board to know that everything is not great with Prairiewood and doesn’t want the same problems.

Mike Sheffield stated he lives at 1700 Wildcat Creek Road. He said he has specific questions about the PUD.

- Stock animals on Lot 1, what type of animals and quantity?
- Indoor capacity is 375, what is the outdoor capacity for the property, is it unlimited?
- Are there any plans for overnight guest?
- If the PUD is approved, will there be an on-site management with a published telephone number for them to call?
- Why are the proposed lagoons not shown on the site plan?
- Lighting – will it be bright lights? Will it look like Target up there?
- Proposed entrance/exit – in the evening the headlights will sweep across his house. Would it be possible to move the entrance further west?
- Noise - the event center will be up on the hill and the noise will travel down off the hill and across the valley. What are the mitigation efforts?
- Main structure is metal corrugated siding with a lot of glass. Will this structure really be able to attenuate sound?
- Amplified outside sound – is it possible to relocate the outdoor wedding site further up the hill and farther away from Sheffield’s, the Adams and the Applicant’s proposed home?

- The study refers to 65 dBA at the property line then it talks about a 10 minute continuous period. Does that mean that 100 dBA for nine minutes, drops down for one minute and can repeat again?
- The Road is dusty, one and a half lane rural road – traffic will create a dust storm and does the County want to take on this liability?

Mr. Sheffield said if this property is rezoned to a commercial property, it is highly unlikely it will ever go back to agricultural or residential. He referred to page five (5) of the staff report: "...it will stay Ag unless improved". He said this seems kind of ambitious, what else is being planned for it to be improved? He said that it looked like a loop-hole. Mr. Sheffield stated that 153-acre commercial tract is not consistent with the character of our neighborhood. He said that the Riley County Future Land Use map designates this whole area of Wildcat Creek Road as rural residential or agricultural. He said this seems to be all about the event center, and the winery and viniculture seems to be secondary.

Mr. Sheffield said there is no guarantee that one grape plant will be planted or one bottle of wine will be made on this property. He said they if they need the event center for financial reasons, they are under-capitalized or under-financed, while we have to put up with an event center. Mr. Sheffield suggested shrinking down the proposal, not rezoning the property or as has been suggested, start out with the winery, and if successful, revisit the event center.

Mr. Sheffield said this seems like "déjà vu" from two years ago. He stated the Board voted 4-1 against a similar proposition, what has changed? He stated the road really hasn't changed much, same noise issues, what has changed? He stated that Bob and Monty will tell you that they can protect the residents, steer the development in the way they want it to, but we really don't have a lot of trust in them from what has happened in the past on Wildcat Creek Road.

Vice-Chairman Taul asked the Applicant or representative if they would like to answer any of the questions.

Jeff Hancock, professional engineer with SMH Consultants, stated they asked the County for the most recent count data available to complete the traffic study. He said they were provided with the spring 2012 counts and in the last two weeks, the County did say they had newer count information. He said due to the meeting deadline however, they were unable to re-analyze the new data. Mr. Hancock said based on his experience and based on the methodology used, the new data probably wouldn't have made a difference.

Mr. Hancock explained the average daily traffic count for the projected site is spread over a number of hours and the applied to an average hour for what is called an average peak hour. He said a peak hour was identified at the intersection of Wildcat Creek Road and Scenic Drive. He stated it is out of practice to design a road for an event center or event traffic and that it's not economically practicable to do that.

Mr. Hancock said he couldn't speak to the dust control other than he realizes there is dust and the County applies dust control methods to that roadway in the form of magnesium chloride.

Mr. Hancock said there was a comment about a conflict of interest by SMH Consultants representing the Tegmeiers. He said the Applicant was required by the County to hire a consultant to perform the traffic study and SMH provided the study on behalf of the

Applicant. Mr. Hancock stated that he and his company are licensed professionals and follow standard practices.

John Wienck said he lives in northern Riley County and has a neighbor that has magnesium chloride applied to the road in front of his house. He said that the County has been doing this for five (5) years and it depends on how much is put down. He said this year has not held at all.

Jeff Hancock stated Wildcat Creek Road itself would take literally 10 times the volume of traffic to make that road inadequate. He said he was not denying a perceived problem with sight distance or clear zones, but that is outside the Tegtmeier's responsibility.

Mr. Hancock referred to the statements that anything commercial business could be allowed on this site. He said if rezoned as proposed, the site would be limited to the uses and the limitations listed on the development plan and that is the only kind of commercial operation that can occur on this site, other than agricultural. He said the beauty of the PUD zoning is it is so site-specific and that the limitation of uses is what really controls the zoning; it's how it works.

Mr. Hancock stated as far as stock animals, the Applicant didn't want to be limited to not being able to have cattle for grazing, which is what the property is currently being used for. He said he doesn't believe there is any intent to have a full blown feed lot operation.

Mr. Hancock said the indoor capacity has been limited to 375 people, with a maximum of 125 parking spaces. He said, as far as he knows, there are no plans for overnight guests. He stated that he knows that Mr. Tegtmeier has worked with the Riley County Environmental Health Specialist on locations for the lagoons. Mr. Hancock said all the lights are proposed to be shadow lights that point directly down to try to limit as much light spillage as possible.

Mr. Hancock addressed the issue of the entrance being moved further west because of headlights. He said that it would actually be very difficult to move it further west because of the terrain and although anything can be done for the right amount of money, there comes a point when it is unreasonable to move it that much further west without spending a lot more money.

Vice-Chairman Taul said Mr. Hancock you mentioned that no matter how much you increase the total traffic on Wildcat Creek Road it would not have any impact. He asked is that in relation to the intersection or the road?

Mr. Hancock said generally the carrying capacity for a two-lane road is about 1,700 vehicles per day. He said if you take all the traffic from this site, spread it over an hour and look at a peak 15-minute of that hour and it would be about 30 vehicles or about two (2) per minute.

Monty Wedel informed the Board that Leon Hobson, Director of Public Works is in attendance and available for any questions.

Dan Knight, the architect with Action Pact Design said the event center will have insulated glass, be constructed of 2 x 6 insulated wood stud walls and sheet rock on the interior, with wood sheathing and metal panel on the exterior. He stated the construction plans with the list of materials and insulation thicknesses were sent to the acoustic engineer and that is what he based his sound analysis/report on.

David Tegtmeier addressed the questions that were presented:

- Tornado shelter – He said the winery/event center structure will have a built-in tornado shelter because the barrel room will be built almost entirely into the hillside using extremely thick cement.
- Stock animals – He stated his family is cattle ranchers and would like to have the option for cattle if he chooses. He said the PUD strictly limits what they can and can't do.
- Lagoon(s) – He explained that he met with Steven DeHart, Environmental Health Specialist and an alternative in ground aeration system will be installed, which will help eliminate any odor and the lagoon will be hidden by vines.
- Mr. Tegtmeier said they will be the closest neighbors to the event center and they want to raise their family there and want to be good neighbors.
- Outdoor wedding ceremonies – He stated the location chosen was the not best spot on the property but would have the least impact on the neighbors. He said on top of the hill is flat and won't be able to see the winery. He stated there is a better location; however, it faces directly towards the Mitchells and Adams.
- Location of the winery/event center – He explained there will be a sign located by the entrance and guests will see the vineyards covering the hillside and know what side of the road the winery is on. He said Prairiewood is a barn and could easily be confused with another property.
- Plant crop first and then build event center – He explained the event center will bring people to the location and use “word of mouth” as the best advertising. He said without the event center, only a certain flow of people will be coming to the tasting room. He said the biggest part is the income from hosting events. Mr. Tegtmeier stated the winery potentially will have more people coming to it all week than one wedding.

Mr. Tegtmeier said it appears that we are trying to build an event center and make money off the wedding venue. He said that the event center is not his passion and doesn't want to cater weddings for the rest of his life. Mr. Tegtmeier said his passion is farming, growing grapes, making premium wine and changing the wine scenery in the Midwest. He said he wants to make a new industry for this area and this could be the next Napa Valley and the topography and soils of the site are perfect.

Mr. Tegtmeier said a winery is too much of an investment for the first couple of years and if done properly, grapes can be a huge cash crop. He said in business you have to make money as soon as you can and get positive cash flow to make something work. Mr. Tegtmeier said for a winery to work at this location, population and demographic of the area, it has to be this kind of venture.

Mr. Tegtmeier said everything on this property will be agricultural except the event center room. He said all other activities being proposed can be done under the agricultural zoning district.

Mr. Tegtmeier addressed on-site management and said Danielle (wife) will do the sales, decorating and management of the tasting room and he will do the viniculture, the wine making and management of any employees. He said they will live and raise their family on site.

Karen Sheffield asked why 153-acres of commercial zoning are needed when the only commercial aspect will be the wine tasting room. She said why not leave the rest of it agriculture?

Monty Wedel replied that staff tries to find the least expensive option under the regulatory scheme and a PUD controls the uses by the site plan. He explained the commercial zoning was placed over the entire tract because of the mixed uses of residential, agriculture and commercial. He said it is rather expensive to do individual legal descriptions.

Mr. Wedel said if it would make everyone feel more comfortable, the PUD can be changed to an "agricultural" PUD because the vast majority of the area will be agriculture, but cautioned that the site plan will remain the same.

Vice-Chairman Taul asked Mr. Wedel to elaborate for the public that the uses put on the PUD are the only thing that can happen.

Mr. Wedel said that it is the beauty of a PUD; it controls the uses, it controls the structures and all the developed areas.

Vice-Chairman Taul said if the property changes hands; if someone wants to come in and do the exact same thing; that would be permitted?

Mr. Wedel said if new owners want to do something radically different they would have to go through a new rezoning process. He said the other nice feature of a PUD is you can attach restrictions, such as the 65 dBA, which is the standard we have established within our events center section and is used by Ft. Riley and the airport. He explained it is the amount of noise, the noise level that can be controlled, we can't control that you can hear someone's conversation. He stated Prairiewood has been brought up. He said the PUD for Prairiewood was not approved and that is why we have no control over that.

Vice-Chairman Taul asked if the Board had any questions for Leon Hobson.

Leon Hobson, Riley County Public Works Director and County Engineer, said what he'd say wouldn't change people's opinions and that is what we all have, our opinion of what's going on. He said as Jeff (Hancock) mentioned, in the engineering world, we don't design things based on event driven traffic because it comes at many different stages.

Mr. Hobson stated the County took over the maintenance of Wildcat Creek Road about a year and half ago. He said the County has a plan to improve the road and that they have cut back the brush, trees and have improved the line of sight in several places. Mr. Hobson said at 30 mph, you have adequate site distance to see around most of the curves. He stated there are speed advisory signs on some of the curves for 20 mph and there are still some areas that need work.

Mr. Hobson said the County has put together a plan for signage, delineation of the roadways and are starting to implement this. He said a lot of new signs have been put up showing any hazards that might be near or along the road and delineators delineating the road better.

Mr. Hobson said the County has a dust control program for high traffic rural roads. He said usually in June, an application of .35 gallons (magnesium chloride) per square yard is applied to the road and another application can be done if needed. He stated over the course of time, it will build up its own residual, which helps stabilize the base of the road.

Mr. Hobson said all the road structures are wide enough for two-way traffic. He said a lot has been mentioned about the dust and reminded the Board that the dust control program is to help *reduce* the amount of dust, not eliminate it. He said as funds and time

allows, some of the structures will be widened out eventually and Wildcat Creek Road will meet the standards of a county road. He said with reference to the carrying capacity of the road, the road can handle the event traffic.

Diane Hoobler asked why the dust control program is not applied to the entire length of road.

Mr. Hobson said that current policy states the County will apply dust control on a county road that has a four (4) year average of two hundred cars a day or more; only a portion of the road meets that average.

Vice-Chairman Taul asked if the neighbors feel there is a need for an additional application of dust control, can they call you.

Mr. Hobson replied yes. He explained an inspection of the road would need to be done and if warranted, an application will be applied; however, it won't be done during the winter months.

John Wienck asked if the first application can be moved from June to earlier in the year such as May.

Mr. Hobson said the County's goal is to minimize expenses and with the event centers this makes a unique situation and that is a possibility.

Susan Mitchell said she wanted to reiterate what Monty Wedel said, "pretend you are on a jury" and would you want to live between two event centers.

Mike Sheffield said the PUD never did address the outdoor capacity.

Bob Isaac said the indoor capacity is limited by the code footprint for fire safety and the parking is limited by the size of the property. He did say that an outdoor limit can be placed on the PUD.

Mike Sheffield asked the Applicant to limit the outdoor capacity to 375, list on-site management on the PUD, move the outdoor wedding site to the top of the hill and move the entrance further west.

Julie Henton moved to close the public hearing. John Wienck seconded. Carried 4-0.

Monty Wedel reminded the Board of their options to recommend approval as is, deny or approve with modifications.

John Wienck asked the Applicant what the distance is from Wildcat Creek Road to the proposed event center.

David Tegtmeier said he doesn't have that measurement but the driveway will be 1,200 feet.

Diane Hoobler stated she applauds the Applicant for wanting to improve the site. She said she understands the neighbors concerns with two event centers but also understands the need for capital to fund this endeavor. She suggested that the PUD be changed from commercial to agriculture.

John Wienck said his issue is with the traffic that will be created from the two event centers.

Vice-chairman Taul said he has heard several times that the use will be predominately agriculture and asked what does "predominately" means; acres involved or dollars

involved? He said a statement was made that without the event center, the vineyard and agricultural activities could not occur.

Monty Wedel said it is definitely the acres. He said the winery is considered agricultural and he is comfortable that the vast majority of the land and facility are agriculture.

Vice-Chairman Taul said he was asked today what would be better suited for this site and he really couldn't think of anything. He said he thought the vineyard would be a great activity and the winery falls under agritourism, but it comes down to the event center. He said the event center is what is going to have a major impact on the community. Mr. Taul said he is extremely supportive of the vineyard activity and the house. He said personally he would like to see the Applicant get the house and winery established, plant the grapes and then do the event center. He stated at that time the County will have had time to complete their improvements to Wildcat Creek Road and he doesn't believe the event center is agricultural. He stated he doesn't know why the general public is expected to bear the burden from the event center to finance the agritourism venture.

Diane Hoobler asked the Applicant if they could do the winery without the event center or how many events will it take to make it profitable?

David Tegtmeier said their plans are one wedding or event per weekend. He said it is not just the income from the event center but the exposure of the vineyards and winery to the public. He stated everyone looks at the event center as not part of agriculture, but in essence, it is. He said the winery is agriculture and the weddings will bring people into the agricultural setting and they are experiencing agriculture because of the location and the venue itself.

Diane Hoobler said we don't have a problem with that, three of us are agricultural producers, we understand it, but it is the 100-plus cars and getting people there that we have the problem with.

John Wienck said it was stated earlier too bad there wasn't another way for the traffic to get there. He said the issue is with the event center and agrees with Vice-Chairman Taul.

David Tegtmeier said they could do a much smaller facility and grow a lot slower but that is not what people are going to want to come see or talk about.

Vice-chairman Taul asked the Applicant if he would be agreeable to list on the PUD the total number of people on the property be limited to 375.

Dan Knight said from the code perspective on the occupant load factors, an office is 100 square feet per person and the event center is 15 square feet per person. He said for the entire facility the occupancy is 567. He said he doesn't know where the law lays on limiting the number of people for outdoor spaces.

Vice-chairman Taul said he thinks the neighbors would be more comfortable if they knew that there could only be a certain amount of people on the site. He said everyone has good intentions, but he has learned that if you don't have it listed in black and white, you could have an outdoor wedding with 500 people, 125 cars, 375 inside and another 150 people outside at the wedding. He stated the question about moving the driveway to offset the headlights should be looked at.

Dave Adams stated he thinks this is a good use for this land. He said it is tough looking at the site plan and would like to have a tour of the site.

Bob Isaac said the Applicant has already moved the entrance several hundred feet west and the headlights won't be blinding because of the distance between the entrance and Mr. Sheffield's home is the distance of a city block. He said there is a deep ravine that is just west of the proposed entrance, making it difficult to place an driveway.

Danielle Tegtmeier said a lot has been said about the event center and weddings. She said they want to get involved with the community and want to do things with K-State, art shows, farmers markets and quilt shows, not just weddings.

Vice-Chairman Taul asked the Board members if they have the information necessary to make their decision.

John Wienck made a motion to table the request.

Vice-Chairman Taul said there would need to be a reason to table the request. He said to the Applicant that he doesn't want the event center.

Mr. Wedel responded to the Board regarding an earlier comment made to the applicant by the Board, which suggested to get the winery started first and then the event center; if the event center is okay later on, why wouldn't it be okay now?

Vice-Chairman Taul said the County has plans in place to gradually upgrade the road and with some time we would have a better grasp on the condition of the road and traffic.

Monty Wedel reminded Vice-Chairman Taul of the testimony given by Leon Hobson that the road is adequate for the traffic.

Vice-Chairman Taul said Leon said they are going on engineering studies and we all drive roads and look at it differently.

Leon Hobson asked Vice-Chairman Taul what it is about the road that bothers him. Mr. Hobson said that saying the road is a concern is a big broad issue, so can we narrow it down?

Vice-Chairman Taul said if you take 600 cars for two events going up and down the road for two hours, I would not like it.

Mr. Hobson asked if the concern was due the traffic generated from the event center more so than the road itself.

Vice-Chairman Taul said that would be correct.

Diane Hoobler said she would like to see the dust control program applied for the entire road so that traffic can be directed both ways.

Leon Hobson said you can do that but there is no way you can make them go the other way if they don't want to and they are going go the shortest route if they are headed back into Manhattan.

Monty Wedel reminded the Board that wineries, events and weddings are part of agritourism. He said if the Applicants didn't want to do the event center but wanted to have agritourism activities, they could do that every day, all day long, no limitations. He stated the event center building is the only reason why we are here.

Vice-Chairman Taul said to be honest, if you don't have it down in black and white, it is just human nature. He said we all have to live with ourselves, live with our neighbors

and be good stewards of the land. He said it is not the weddings but the amount of people that come to the activities.

Monty Wedel explained that the way the current regulations are written, if the Applicants get registered as an agritourism activity with the state, they may not be able to use that facility for events, but they can have outdoor weddings. He stated the event center building is the only reason the Applicants are here.

Vice-Chairman said he would entertain a motion of recommendation to the Board of County Commissioners and asked if we limited the number of people on site is there any other recommendations.

Diane Hoobler and John Wienck both suggested to change the PUD from commercial to agricultural.

Diane Hoobler said the Applicants can do this without us approving it. She stated she and the neighbors would probably feel better if activities were in an enclosed building to restrict the noise versus being out in the open under tents.

Jeff Hancock said the Applicant is fine with the limit of 375 people for a scheduled event as long as this doesn't include staff and people coming to the tasting room.

Vice-Chairman Taul mentioned listing on-site management on the PUD.

Monty Wedel said you can make that part of your motion but that is something that we will have to check with legal counsel on and doesn't think it is an enforceable provision.

David Tegtmeier said as far as on-site management, if it is not him it will be someone he trusts because federal law requires that all alcohol be protected, locked up, and under bond.

Diane Hoobler moved forward a recommendation of approval to the Board of County Commissioners to rezone the subject property, with the following suggestions:

1. Since the predominant use of the subject site is agricultural, the more appropriate "A-PUD" (Agri-Business Planned Unit Development) zoning designation should be used, rather than the proposed "C-PUD" Commercial Planned Unit Development zoning designation; and
2. Include a note on the development plan that limits the maximum number of participants for an event on the site to 375 persons.

Julie Henton seconded. Roll call voting was completed with the motion passing 3-1, with Wienck opposed.

Diane Hoobler moved to approve the concurrent plat of Tegtmeier Addition, as it was determined that all requirements of the Riley County Subdivision Regulations, Zoning Regulations and Sanitary Code have been met. John Wienck seconded. Carried 4-0.

Mr. Isaac announced that the Board of County Commissioners will hear the request on September 25, 2014, at 10:00 am, in the County Commission Chambers.

Manhattan Urban Area Comprehensive Plan update

Monty Wedel said there will be public meetings on Wednesday and Thursday of this week.

Big Blue Floodplain Management Plan Update

Monty Wedel said there is another advisory group meeting but unsure of the date.

Agritourism Task Force update

Monty Wedel said this is a busy time of the year for most of the committee members so the next meeting will not be until November.

John Wienck moved to adjourned. Julie Henton seconded. Carried 4-0.

The meeting was adjourned at 11:04 P.M.



**RILEY COUNTY
PLANNING & DEVELOPMENT**

REPORT OF FEES

September 2014

<u>DATE</u>	<u>NAME</u>	<u>AMOUNT</u>
09-03-2014	Reed, Water Permit	\$ 75.00
09-05-2014	Kaw Valley Greenhouses, Building Permit #14-0077	150.00
09-08-2014	McKeeman Farms, Plat & Rezone + Utility Plat	610.00
09-08-2014	Kaw Valley Greenhouses, Floodplain Development Permit	75.00
09-09-2014	Reed, Profile/Site Evaluation	150.00
09-10-2014	BAM, Repair Permit	75.00
09-10-2014	Smith, Environmental Site Evaluation	100.00
09-10-2014	Lawson, Water Screening Report	10.00
09-10-2014	Haller, Building Permit #14-0078	150.00
09-11-2014	Perry, Environmental Site Evaluation	100.00
09-11-2014	Blaske, Repair Permit	75.00
09-12-2014	Hinkle, Radon Kit	5.00
09-12-2014	Anderson, Building Permit #14-0079	150.00
09-15-2014	J & G Plumbing, Repair Permit	75.00
09-15-2014	L & L Trenching, Repair Permit x 2	150.00
09-15-2014	Roberts, Floodplain Development Permit	75.00
09-15-2014	Reed, Lagoon Permit	300.00
09-18-2014	Weyerts, Radon Kit	5.00
09-18-2014	Wymer, Building Permit #14-0082	150.00
09-22-2014	Bowman, Water Screening Report	22.00
09-23-2014	Dukes, Repair Permit	75.00
09-23-2014	Dillon, Environmental Site Evaluation	100.00
09-26-2014	Shultz, Environmental Site Evaluation	100.00
09-29-2014	Hargrave, Plat, Residential Use Designator & Utility Plat fee	410.00
09-29-2014	Wildwood Estates, Conditional Use	400.00
09-30-2014	Hancock, Site Evaluation	150.00
09-30-2014	Boice, Site Evaluation	150.00

TOTAL

\$3,887.00

DEPOSITS MADE:

09-11-2014	75.00
09-12-2014	1,500.00
09-19-2014	905.00
09-30-2014	1,407.00

TOTAL \$3,887.00

Permit #	App Date	Ownr	Type of Bldg	Use of Bldg	Const Cost	Amnt Paid	Property Address	City & Zp
14-0075	09/02/2014	Jim L. Nelssen	Storage (ag related)	Sheep	\$95,000.00	\$0.00	7234 Tuttle Creek Blvd	Manhattan (66503)
14-0076	09/03/2014	Melvin D. Robinson	Storage (ag related)	Wood, fencing & other ag items	\$150.00	\$0.00	6271 N 52nd St	Manhattan (66503)
14-0077	09/05/2014	Kaw Valley Greenhouses Inc.	Storage (commercial)	Pump house & storage of irrigation hoses	\$20,000.00	\$150.00	360 Zeandale Rd	Manhattan (66502)
14-0078	09/10/2014	Brad Haller	Storage (ag related)	Shop/storage - tractor	\$28,000.00	\$150.00	7317 University Park Rd	Manhattan (66503)
14-0079	09/13/2014	Stacy L. Roberts	Garage (detached)	Vehicle Garage/Workshop	\$20,000.00	\$150.00	4240 Stagg Hill RD	Manhattan (66503)
14-0080	09/15/2014	Steve and Samantha Reed	House (site built)	Residential dwelling	\$200,000.00	\$0.00	11209 Union Rd	Leonardville (66449)
14-0081	09/15/2014	Steve and Samantha Reed	Storage (ag related)	Ag storage	\$25,000.00	\$0.00	11209 Union Rd	Leonardville (66449)
14-0082	09/18/2014	Travis & Amanda Wymer	Barn	Storage for tractor, implements & feed	\$5,000.00	\$150.00	5755 Tuttle Cove Rd	Manhattan (66503)
14-0083	09/23/2014	LAWE LLC	Storage (ag related)	Ag equipment storage w/living quarters	\$110,000.00	\$0.00	1929 Wildcat Creek Rd	Manhattan (66503)
14-0084	09/26/2014	Tom Abbott			\$0.00	\$225.00	2630 Tuttle Creek Blvd	Manhattan (66502)
14-0085	09/30/2014	Galen A. & Nancy K. Hofmann; Trust	Addition (residential)	addition	\$100,000.00	\$0.00	15500 Barton Rd	Leonardville (66449)



MEMO

Riley County Planning Board

October 6, 2014

Dear Board members,

The following item has been submitted for your review:

Consider the **FINAL DEVELOPMENT PLAN** of Tegtmeier Winery, an Agri-Business Planned Unit Development, generally located approximately 9800 feet west of Scenic Drive, on the north side of Wildcat Creek Road (Applicant/Owner: *LAWE, LLC-David H. Tegtmeier, Registered Agent*).

BACKGROUND:

On September 8, 2014, the Riley County Planning Board heard the request. Following staff's recommendation, the Planning Board forwarded a recommendation of approval to the Board of County Commissioners to rezone the subject property, with the following suggestions:

1. Since the predominant use of the subject site will be agricultural, the more appropriate "A-PUD" (Agri-Business Planned Unit Development) zoning designation should be used, rather than the proposed "C-PUD" Commercial Planned Unit Development zoning designation; and
2. Include a note on the development plan that limits the maximum number of participants for an event on the site to 375 persons.

The Planning Board also approved the concurrent plat of Tegtmeier Addition, as it was determined that all requirements of the Riley County Subdivision Regulations, Zoning Regulations and Sanitary Code were met.

On September 25, 2014, the Board of County Commissioners acknowledged the approved Final Plat of Tegtmeier Addition and accepted any easements, rights-of-way or licenses, as shown to be dedicated on said Plat. The Board also reviewed the Preliminary Development Plan with recommendations made by the Planning Board, and unanimously approved the rezoning of the subject property from "AG" (Agricultural District) to "A-PUD" (Agri-Business Planned Unit Development).

FINAL RECOMMENDATIONS:

Staff has reviewed the Final Development Plan and found it to be in substantial conformance with the Preliminary Development Plan and recommends that said Final Development Plan be accepted.

Bob Isaac
Planner
Riley County Planning & Development



PLANNING & DEVELOPMENT

STAFF REPORT

Variance

PETITION: (#14-25) Variance

APPLICANT: Wayne Kendall
3100 Keats Ave
Manhattan, KS 66503

PROPERTY OWNER: L M Kendall Trust
3100 Keats Ave
Manhattan, KS 66503

TYPE OF REQUEST: Reduce the front yard requirement of the north property line from 25 feet to two (2) feet

SIZE OF TRACT: The subject site is approximately .22 acres.

LOCATION: Located at the southwest corner of the intersection of Ada Lane and Chapman Lane (in Keats); Section 36, Township 9 South, Range 6 East; Wildcat Township.



BACKGROUND: The applicant wishes to essentially enclose an existing covered carport that is serving as an extension of an existing garage. The applicant stated that the purpose of enclosing the structure is to protect stored items from theft and the elements. The chosen location of the proposed structure is just north of the existing garage. Although if approved, the variance will allow the applicant to construct the building closer to Ada Lane, however, a separate variance will be needed in order to reduce the rear yard requirement along Chapman Lane.

DESCRIPTION:

Physical site characteristics: The subject site is an urban sized lot, developed with a single family residence and garage, served with an on-site septic tank & lateral field. The existing garage and carport face Ada Lane.

General character of the area: The general character of the area is single family residential uses situated on urban-sized lots.

ZONING:

Zoning History: The subject site is currently zoned “AG” (Agricultural District) and has been zoned agricultural since at least 1974. There are no conditional uses, special uses or other variances associated with the property.

STAFF EVALUATION OF VARIANCE CRITERIA:

- a. **The variance request arises from conditions which are unique to the property in question and which are not ordinarily found in the same zone or district and that such conditions are not created by an action of the owner or applicant.**

The condition which is unique to the property is the physical attributes of the lot, i.e. the size, developed area, undeveloped area for the on-site septic/lateral field system, and two 25-foot front yard building setback requirements, which are not typical of the “AG” (Agricultural District) zoning designation. This condition was not created by an action of the Applicant.

- b. **The granting of the variance will not adversely affect the rights of adjacent property owners or residents.**

The subject property has been developed as is for several years without incident. It is not anticipated that the construction of the proposed accessory structure will have a negative impact on surrounding properties.

- c. **The strict application of the provisions of the zoning regulations from which the variance is requested will constitute unnecessary hardship upon the property owner or applicant.**

The reasons for the request stems from the intention of improving the quality of the home, while providing a new structure to protect the family vehicles from the elements, vandalism and theft. Thus, not granting the variance could constitute an unnecessary hardship upon the property owner, as compared to what the public would gain by denying the request.

- d. **The variance requested will not adversely affect the public health, safety and welfare.**

There are at least two concerns that should be evaluated when considering a reduction of a minimum front yard requirement; first, is the impact of placing a structure (principle or

accessory) closer to the designated right-of-way of a road that would limit a community's ability to widen the road if and when deemed necessary; and second, the creation of a potential safety hazard for drivers on Ada Lane and/or Chapman Lane and those entering and exiting the subject property, due to limited sight distance attributed to curves, hilly terrain, insufficient road width, vehicle speed and weather conditions. In this particular case, however, an on-site inspection by planning staff and the County Engineer revealed that the proposed enclosure of the existing carport would not extend into the platted right-of-way, would not restrict sight distance or interfere with the flow of traffic in the area. Thus, the granting of the variance should not adversely affect the public health, safety and welfare.

e. The granting of the variance will not be opposed to the general spirit and intent of the regulations.

According to the criteria for variance approval set forth in the Riley County Zoning Regulations, Section 20 (4), the granting of the request will not violate the general spirit and intent of the regulations.

STAFF RECOMMENDATION: Staff recommends that the requested variance be approved.

ATTACHMENTS:

- Vicinity/site map
- Surrounding zoning map
- Fire Stations
- Floodplain

Prepared by: Bob Isaac, Planner
October 6, 2014



VICINITY AND SITE

Kendall

Variance #14-25

Reduce the front yard requirement
of the north property line from 25
feet to 2 (two) feet

36-9-6

Legend

 1000' Buffer

 Site





SURROUNDING ZONING

Kendall

Variance #14-25

Reduce the front yard requirement of the north property line from 25 feet to 2 (two) feet

36-9-6

Legend

-  1000' Buffer
-  Site

- | | |
|--|---|
|  SF-1 Single Family |  AG Agricultural |
|  SF-2 Single Family |  N-1 Noise Hazard |
|  SF-3 Single Family |  PUD Planned Unit Dev |
|  SF-4 Single Family |  U University |
|  SF-5 Single Family |  City Boundaries |
|  B-1 Two Family |  Fort Riley |
|  B-2 Multiple Family | |
|  B-3 Mobile Home Park | |
|  C-1 Neighborhood Bus | |
|  C-2 Shopping Dist |  Special Zoning: Conditional Use Designator Lot Special Use Variance |
|  C-3 General Business | |
|  C-4 Highway Business | |
|  D-1 Industrial Park | |
|  D-2 Light Industrial | |
|  D-3 Heavy Industrial | |
|  D-4 Business Park | |



FIRE STATIONS

Kendall

Variance #14-25

Reduce the front yard requirement of the north property line from 25 feet to 2 (two) feet

36-9-6

 Fire Station

 Within 5 Miles of a Fire Station

 Not within 5 Miles of a Fire Station



Fort Riley

Keats Fire Station

SITE

Ada Ln

Blue Spruce Ln

Reservation Dr

Keats Ave

Chapman Ln

Anderson Ave

W 69th Ave

Kitten Creek Rd

Neef Dr



FLOODPLAIN

TOPEKA SHINER HABITAT

Kendall

Variance #14-25

Reduce the front yard requirement of the north property line from 25 feet to 2 (two) feet

36-9-6

Legend

- Topeka Shiner Habitat
- ▨ 1% Annual Chance Flood (Unnumbered)
- ▨ 1% Annual Chance Flood (Numbered)
- ▨ Floodway
- ▨ 1% Annual Chance Flood (1'-3' Depth)
- ▨ .2% Annual Chance Flood



PLANNING & DEVELOPMENT

STAFF REPORT

Variance

- PETITION:** (#14-26) Variance
- APPLICANT:** Bill Carson
3100 Bethany Cir
Manhattan, KS 66503
- PROPERTY OWNER:** Russell K. Briggs Trust
2312 Stagg Hill Rd
Manhattan, KS 66502
- TYPE OF REQUEST:** A variance to permit the construction of a detached accessory structure 2.8 feet below the required elevation of one (1) foot above base flood elevation.
- SIZE OF TRACT:** The subject site is approximately 8.99 acres.
- LOCATION:** Generally located approximately 600 feet northeast of Recreation Drive, on the north side of Skyway Drive; Section 33, Township 10 South, Range 7 East; Ogden Township.
-



BACKGROUND: The applicant is wishing to construct a garage/storage structure to accessorize his office building.

DESCRIPTION:

Physical site characteristics: The subject site is developed with an auto dealership, with a multi-bay maintenance shop, and a garage/office (see Figure 1). The entire subject property is located within the designated 1% annual chance floodplain (see attached map).



Figure 1. North portion of Lot 1 West Lot Addition.

General character of the area: The general character of the area is a mix of commercial and light industrial uses.

ZONING:

Zoning History: Lot 1 of Murray Addition Unit Two was platted in March 1976. The lot was also rezoned from "G-1" (General Agricultural) to "D-2" (Light Industrial) in April 1976, for the purposes of constructing and operating a warehouse/office building for a pest control business. In November 1998, the lot was rezoned from "D-2" (Light Industrial) to "C-4" (Highway Business) for an auto sales/maintenance facility. In 2005, Lot 1 of Wildcat Wrecker Subdivision was platted and rezoned from "G-1" (General Agricultural) to "C-4" (Highway Business). A portion of the lot was zoned to "C-4" (Highway Business) during the 1974 Zoning Conversion

Process of Riley County. In March 2014, Lot 1 of Murray Addition Unit Two and Lot 2 of Wildcat Wrecker Subdivision were replatted into Lot 1 West Lot Addition.

Current zoning: The subject site is zoned county zoning designation "C-4" (Highway Business).

STAFF EVALUATION OF VARIANCE CRITERIA:

- a. **The variance request arises from conditions which are unique to the property in question and which are not ordinarily found in the same zone or district and that such conditions are not created by an action of the owner or applicant.**

The subject property lies entirely within the designated 100-year floodplain, which overlays a "C-4" (Highway Business) zoning district, thus requiring the first floor elevation of all structures to be at least one (1) foot above base flood elevation. This standard is not a normal requirement of the zoning district, therefore creating a unique condition to the property. Such condition was not created by an action of the applicant.

- b. **The granting of the variance will not adversely affect the rights of adjacent property owners or residents.**

The applicant has stated that the proposed building will meet or exceed the requirements for wet-flood-proofing, as per the requirements set forth in the Riley County Floodplain Regulations. Adjacent property owners should not be adversely affected by the granting of a variance.

- c. **The strict application of the provisions of the zoning regulations from which the variance is requested will constitute unnecessary hardship upon the property owner or applicant.**

Given that the entire property is located within in the 100-year floodplain, literal enforcement of the regulations would not allow the property owner to construct said accessory structure anywhere on the subject property, forcing the applicant to build elsewhere. This could be considered an unnecessary hardship upon the property owner.

- d. **The variance requested will not adversely affect the public health, safety and welfare.**

The proposed structure is subject to the Riley County Floodplain regulations. Non-habitable structures used for storage are permitted to utilize the wet-floodproofing methods. Granting a variance should not adversely affect the public health, safety and welfare.

- e. **The granting of the variance will not be opposed to the general spirit and intent of the regulations.**

According to the Riley County Floodplain Regulations, Section 9.84, the granting of the requested variance would be consistent with the adopted criteria for variance approval.

STAFF RECOMMENDATION: Kansas statute 12-759 states that when deemed necessary by the Board of Zoning Appeals, the Board may grant variances and exceptions from the zoning regulations, in this case the floodplain regulations, provided that such variances or exceptions will not be contrary to the public interest and where, due to special conditions, a literal enforcement of the provisions of the regulations, in an individual case, results in unnecessary hardship, and provided that the spirit of the regulations shall be observed, public safety and welfare secured, and substantial justice done. The statute states that a request for a variance may

be granted in such case, upon a finding by the Board that certain conditions listed in the statute have been met.

Paragraph 9.83 Section 9 Floodplain Regulations of the Riley County Zoning Regulations lists the conditions for approving variances for accessory structures. It states that FEMA recognizes the “wet-floodproofing” technique as acceptable and appropriate for accessory structures. It lists certain criteria that should be followed for this technique, such as:

- Using flood-resistant building materials; adequately anchor the structure to prevent flotation, collapse or lateral movement;
- requiring the structure to contain openings that will permit the automatic entry and exit of floodwaters, locate all mechanical, electrical or other utility equipment above the base flood elevation or flood-proofed so they are in a watertight enclosure; and
- limiting the size of the accessory structures to no greater than 700 square feet.

Staff recommends that the requested variance be approved.

ATTACHMENTS:

- Vicinity/site map
- Surrounding zoning map
- Floodplain map

Prepared by: Bob Isaac, Planner -
October 6, 2014



VICINITY AND SITE

Carson

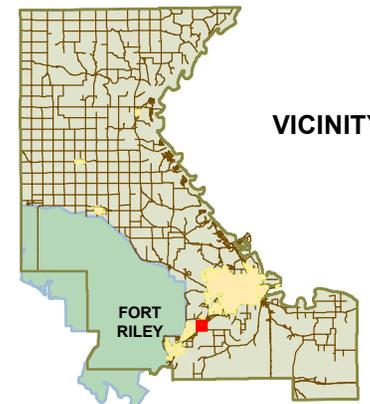
Variance #14-26

A variance to permit the construction of a detached accessory structure 2.8 feet below the required elevation of one (1) foot above base flood elevation.

33-10-7

Legend

-  1000' Buffer
-  Site



VICINITY



SURROUNDING ZONING

Carson

Variance #14-26

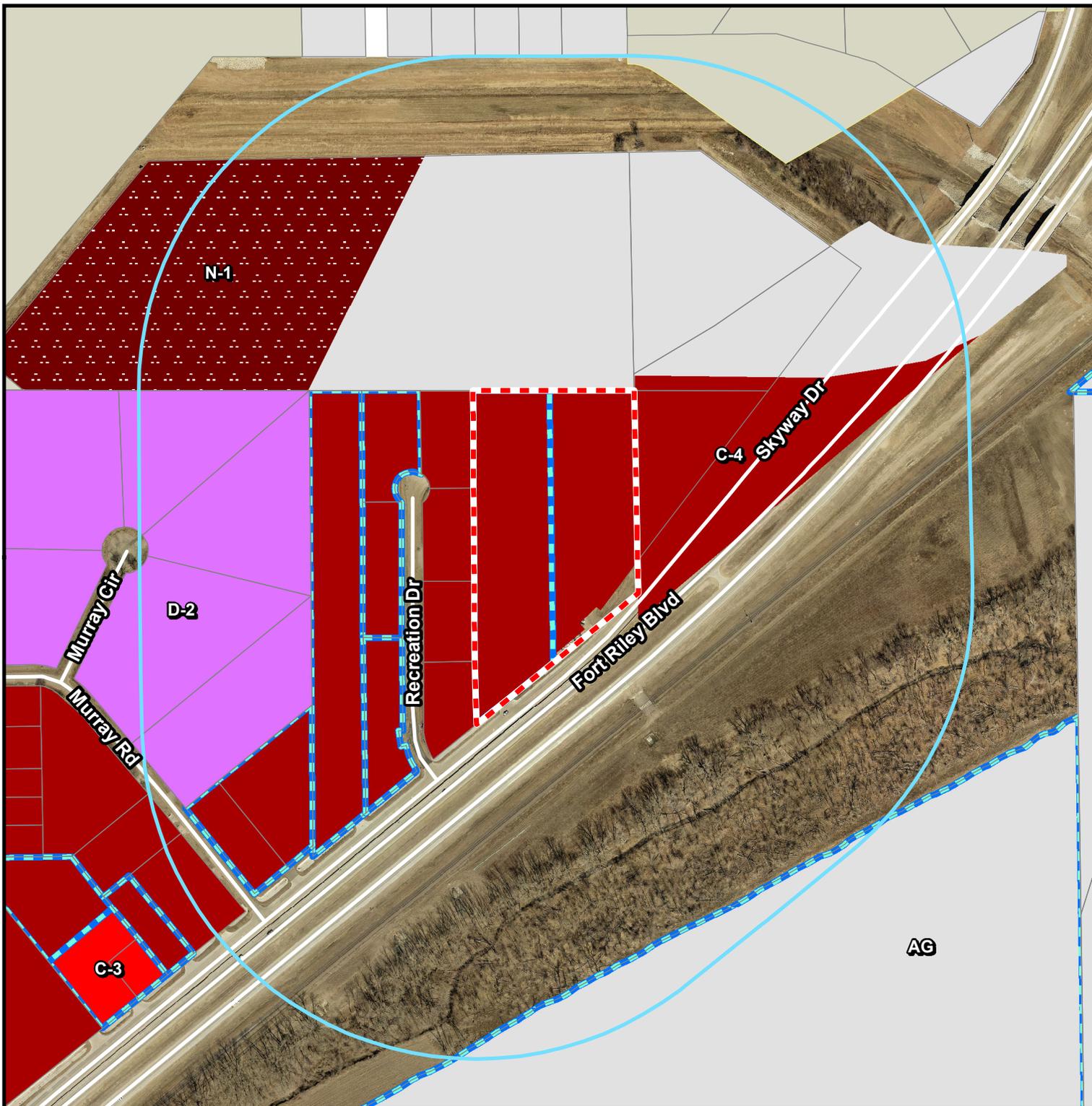
A variance to permit the construction of a detached accessory structure 2.8 feet below the required elevation of one (1) foot above base flood elevation.

33-10-7

Legend

-  1000' Buffer
-  Site

- | | |
|--|---|
|  SF-1 Single Family |  AG Agricultural |
|  SF-2 Single Family |  N-1 Noise Hazard |
|  SF-3 Single Family |  PUD Planned Unit Dev |
|  SF-4 Single Family |  U University |
|  SF-5 Single Family |  City Boundaries |
|  B-1 Two Family |  Fort Riley |
|  B-2 Multiple Family | |
|  B-3 Mobile Home Park | |
|  C-1 Neighborhood Bus | |
|  C-2 Shopping Dist |  Special Zoning:
Conditional Use
Designator Lot
Special Use
Variance |
|  C-3 General Business | |
|  C-4 Highway Business | |
|  D-1 Industrial Park | |
|  D-2 Light Industrial | |
|  D-3 Heavy Industrial | |
|  D-4 Business Park | |





FLOODPLAIN

TOPEKA SHINER HABITAT

Carson

Variance #14-26

A variance to permit the construction of a detached accessory structure 2.8 feet below the required elevation of one (1) foot above base flood elevation.

33-10-7

Legend

- Topeka Shiner Habitat
- Floodplain**
- ▨ 1% Annual Chance Flood (Unnumbered)
- ▨ 1% Annual Chance Flood (Numbered)
- ▨ Floodway
- ▨ 1% Annual Chance Flood (1'-3' Depth)
- ▨ .2% Annual Chance Flood



PLANNING & DEVELOPMENT

STAFF REPORT

Platting and Rezoning

PETITION: (#14-27) Rezone from “AG” (Agricultural District) to “SF-5” (Single Family Residential)
(#14-28) Plat

APPLICANT: Charles J. Lake
1012 Sedam Ave
Manhattan, KS 66502

PROPERTY OWNER: Same as above

TYPE OF REQUEST: Rezone a tract of land from "AG" (Agricultural District) to "SF-5" (Single Family Residential) and plat said tract into a single lot.

SIZE OF TRACT: The subject site is approximately 5 acres.

LOCATION: Generally located at the northwest corner of the intersection of Sedam Avenue and Dawn Avenue; Section 34, Township 10 South, Range 8 East; Manhattan Township.

JURISDICTION: This application is subject to the requirements of the Riley County Subdivision Regulations.



BACKGROUND: The applicant currently owns a 17-acre unplatted tract that is developed with a home (built in 1972) and various outbuildings. The applicant wishes to split off and plat an approximately 5-acre portion that includes the homestead and rezone it from “AG” (Agricultural District) to “SF-5” (Single Family Residential).

DESCRIPTION:

Physical site characteristics: As mentioned previously, the subject site is developed with a home, various outbuildings and fenced areas. The site is relatively flat, with a few mature trees amongst the structures.

General character of the area: The general character of the area is a mix of pasture, open space and rural residential uses. There is a commercial business that adjoins the subject site to the east.

SUITABILITY OF ZONING:

Zoning History: The site is currently zoned “AG” (Agricultural District) and has been zoned agricultural since at least 1974. There are no conditional uses, special uses or variances associated with the site.

Proposed zoning: Considering the size of the proposed lot, the current land use, the zoning and land uses of surrounding property, the proposed zoning change to “SF-5” (Single Family Residential) seems appropriate.

SURROUNDING ZONING/LAND USE		
	ADJACENT ZONING	LAND USE
NORTH	“AG” (Agricultural District)	Pasture
SOUTH	“SF-1” (Single Family Residential)	Vacant/residential
EAST	“AG” (Agricultural District) and “C-4” (Highway Business)	Residential and commercial business
WEST	“AG” (Agricultural District)	Pasture/cell tower

POTENTIAL IMPACT:

Public facilities and services:

Streets and bridges: The subject site has direct access to Sedam Avenue, a two-lane gravel township road; Sedam Avenue intersects with Deep Creek Road, a paved two lane county road, 500 feet west of the subject property. There is an existing entrance to the site with no new entrances being proposed.

Water and sewer: The subject site is served by Rural Water District 1 and an on-site septic system.

Fire: Riley County Fire District #1 will serve the site. The nearest County Fire Station (#15) is located at 300 Johnson Road. The subject site is located within five road miles of a fire station.

Effect on public facilities and services: It is not anticipated that the proposed rezoning and platting of the subject site will have an adverse impact on public facilities and/or services.

CONFORMANCE TO THE LAND USE PLAN:

Goals, Objectives and Policies

Goal for residential:

To allow for the development of a diversity of housing types, sizes and price levels to meet the changing needs of all county residents.

Objective R4: Allow for adequate amounts of single family housing in suitable locations throughout the county.

Policies:

R4.2 Roads serving residential developments should safely accommodate anticipated traffic.

Future Land Use Map

According to the Future Land Use Map North (Figure 11.2) found in the Plan, the subject property is located outside of a designated growth area.

The Land Evaluation/Site Assessment (LESA) Score

Although a LESA was not necessary for this request due to the existing residential development of the site, one was generated for informational purposes only. According to the final score of the LESA analysis, the subject property achieved 4439 points (Moderate for Development). No bonus points were factored into the analysis.

Hardship on the landowner

The Applicant stated that a financial hardship would result if the request was denied. He stated that he would be unable to refinance his home and be forced to sell it due to high mortgage payments.

Staff analysis: Due to the character of the existing development and the criteria set forth in the zoning and subdivision regulations, it is not anticipated that the request will cause conflicts; thus, the request is consistent with the Plan.

COMMENTS AND CONCERNS:

ENVIRONMENTAL HEALTH: Environmental Health staff has reviewed this plat and found it to be in compliance with the Riley County Sanitary Code.

COUNTY ENGINEER: The County Engineer has reviewed the request and had no concerns.

STAFF RECOMMENDATIONS:

Staff recommends that the Planning Board forward a recommendation of approval to the Board of County Commissioners to rezone the subject property from “AG” (Agricultural District) to “SF-5” (Single Family Residential) for the following reasons:

- The subject site has been developed and zoned as a non-agricultural homestead for several years;
- The proposed development is for a single lot, with an existing house. No additional residential development is being proposed at this time;
- The proposed development is generally in conformance with the Vision 2025 A Comprehensive Plan for Riley County, Kansas; and
- An Agricultural Protection Easement must be filed along with the plat.

The Planning Board also approved the concurrent plat of the Concurrent Plat of Lake Subdivision, as it was determined that it met the minimum requirements of the Riley County Subdivision Regulations.

POSSIBLE MOTION(S)

ACTION NEEDED FOR REZONING:

A. Move to approve the request to rezone the subject property from “AG” (Agricultural District) to “SF-5” (Single Family Residential) for the following reasons:

- The rezoning is compatible with the character of the neighborhood.
- The rezoning is compatible with the zoning and uses of properties nearby.
- The subject property is not suitable for the uses allowed by the current zoning.
- Removal of the current restrictions by rezoning will not detrimentally affect nearby property.
- The subject property has remained vacant as zoned for a substantial time period.
- The gain to the public health, safety and welfare by denying rezoning is not as great as the hardship imposed upon the individual landowner.
- The rezoning is consistent with the recommendations of permanent or professional staff.
- The rezoning conforms to the adopted comprehensive plan.
- The rezoning will not detrimentally affect the conservation of the natural resources of the County.
- The rezoning will result in the efficient expenditure of public funds.
- The rezoning will promote the health, safety, convenience, prosperity and general welfare of the inhabitants of the County.

Or

B. Move to deny the request to rezone the subject property for the following reasons:

- The rezoning is incompatible with the character of the neighborhood.
- The rezoning is incompatible with the zoning and uses of properties nearby.
- The subject property is not suitable for the uses allowed by the proposed zoning.
- Removal of the current restrictions by rezoning will detrimentally affect nearby property.
- The subject property is developed or utilized as zoned for a substantial time period.
- The gain to the public health, safety and welfare by denying rezoning is greater than the hardship imposed upon the individual landowner.
- The rezoning is inconsistent with the recommendations of permanent or professional staff.
- The rezoning does not conform to the adopted comprehensive plan.
- The rezoning may detrimentally affect the conservation of the natural resources of the County.
- The rezoning will result in the inefficient expenditure of public funds.
- The rezoning will diminish the health, safety, convenience, prosperity and general welfare of the inhabitants of the County.

ACTION NEEDED FOR PLAT:

A. Motion to approve the request to plat the subject property into one (1) lot, as it has been determined that it meets the requirements of the Riley County Subdivision Regulations.

Or

B. Motion to deny the request to plat the subject property into one (1) lot, as it has been determined that it does not meet the requirements of the Riley County Subdivision Regulations.

ATTACHMENTS:

- Vicinity/site map
- Surrounding zoning map
- Preliminary Plat map
- Final Plat map

Prepared by: Bob Isaac, Planner
October 6, 2014



VICINITY AND SITE

Lake

Rezone #14-27 AG to SF-5

Plat #14-25 Lake Subdivision

34-10-8

Legend

 1000' Buffer

 Site



VICINITY

FORT RILEY



Sedam Ave

Dawn Ave

Deep Creek Rd

Sod Ln

SURROUNDING ZONING

Lake

Rezone #14-27 AG to SF-5

Plat #14-25 Lake Subdivision

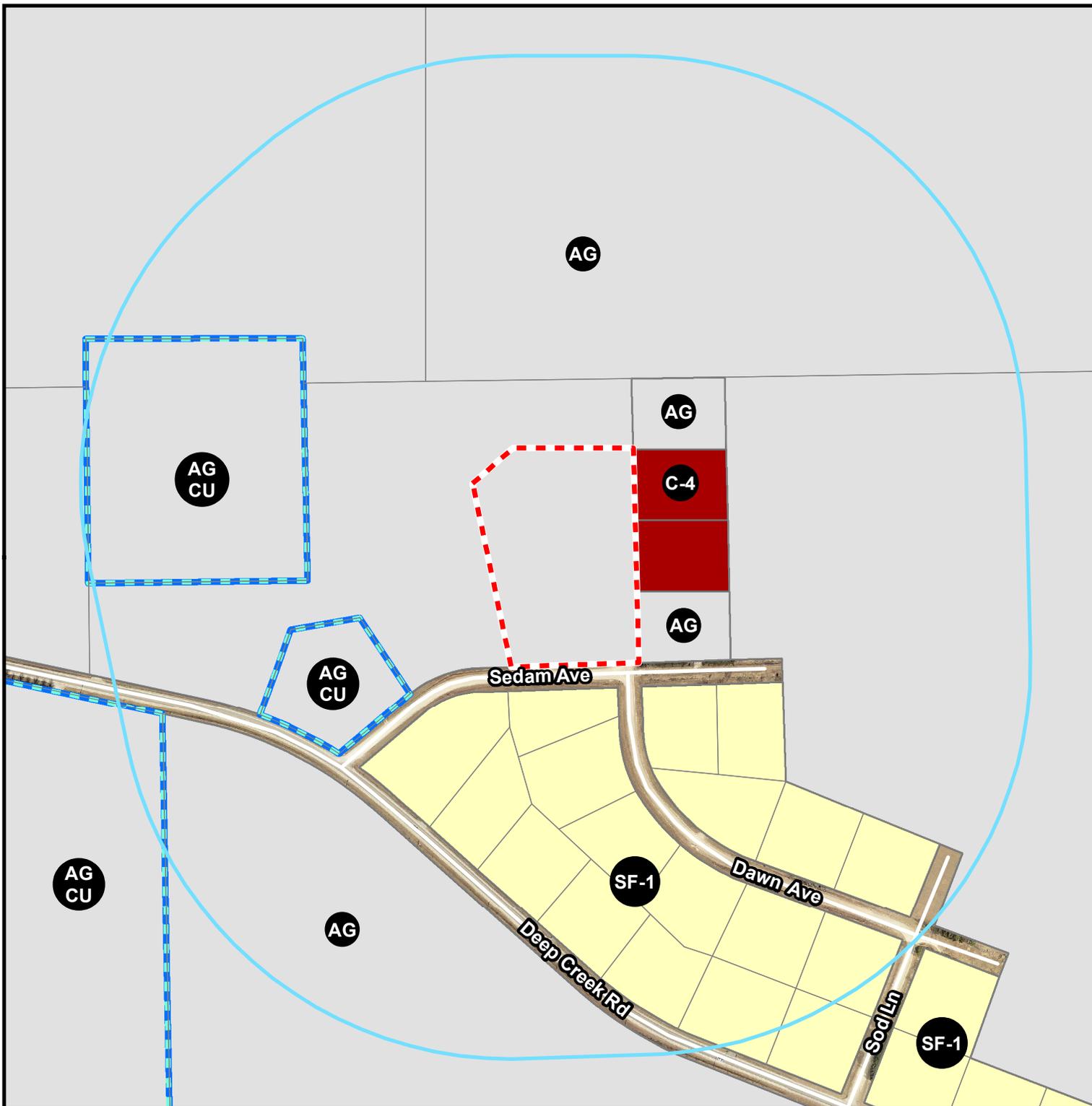
34-10-8

Legend

1000' Buffer

Site

SF-1 Single Family	AG Agricultural
SF-2 Single Family	N-1 Noise Hazard
SF-3 Single Family	PUD Planned Unit Dev
SF-4 Single Family	U University
SF-5 Single Family	City Boundaries
B-1 Two Family	Fort Riley
B-2 Multiple Family	
B-3 Mobile Home Park	
C-1 Neighborhood Bus	
C-2 Shopping Dist	Special Zoning: Conditional Use Designator Lot Special Use Variance
C-3 General Business	
C-4 Highway Business	
D-1 Industrial Park	
D-2 Light Industrial	
D-3 Heavy Industrial	
D-4 Business Park	





Konza Valley Fire Station



FIRE STATIONS

Lake

Rezone #14-27 AG to SF-5

Plat #14-25 Lake Subdivision

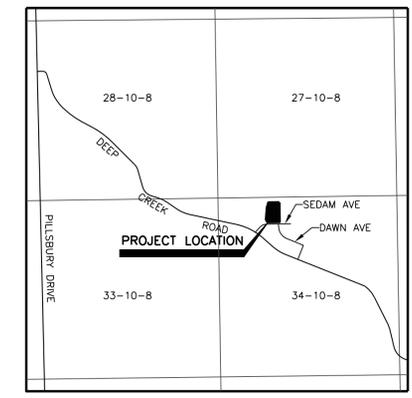
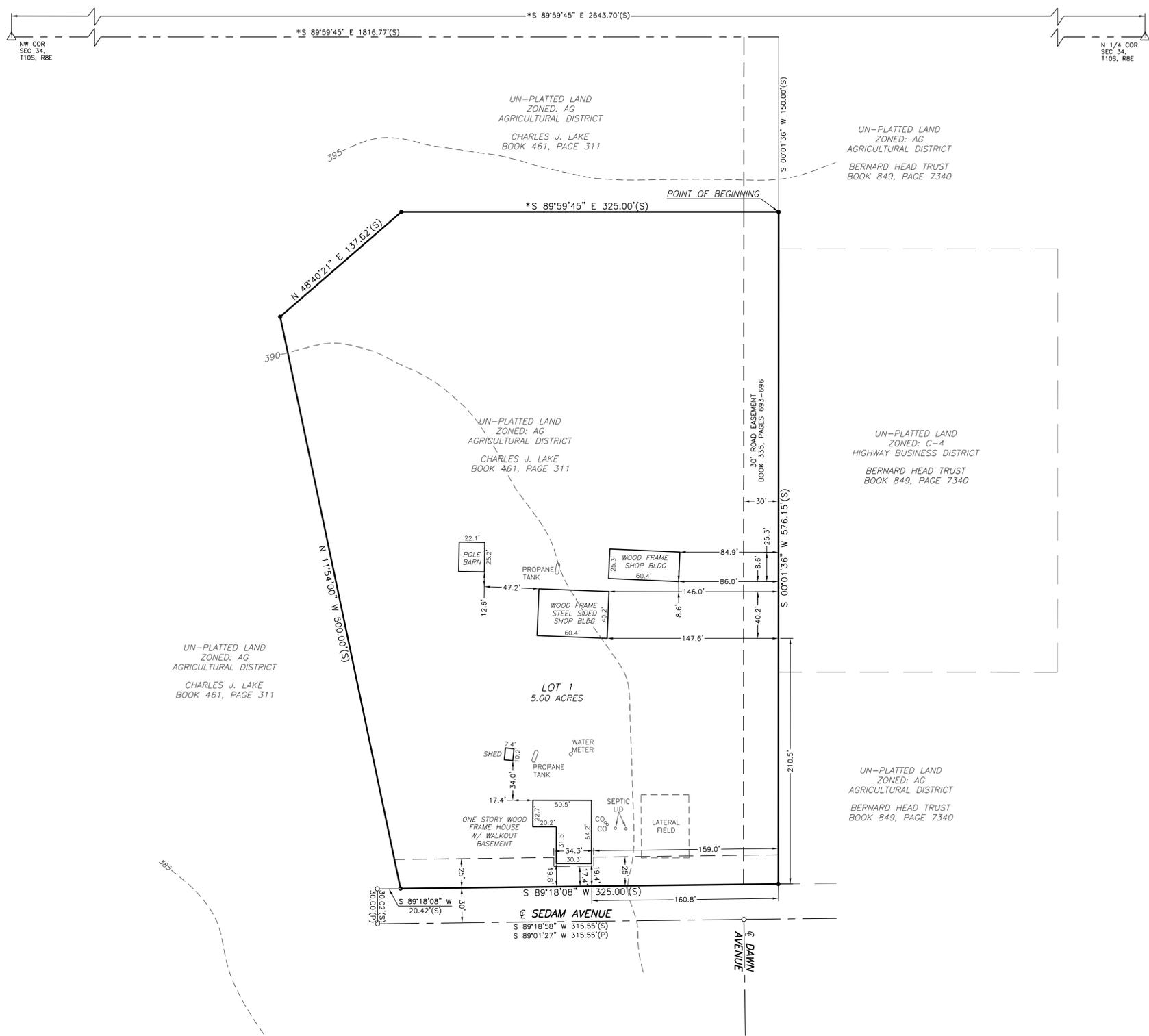
34-10-8

 **Fire Station**

 **Within 5 Miles of a Fire Station**

 **Not within 5 Miles of a Fire Station**

SITE



OWNER:
 Charles J. Lake
 1012 Sedam Avenue
 Manhattan, KS 66502-9374
 785-410-7124

SURVEYOR:
 Tim Sloan, P.S.
 SMH Consultants
 4201B Anderson Avenue, Suite 2
 Manhattan, KS 66503
 785-776-0541

VICINITY MAP
 (NOT TO SCALE)

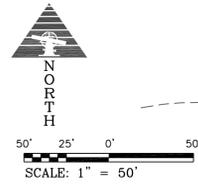
DESCRIPTION:

A tract of land in the Northwest Quarter of Section 34, Township 10 South, Range 8 East of the Sixth Principal Meridian, Riley County, Kansas described as follows:

Beginning at a point that is S 89°59'45" E 1816.77 feet and S 00°01'36" W 150.00 feet from the Northwest Corner of the Northwest Quarter of said Section 34, said point being on the Westerly Line of the Bernard R. Head tract recorded in Book 849, page 7340 in the Riley County Register of Deeds Office; thence S 00°01'36" W 576.15 feet to the North right of way line of Sedam Avenue; thence S 89°18'08" W 325.00 feet along the North right of way line of Sedam Avenue; thence N 11°54'00" W 500.00 feet; thence N 48°40'21" E 137.62 feet; thence S 89°59'45" E 325.00 feet to the point of beginning, containing 5.00 acres. Subject to easements and restrictions of record.

LEGEND

- △ Section Corner
- 1/2" Rebar, Origin: Plot of Sedam Subdivision
- 1/2"x24" Rebar w/ CLS66 Cap Set
- * Assumed Bearing
- (P) Plotted Distance
- (S) Surveyed Distance
- 1' Contour Interval (Taken from XMAP7 DeLorme Maps)



NOTES:

- There are existing entrances and entrance pipes that will be utilized.
- No gaps or overlaps exist.
- Bearings used for this survey were based on the north line of the Northwest Quarter of Section 34, T10S, R8E, being assumed S 89°59'45" E.
- There are no lines of possession that affect this survey.
- There are no existing buildings on the subject property, except as shown.
- Parent Tract is recorded in Book 823, Page 456, Register of Deeds Office, Riley County, Kansas.

FLOOD INFORMATION NOTE:

Flood Insurance Rate Map, Map Number 2018100369E, identifies this property as situated in Zone X. Zone X is stated as "Areas determined to be outside the 0.2% annual chance floodplain". FIRM effective date: November 19, 2003.

NOTES:

- Existing Use: Residential / Farm
- Proposed Use: Residential
- Existing Zoning: "AG" - Agricultural District
- Proposed Zoning: "SF-5" - Single Family Residential District

Preliminary Plat
LAKE SUBDIVISION
*in the Northwest Quarter of Section 34,
 T10S, R8E, Riley County, Kansas*



4201B Anderson Avenue, Suite 2 • Manhattan, Kansas 66503
 (785) 776-0541 • FAX 776-9760 • Email: tim@smhconsultants.com
 Project #1409MN1275 DD #95

OCTOBER 2014

DESCRIPTION:

A tract of land in the Northwest Quarter of Section 34, Township 10 South, Range 8 East of the Sixth Principal Meridian, Riley County, Kansas described as follows:

Beginning at a point that is S 89°59'45" E 1816.77 feet and S 00°01'36" W 150.00 feet from the Northwest Corner of the Northwest Quarter of said Section 34, said point being on the Westerly Line of the Bernard R. Head tract recorded in Book 849, page 7340 in the Riley County Register of Deeds Office; thence S 00°01'36" W 576.15 feet to the North right of way line of Sedam Avenue; thence S 89°18'08" W 325.00 feet along the North right of way line of Sedam Avenue; thence N 11°54'00" W 500.00 feet; thence N 48°40'21" E 137.62 feet; thence S 89°59'45" E 325.00 feet to the point of beginning, containing 5.00 acres. Subject to easements and restrictions of record.

OWNER'S CERTIFICATE

STATE OF KANSAS) SS
COUNTY OF RILEY)

This is to certify that the undersigned is/are the owner(s) of the land hereon described on this plat, and that said owner(s) has/have caused the same to be surveyed and subdivided as indicated thereon, for the uses and purposes herein set forth, and does hereby acknowledge and adopt the same under style and title indicated.

All street rights-of-way as shown on this plat are hereby dedicated to the public. Any easements or licenses as shown on this plat, to locate, construct and maintain or authorize the location, construction and maintenance of poles, wires, conduits, water, gas and sewer pipes or required drainage channels or structures upon the area marked for easements on this plat, are hereby granted to the public.

Given under my hand at _____, Kansas this _____ day of _____, 2014.

Charles J. Lake

NOTARY CERTIFICATE

STATE OF KANSAS) SS
COUNTY OF RILEY)

BE IT REMEMBERED, that on this _____ day of _____ A.D. 2014, before me, the undersigned, a notary public in and for the County and State aforesaid, came

Charles J. Lake, a single person

personally known to me to be the same persons who executed the foregoing Owner's Certificate, and duly acknowledged their execution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day and year last above written.

Notary Public

My appointment expires: _____

CERTIFICATE OF THE COUNTY COMMISSION

STATE OF KANSAS) SS
COUNTY OF RILEY)

Approved this _____ day of _____, 2014.
Board of Commissioners, Riley County, Kansas.

Chairperson

Commissioner

Commissioner

Attest: County Clerk

CERTIFICATE OF THE REGISTER OF DEEDS

STATE OF KANSAS) SS
COUNTY OF RILEY)

This instrument was filed for record on the _____ day of _____ A.D. 2014, at _____ o'clock _____ M. and duly recorded in Book _____ on Page _____.

Register of Deeds

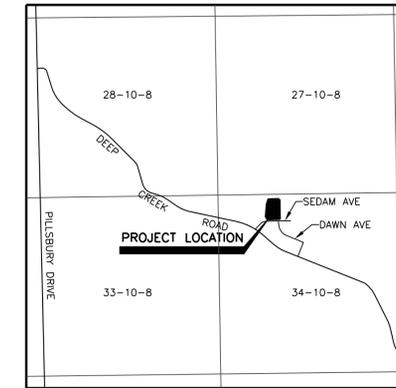
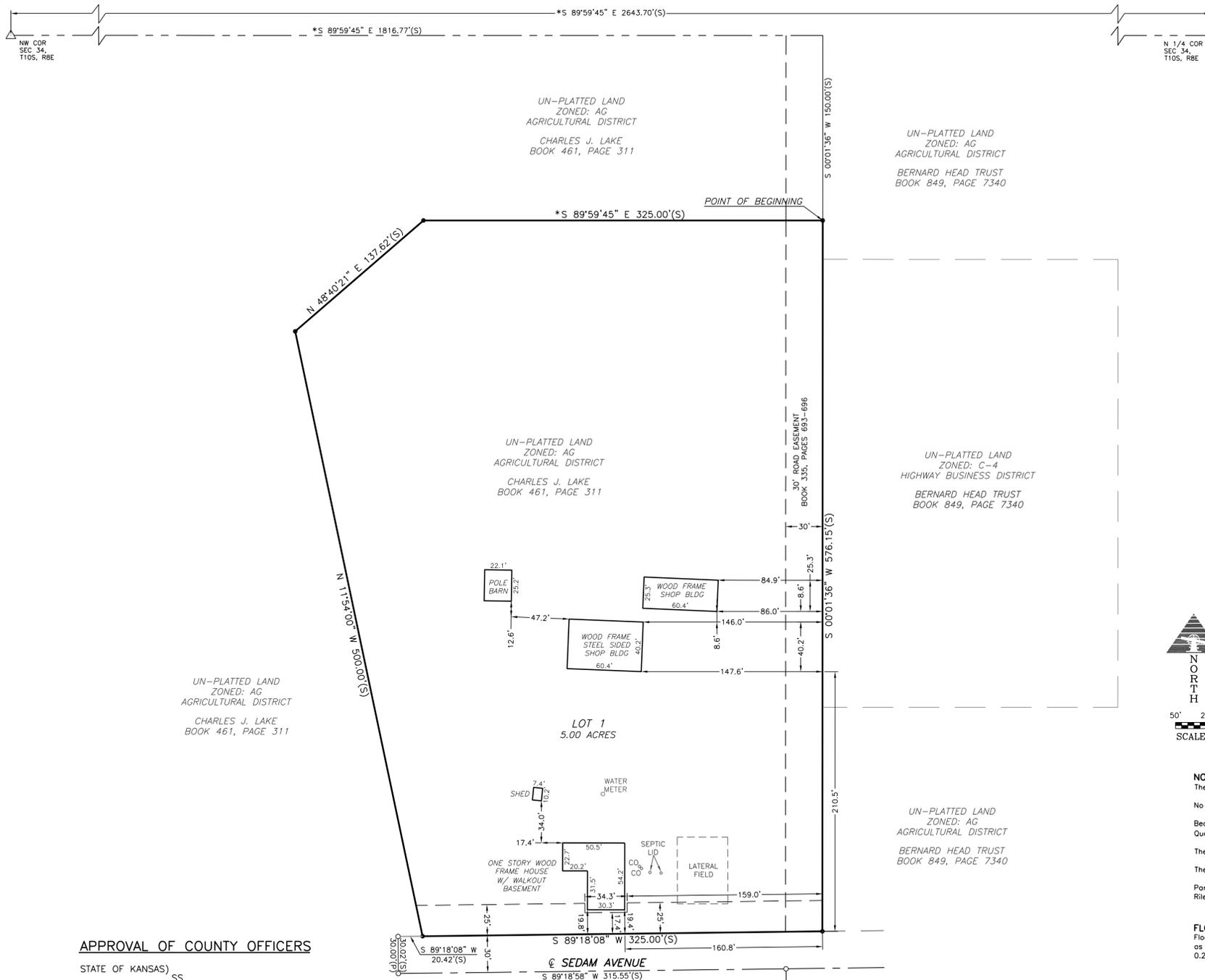
Deputy

RILEY COUNTY PLAT REVIEW SURVEYOR SIGNATURE BLOCK

This plat has been reviewed and approved for filing pursuant to and in compliance with K.S.A. 58-2005 and with the requirements of Riley County Resolution No. 082913-58. No other warranties are extended or implied.

Approved: _____

License Number: _____ Date: _____



VICINITY MAP
(NOT TO SCALE)

LEGEND

- △ Section Corner
- 1/2" Rebar, Origin: Plat of Sedam Subdivision
- 1/2"x24" Rebar w/ CLS66 Cop Set
- * Assumed Bearing
- (P) Platted Distance
- (S) Surveyed Distance



50' 25' 0' 50'
SCALE: 1" = 50'

NOTES:
There are existing entrances and entrance pipes that will be utilized.
No gaps or overlaps exist.
Bearings used for this survey were based on the north line of the Northwest Quarter of Section 34, T10S, R8E, being assumed S 89°59'45" E.
There are no lines of possession that affect this survey.
There are no existing buildings on the subject property, except as shown.
Parent Tract is recorded in Book 823, Page 456, Register of Deeds Office, Riley County, Kansas.

FLOOD INFORMATION NOTE:
Flood Insurance Rate Map, Map Number 20161C0369E, identifies this property as situated in Zone X. Zone X stated as "Areas determined to be outside the 0.2% annual chance floodplain". FIRM effective date: November 19, 2003.

APPROVAL OF COUNTY OFFICERS

STATE OF KANSAS) SS
COUNTY OF RILEY)

County Engineer

County Counselor

Environmental Health Specialist

RILEY COUNTY PLANNING BOARD CERTIFICATE

STATE OF KANSAS) SS
COUNTY OF RILEY)

Approved this _____ day of _____ A.D. 2014.

Riley County Planning Board.

Chairperson

Member

Member

Member

Member

SURVEYOR'S CERTIFICATE

STATE OF KANSAS) SS
COUNTY OF RILEY)

I, the undersigned, do hereby certify that I am a Registered Land Surveyor in the State of Kansas, with experience and proficiency in land surveying; and that the heretofore described property was surveyed and subdivided by me, or under my supervision, that all subdivision regulations of Riley County, Kansas, have been complied with in the preparation of this plat, and that all the monuments shown herein actually exist and their positions are correctly shown to the best of my knowledge and belief.

Given under my hand and seal at Manhattan, Kansas this _____ day of _____, A.D., 2014.

SMH Consultants
By: Tim Sloan
Tim Sloan, P.S.
President



Final Plat
LAKE SUBDIVISION
*in the Northwest Quarter of Section 34,
T10S, R8E, Riley County, Kansas*



4201B Anderson Avenue, Suite 2 • Manhattan, Kansas 66503
(785) 776-0541 • FAX 776-9760 • Email: tim@smhconsultants.com
Project #1409MN1275 DD #95

OCTOBER 2014



MEMO

<input type="checkbox"/>	PLEASE COMMENT
<input checked="" type="checkbox"/>	PLEASE REPLY
<input type="checkbox"/>	URGENT
<input checked="" type="checkbox"/>	FOR REVIEW

DATE 10/6/14

TO:
Manhattan Urban Area Planning Board
Riley County Planning Board

FROM:
Monty R. Wedel, AICP *MRW*
Planning & Development
110 Courthouse Plaza
Manhattan, Kansas 66502
mwedel@rileycountyks.gov

Phone: (785) 537-6332
Fax: (785) 537-6331

SUBJECT: Proposed draft of sign regulation changes

MESSAGE: Dear planning board members: Attached are three documents to review for the upcoming discussions regarding proposed Riley County sign regulation changes. The first is a mark-up copy showing the proposed changes to the existing regulations. This document includes some explanations inserted from our consultant, Elizabeth Garvin, in yellow test boxes. The second is a clean version showing how the regulations would read once all the changes are accepted. The final document is a spreadsheet illustrating the proposed changes as they compare to the city sign regulations recently considered. Although the overall goal is to have the city and county regulations as similar as possible, there are a few differences between the two reflecting mostly the different speed limits and ambient lighting situations that would likely exist in a rural setting versus an urban setting. I look forward to discussing these differences and gaining your perspectives on the issues involved. Thank you.

SECTION 15 - SIGNS AND EXTERIOR LIGHTS

Drafting Comment: This draft update to the Riley County Sign Regulations has been prepared for public review and comment. Provisions that are new to the existing regulations are identified in underlined text and provisions of the existing code that are suggested for removal are identified in ~~strike-out~~ text. Some existing text has been moved to reorganize the code for ease of understanding and some new numbering and titles have been added. Background information describing specific aspects of a specific standard and/or identifying questions for staff review is provided in a yellow Drafting Comment box similar to this one.

1. Purpose: The sign regulations are intended to implement the following planning and regulatory goals and purposes of Riley County:

- a. To support the desired character of the County as expressed in adopted plans, policies, and regulations;
- b. To promote an attractive visual environment while not creating or worsening visual clutter or visual blight;
- c. To encourage the effective use of signs as a means of communication for businesses, organizations, and individuals,
- d. To provide a means of wayfinding for visitors and residents,
- a-e. To protect the safety and welfare of the public by minimizing hazards, confusion, and possible distraction for motorized and non-motorized traffic;
- f. To ensure that signs do not create a nuisance or safety hazard to the occupants of adjacent property by their brightness, size, height, or movement; and
- b-g. To minimize the possible adverse effects of signs on the use or value of nearby public and private property.

Drafting Comment: We have added this *Purpose* section to the overall regulations in order to establish the County's policy reasons for regulating signs, as well as to provide specific support for the prohibition of digital billboards. The United States Supreme Court has held that it is permissible for a local government to regulate commercial speech when that regulation is necessary to advance a "substantial government interest."¹ The Court has recognized both traffic safety and aesthetic concerns as substantial interests² and has upheld billboard prohibitions based on these interests. This new *Purpose* section meets the judicial requirement that the regulation itself directly assert the substantial government interest(s) that is the

¹ *Central Hudson Gas & Electric Corp. v. Public Service Comm'n*, 447 U.S. 557 (1980).

² *Metromedia Inc. v. City of San Diego*, 453 U.S. 490 (1981).

purpose for the regulation. The County should incorporate these purpose statements into findings in the resolution adopting these sign code updates.

Drafting Comment: The following new sign definitions will be incorporated into the Riley County Zoning Regulations Section 2, *Definitions*. All of the sign definitions will be grouped together in a specific subsection.

Abandoned Sign: A sign or any portion of a sign that refers to a discontinued activity or use formerly occupying the site; or a sign that contains no sign copy for a continuous period of 90 days.

Agricultural Directional Sign: A sign that is placed in an off-premise location for the purposes of providing directional information to a destination for one of the following permitted uses within the AG zoning district: Agriculture, Agritourism, and Agricultural Roadside Stand.

~~ADVERTISING SIGN, DIGITAL (A.K.A. "DIGITAL BILLBOARD"): ADVERTISING SIGN, DIGITAL (a.k.a. "Digital Billboard")— A type of advertising sign that electronically changes the fixed display screen composed of a series of lights, including light emitting diodes, fiber optics, or other similar technology and which includes computer programmable, microprocessor controlled electronic, or digital displays of electronic images, graphics, or pictures, with or without textual information.~~

Changeable Copy Sign: Any sign where copy displayed on the sign can be changed periodically to display different messages. Where copy changes may be made through manual, mechanical, or other non-digital means the sign is a manual changeable copy sign. Where copy changes are made digitally the sign is an electronic message board. Signs on which the only change is a periodic price change for the product or products customarily sold on the premises and on which the location, size and color of the numbers remains constant are not changeable copy signs.

Copy, Sign Copy: The visually communicative elements incorporated into and comprising a sign's message, including but not limited to words, letters, numbers, designs, figures, or other symbolic presentation.

Customary Maintenance: All manner of maintenance, repair, or component replacement of a legally permitted or lawful sign that is done to keep the structure and its various components in good repair. This definition applies to all parts of a sign, including the supporting structure, walkways, sign face, and all other component parts, except the base and foundation. An increase in height, a change in dimension or location, replacement of the base or foundation, installing additional support structures, or the addition of lighting or digital graphic display does not constitute customary maintenance.

Digital Display: The presentation of sign copy on any digital or electronic sign.

Digital Graphic Sign: A sign or portion thereof that appears to have movement or change to the copy caused by any method other than physically removing and replacing the sign or its components, which may or may not include text and/or images, including but not limited to television screens, plasma screens, digital screens, flat screens, LED screens, CCD devices, video boards, holographic displays, digital ink, or other technologies of a similar nature.

Digital Graphic Sign, Static: A digital graphic sign where all the sign copy is fixed for a 24-hour period of time.

Dissolve: A type of display transition between static copy displays that is achieved with varying light intensity and where the initial copy gradually appears to dissipate and lose legibility simultaneous to the gradual appearance and legibility of the subsequent copy.

Electronic Message Board: A changeable copy sign or portion of a sign that uses light emitting diodes or has the ability to display electronically illuminated, scrolling, or moving copy that is composed of an ordered sequence of alphanumeric characters against a contrasting background.

Fade: A type of display transition between static copy displays that is achieved with varying light intensity and where the initial copy gradually loses light intensity to the point of not being legible and the subsequent copy gradually increases intensity to the point of legibility.

Government Sign: Any temporary or permanent sign erected and maintained by a governmental entity for the display of government speech, including without limitation traffic signs, directional signs, warning signs, informational signs, and signs displaying a public service message.

Hold Time: The length of time that sign copy is fixed in place before changing.

Illuminated Sign: A sign that uses an internal or external source of light in order to make the message readable.

Immediate: A type of display transition that is achieved by the instantaneous changing from one copy to another.

Moving Light: The physical change in position of any visible illumination source while lighted or the simulation of movement achieved with a pattern of sequentially illuminating visible illumination sources within close proximity to each other.

Neon: Electric signs lighted by long luminous gas-discharge tubes that contain rarefied neon or other gases.

Scrolling: A type of display during which the copy is moved/shifted across the display area in a horizontal, vertical, or diagonal motion.

Sign: A name, identification, description, emblem, device, or structure that is affixed to, printed on, projected, or represented directly or indirectly upon a building, structure, or parcel of land and that directs attention to a person, place, product, institution, business, organization, activity, or service. Signs shall also include any permanently installed or situated merchandise, including any banner, pennant, placard, window sign, or temporary sign, that directs attention to a person, place, product, institution, business, organization, activity, or service, with the exception of internal window displays and national flags.

Time and Temperature Unit: A sign or portion of a sign displaying only current time and temperature in an electronic, digital fashion.

Transition Time: The length of time it takes to change from one sign copy to another.

2. **Permit Required.** No sign, except those specifically exempted within this Section 15, shall be constructed, reconstructed, remodeled, enlarged or otherwise structurally modified or relocated on any land or structure without first obtaining an approved permit from the ~~County Zoning Officer (as per Section 21)~~ Planning and Development Department. Applications for sign permits shall include a description and illustration of the location, dimensions, color, lighting and other details of the proposed sign. Applications for sign permits shall be accompanied by letters, leases or other documented evidence demonstrating that the applicant has permission or other established right to place the sign at the proposed location. No sign permit shall be issued for a sign which is subject to the regulations of the Kansas Department of Transportation, Bureau of Right-of-Way, Division of Billboard and Salvage Control unless the applicant has obtained prior approval ~~is obtained~~ from that agency. Highways in Riley County currently subject to state sign regulations are Interstate 70, U.S. 24, U.S. 77, K-16, K-18, K-82, K-113, K-114 and K-177.

3. **Sign Classifications.** For the purpose of this regulation the following terms shall be used to identify and classify various types of signs:

a. ADVERTISING SIGN (a.k.a. "Billboard") - A commercial sign ~~which with copy that~~ directs attention to a business, product service, or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

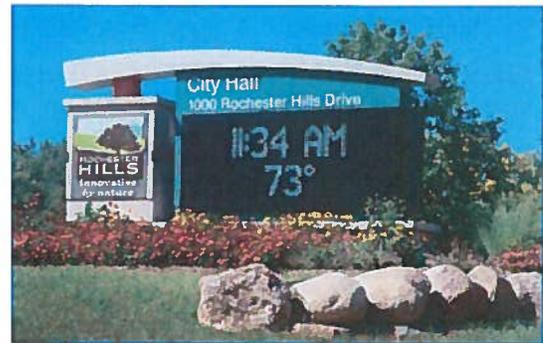
b. ADVERTISING SIGN, DIGITAL (a.k.a. "Digital Billboard") - ~~A type of advertising sign that electronically changes the fixed display screen composed of a series of lights, including light emitting diodes, fiber optics, or other similar technology and which includes computer programmable, microprocessor controlled electronic, or digital displays of electronic images, graphics, or pictures, with or without textual information. An advertising sign that is completely or partially a digital graphic sign.~~

- c. BULLETIN BOARD SIGN - A sign which with copy that gives the name of the institution or organization on whose premises it is located and which may include the names of persons associated with the institution or organization and announcements and messages pertaining to activities thereof.
- d. BUSINESS SIGN - A commercial sign with copy that directs attention to a business, product, service, or entertainment conducted, sold or offered at the location of the premises upon which the sign is located~~A commercial sign with copy that which directs attention to a business or service sold or offered at the location of the lot or structure upon which the sign is located.~~ Business signs may be further identified as follows:

Drafting Comment: Digital graphic signs are found as both stand-alone signs and as a component of a non-digital sign as illustrated in these images.



Freestanding signs with digital displays



Monument sign with digital display

Riley County may want to specify the individual sign types that are permitted to be either completely digital or incorporate a digital component. In order to do this, we have suggested a more detailed line-up of sign types as follows.

- 1) Sign, Awning. An on-site sign attached to or integrated into awning or canopy, but excluding a sign not exceeding one sq. ft. in size attached to or integrated into the underside of the awning or canopy identifying the manufacturer of the awning or canopy.



Awning Sign

2) Sign, Freestanding. Any sign that is supported by a structure of one or more columns, uprights, or braces erected in or upon the ground, or affixed to outdoor business equipment or fixtures. Freestanding signs include monument signs, pylon signs, pole signs, and A-frame signs.



Freestanding Monument



Freestanding Pole

3) Sign, Marquee. A sign attached to or integrated into a marquee, which is an overhanging, substantially horizontal structure of permanent construction attached to a building, whether or not supported by the ground or sidewalk, that projects more than 18 inches over a sidewalk or other right-of-way, but not including balconies or bay windows. The sign may be located on the face, top, or underside of the marquee.



Marquee Sign

4) Sign, Projecting. A sign that is in any manner affixed to, printed, or painted on any exterior wall of a building or structure such that the sign extends more than 12 inches from the face of the building or structure to which it is attached. A sign that is attached to or integrated into the side panel of an awning or canopy shall be considered a projecting sign.



Projecting Sign

5) Sign, Roof. A sign erected upon and constructed wholly on and over the roof of a building, supported by the roof structure or parapet wall of a building, and extending vertically.



Roof Sign

6) **Sign, Service Station Canopy.** A changeable copy or static digital graphic sign affixed to a permanent structure above gasoline pumps which structure is supported by the building independently or partially by the building and other means.



Service Station Canopy Sign

7) **Sign, Wall.** A sign, not including a window sign, that is in any manner affixed to, printed, projected, or painted on any exterior wall of a building or structure such that the sign extends forward of that wall by 12 inches or less; or a sign attached to or integrated into the front or sloped panel of an awning or canopy. Wall signs include a sign that extends by 12 inches or less from the wall of a bay window parallel to the building façade.



Wall Sign

8) **Sign, Window.** Any sign, including a decal, that is attached to, affixed to, etched into, leaning against, or otherwise placed within 18 in. of on a street-facing window, door, or other aperture in a manner so that the sign message is visible from the outside of the building



Window Sign

e. DIRECTIONAL SIGN – An on-premise sign indicating the location of or directions to a specific use or activity. Agricultural directional signs may be permitted off-premise subject to the requirements of Paragraph 7.d. Changeable copy is permitted for directional signs.

e-f. IDENTIFICATION SIGN - A sign with copy denoting only the name and address of a building or establishment upon whose premises the sign is located or a sign denoting only the name of a neighborhood or development wherein the sign is located.

f-g. NAMEPLATE - A sign with copy giving the name and address of the occupant of a building or premises on which it is located.

g-h. REAL ESTATE SIGN - A sign with copy pertaining to the sale or lease of land or structures on which it is located.

h-i. SUBDIVISION IDENTIFICATION SIGN - A sign with copy identifying the name of a neighborhood or development wherein the sign shall be located.

4. **Signs Exempt from Regulation.** The following signs shall be exempt from all regulations in this section:

- a. Flags or emblems of a governmental, civic, philanthropic, educational or religious agency, when displayed on private property.
- b. Traffic, regulatory, instructional and safety signs of a governmental agency.
- c. Address numerals and any other signs required by law or governmental regulations.
- d. Informational and directional signs not more than (five) 5 square feet in area used to direct the public to entrances, exits, parking lots, restrooms, etc. on private property.
- e. Scoreboards on athletic fields.

5. **Signs Exempt from Permit but Subject to Sign Standards.** The following signs may be erected without obtaining a sign permit, but shall comply with all regulations herein:

- a. Nameplate signs not exceeding two (2) square feet in area accessory to single family or two-family dwellings.
- b. Identification signs not exceeding 40 square feet in area accessory to a multiple family dwelling.
- c. Bulletin board signs not exceeding 40 square feet in area accessory to churches, schools or public or non-profit institutions.
- d. Business signs located on land used for agriculture purposes pertaining to the sale of products produced on that land.
- e. Real estate signs and signs pertaining to a structure under construction, all of a temporary nature, located on private property. Maximum sign area shall be 40 square feet.

6. **Signs Permitted by District.** The following signs are permitted within the districts ~~as stated listed~~ below, subject to all requirements and regulations stated within this ~~Section~~ section 15 and further subject to all applicable State and Federal regulations and controls.

a. Residential Districts:

- 1) One sign per lot or dwelling.
- 2) Bulletin board sign, maximum 40 square feet.
- 3) Nameplate sign, maximum two (2) square feet.
- 4)** Identification sign, maximum 40 square feet.
- 4)5)** Real estate sign.

~~5)6)~~ Temporary construction sign.

- a) Minimum setback from any lot line = 15 feet.

7) No sign illumination except indirect lighting of bulletin board signs.

- a) Digital graphic signs are prohibited.
- b) Electronic message boards are prohibited except as government signs.

~~6)8)~~ Subdivision Identification Signs

- a) Minimum setback from any lot line = 5 feet.
- b) Maximum height shall not exceed six (6) feet above ground elevation.
- c) Signs shall not be located in the visual sight triangle and all sign locations shall be approved by the County Engineer.
- d) Signs shall not have more than two (2) sign faces and each face shall not exceed 40 square feet fronting on a public trafficway.
- e) Maximum number of signs shall be two per subdivision entrance.
- f) Sign lighting, if used, shall not produce glare or other traffic hazards and shall not have direct lighting to produce an annoyance to adjacent residential areas and shall be exempt from Paragraph 7 of this section Sign Regulations.

b. Commercial Districts:

1) Two signs per lot or business. Where the requirements of this Paragraph 6.b and Paragraph 7 can be met, one permitted sign may be either a digital graphic sign or an electronic message board.

2) Any sign defined herein except Advertising Sign.

~~2)3)~~ Sign area shall not exceed one (1) square foot per lineal foot of lot facing street, maximum not to exceed 260 sq. feet, -or in shopping center district, maximum not to exceed 50 square feet.

4) No minimum setback, but sign must be located on private property.

5) Digital graphic signs are permitted pursuant to Paragraph 7.d subject to the following requirements:

- a) Digital graphic signs are restricted to wall, freestanding, and marquee signs.

b) The digital display may not exceed 50 sq. feet or 50% of the total allowable sign area, whichever is less. The remainder of the sign may not have any digital capability, even if it is not used.

6) Electronic message boards as permitted pursuant to Paragraph 7.e subject to the following requirements:

a) Electronic message boards shall be part of a wall or freestanding sign only.

g)b) The digital display may not exceed 50 sq. feet or 50% of the total allowable sign area, whichever is less. The remainder of the sign may not have any digital capability, even if it is not used.

7) Service station canopy signs shall not exceed 25% of the particular facade area of the canopy on which it is located and shall be permitted to have static digital displays limited to no more than 50% of the total sign area.

c. Industrial Districts:

1) Any sign defined herein. Where the requirements of this Paragraph 6.c and Paragraph 7 can be met, one permitted sign may be either a digital graphic sign or an electronic message board.

3)2) Maximum sign size: 50 sq. feet.

4)3) An advertising sign shall not be allowed unless there is an operating industrial use located on the premises. The advertising sign shall be removed upon the discontinuance of the industrial use.

5)4) No maximum number of signs, but a minimum of 400 feet shall be maintained between signs.

6)5) Minimum setback from any lot line = 15 feet.

6) Digital graphic signs are permitted pursuant to Paragraph 7.d subject to the following requirements:

a) Digital graphic signs are restricted to wall, freestanding, and marquee signs only.

b) The digital display may not exceed 50 sq. feet or 50% of the total allowable sign area, whichever is less. The remainder of the sign may not have any digital capability, even if it is not used.

7) Electronic message boards as permitted pursuant to Paragraph 7.e subject to the following requirements:

a) Electronic message boards shall be part of a wall or freestanding sign.

b) The digital display may not exceed 50 sq. feet or 50% of the total allowable sign area, whichever is less. The remainder of the sign may not have any digital capability, even if it is not used.

8) Service station canopy signs shall not exceed 25% of the particular facade area of the canopy on which it is located and shall be permitted to have static digital graphic displays limited to no more than 50% of the total sign area.

d. Agricultural ~~and Floodplain~~ Districts:

1) Any sign defined herein except advertising signs.

2) No maximum number of signs, but a minimum of 400 feet shall be maintained between signs except for agricultural directional signs.

3) Minimum setback from any lot line or right-of-way line = 15 feet.

4) Digital graphic signs and electronic message board signs are prohibited except as government signs.

e. Planned Unit Development Districts:

1) Any sign defined herein is permitted; however, all matters pertaining to signs shall be included in and approved as a part of the development plan. An advertising sign shall only be permitted in a commercial or industrial planned unit development and shall not be allowed unless there is an operating business or industry located on the premises. A condition shall be added to the development plan that requires the removal of the sign and associated structures upon the discontinuance of the business or industry. A planned unit development shall not be used to alter the minimum requirements for advertising signs.

2) Where digital graphic signs or electronic message board signs are permitted in planned unit development districts they shall be subject to the requirements of Paragraphs 7.d and 7.e. Digital graphic displays shall not exceed 50% of any total sign area and electronic message boards shall not exceed 50% of any total sign area.

f. University Development Districts:

1) Any sign defined herein except advertising signs. Where the requirements of this Paragraph 6.f and Paragraph 7 can be met, one permitted sign may be either a digital graphic sign or an electronic message board.

2) Digital graphic signs are permitted pursuant to Paragraph 7.d subject to the following requirements:

a) Digital graphic displays are restricted to wall, freestanding, and marquee signs only.

b) The digital display may not exceed 50 sq. feet or 50% of the total allowable sign area, whichever is less.

3) Electronic message board as permitted pursuant to Paragraph 7.e subject to the following requirements:

a) Electronic message boards shall be part of a wall or freestanding sign.

b) The digital display may not exceed 50 sq. feet or 50% of the total allowable sign area, whichever is less. The remainder of the sign may not have any digital capability, even if it is not used.

7. General Requirements for All Signs

~~g.a.~~ Externally illuminated signs shall be illuminated only with steady, stationary light sources that are have the light shaded so as to prevent the casting of direct light on any trafficway or residential property or trafficway. Except on digital graphic signs as permitted in Paragraph 7.d and electronic message boards as permitted in Section 7.e, No flashing, rotating or otherwise moving signs and no signs lighted in such a way as to create the illusion of movement shall be located in any residential, commercial or industrial district. Any illuminated sign located within 150 feet of an existing dwelling or residential district shall not be lighted between the hours of 11:00 p.m. and 7:00 a.m.

~~h.b.~~ Exterior Lighting: No use permitted under these regulations shall erect or cause to be erected any exterior lighting device or devices that are situated in such a manner that the light emitting equipment is visible from any public right-of-way or adjacent residential properties so as to create either a hazard or a nuisance.

~~h.c.~~ No sign shall be so located, designed, colored or lighted so as to be confused with, or obscure or obstruct any traffic control sign or otherwise tend to confuse or mislead traffic.

d. Digital graphic signs may be permitted subject to the following:

1) Only one, contiguous digital graphic display is permitted per sign face. Static digital graphic signs may have up to three separate displays provided the hold time for each display is 24 hours. Time and Temperature units may be non-contiguous.

2) Message display requirements for digital graphic signs:

- a) Minimum hold time: 30 seconds on roads with a speed limit of 45 mph or greater and 60 seconds on roads with a speed limit less than 45 mph.

Drafting Comment: Minimum hold time varies from community to community. The range we observed in reviewing other sign codes from around the region is from 5 seconds to 4 hours.

- b) Maximum transition time: No more than 0.25 seconds. Transitions between the display of a message, content, and/or image shall occur simultaneously on the entire display board. Fading, dissolving, scrolling, traveling, or any transition that creates the illusion of movement is prohibited.
- c) No digital graphic display shall include animation/full motion, blinking, flashing, dissolving, fading, moving light, and/or scrolling messages, content, and/or images, nor shall it project a static image upon a stationary object.
- d) All digital graphic signs shall incorporate systems/devices that will automatically freeze (remain static) the display should the sign malfunction or be damaged. The sign owner shall immediately stop the dynamic display when notified by the County that it is not complying with the standards of this regulation.
- e) Sign copy shall not be configured to resemble a warning or danger signal or cause a driver to mistake the sign display for a warning or danger signal. A digital graphic display shall not resemble or simulate any lights or official signage used to control traffic.

3) Brightness

- a) A digital graphic sign may not exceed a maximum illumination of 5000 nits (candelas per square meter) during daylight hours and a maximum illumination of 250 nits (candelas per square meter) from dusk to dawn.
- i. Brightness shall be measured from the brightest element of the sign's face.
- ii. Before the issuance of a sign permit, the applicant shall provide written certification from the sign manufacturer that the light intensity has been pre-set so that it will not exceed 5,000 nits.
- b) The sign shall contain either automatic dimmer software or solar sensors to control brightness for nighttime viewing and variations in daytime ambient light. The intensity of the light source shall not produce glare, the effect of which constitutes a traffic hazard or is otherwise detrimental to the public health, safety or welfare.

- c) No digital graphic sign may be of such intensity or brilliance as to impair the vision of a motor vehicle driver or to otherwise interfere with the driver's operation of a motor vehicle.
- d) No digital graphic sign may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device or signal.
- e) The person owning or controlling the digital graphic sign must adjust the sign to meet the brightness standards in accordance with the County's instructions. The adjustment must be made immediately upon notice of non-compliance from the County.

4) Location requirements:

- a) Digital graphic signs shall be located at least 35 linear feet in any direction from any other digital graphic sign.
- b) Digital graphic signs are prohibited within 100 feet of a residential zoning district or public park.

Drafting Comment: Most communities require some amount of spacing between digital graphic signs. The 35-linear foot distance suggested here is on the lower end of those requirements. We also reviewed codes that used a 50 and 100-foot spacing requirement. In communities with narrower lot frontages, this language was sometimes changed to require the minimum spacing provided at least one digital graphic sign was permitted per lot.

- 5) The maximum height for any non-pole digital graphic sign is 15 feet above existing grade. Digital graphic pole signs shall be a minimum of 10 feet above the ground.
- 6) Audio speakers shall be prohibited in association with a digital graphic sign.

e. Electronic Message Boards: Electronic message boards may be permitted subject to the following:

- 1) Only one, contiguous electronic message board is permitted per sign face.
- 2) Electronic message board signs shall be subject to the brightness standards established in Section 7.d.3 and shall be equipped with dimming technology that automatically adjusts the display brightness based on ambient light conditions.
- 3) Flashing, intermittent, or moving light or lights are prohibited. There shall be no appearance of visual dissolving, fading, movement, animated text, video, or flow of message.

4) Each message shall be displayed for at least sixty (60) seconds before alternating to a new message. Transitions between messages shall be instantaneous and shall not involve animation or special effects.

5) The messages displayed shall be complete in and of themselves within the required dwell time.

6) The conversion of an existing sign to a sign with an electronic message board is considered a change of use requiring a permit as if it were an entirely new sign.

f. Agricultural Directional Signs: Agricultural directional signs may be permitted subject to the following:

1) Only one sign with a single face is permitted per destination.

2) Maximum sign size of 32 square feet.

3) Maximum sign height of 8 feet measured from existing grade.

4) Written consent for the placement of the sign on private property must be obtained from the property owner and submitted with the sign permit application. Signs are not permitted on public property.

5) A maximum of one (1) sign is permitted per single off-premise lot or tract. Such sign shall not count toward the permitted number of signs on such lot or tract.

6) Electronic message boards and digital graphic signs are not permitted.

g. A time and temperature unit may be incorporated into any sign in a non-residential district and will be counted as part of the total sign area, subject to the requirements of Paragraph 7.d.

h. No sign shall be placed closer than 100 feet from the intersection of the right-of-way lines of intersecting streets or roads.

i. Message Substitution: Subject to the property owner's consent, a noncommercial message of any category or content may be substituted, in whole or in part, for any allowed commercial message or any non-commercial message, provided that the sign structure or mounting device is legal without consideration of message content. Such substitution of message may be made without any additional approval or permitting. The purpose of this provision is to prevent any favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. Message substitution is a continuing right which may be exercised any number of times. This provision does not:

1) Create a right to increase the total amount of sign area on a site.

- 2) Create a right to substitute an off-site commercial message in place of an onsite commercial message or in place of a non-commercial message.
- 3) Affect the requirement that a sign structure or mounting device must be properly permitted.
- 3)4) Authorize changing the physical method of image presentation (such as digital or neon) display without a permit.

7.8. Special Requirements for Advertising Signs

a. Configuration, size and appearance

- 1) Advertising signs shall not be erected with sign faces which exceed 12 feet in height, 30 feet in length or 360 square feet in area, per facing, including border, trim and embellishments, but not including base apron, supports, and other structural members.
- 2) The maximum size limitations shall apply to each sign facing.
- 3) Two sign displays not exceeding 360 square feet each may be erected in back-to-back or V-type arrangement only. "Stacked" or "double decked" signs shall not be permitted. Back-to-back or V-type signs shall be treated as one structure with a maximum area of 360 square feet permitted for each side or facing. To be classified as "back-to-back" there must not be more than 10 feet between structures or faces, to allow for cross-bracing. V-type signs shall be constructed so that the angle between the faces on a sign shall not exceed 24 degrees and the total distance between the open ends of the faces shall not exceed 10 feet;
- 4) The area of any advertising sign structure shall be measured by the smallest square, rectangle, circle or combination thereof which will encompass the area of the sign display or displays.
- 5) No part of an advertising sign shall extend more than 50 feet above the ground.
- 6) Cutouts or extensions shall be permitted on legal conforming signs at a size not to exceed 30% of the size of the main display area, with a maximum extension of five (5) feet along the top edge, two (2) feet along the sides and one and one-half (1 ½) feet along the bottom of the main display area. Cutouts or extensions shall not be permitted where the configuration and size requirements of this subsection will be exceeded.
- 7) Advertising sign faces shall not be divided into two or more individual signs.
- 8) Advertising signs shall be of only the following structural types: ground, pole, or wall.

- 9) Advertising signs that are pole signs shall be constructed using a unipole method and the pole shall be painted in Pantone color #465 or equivalent.
- 10) Audio speakers or any form of pyrotechnics are prohibited in association with any advertising sign.

b. Spacing

- 1) Advertising signs shall not be erected or maintained in such a manner as to obscure or otherwise physically interfere with an official traffic sign, signal or device or to obstruct or physically interfere with a driver's view of approaching, merging or intersecting traffic.
- 2) The minimum spacing between advertising signs shall be 800 feet radial distance measured from any part of the sign to the nearest portion of any part of any other advertising sign.
- 3) Advertising signs shall be no closer than 200 feet to a residential district.
- 4) Advertising signs shall be setback from all property lines and all right-of-way lines a minimum distance of 25 feet.

c. Lighting

- 1) Advertising sign lighting shall be effectively shielded to prevent beams or rays of light from being directed at any portion of the traveled way of any highway and shall not be of such intensity or brilliance to cause glare or to impair the vision of the driver of any motor vehicle or to otherwise interfere with any driver's operation of a motor vehicle.
- 2) Advertising signs shall not be erected or maintained which are so illuminated that they obscure any official traffic sign, device or signal, or imitate or may be confused with any official traffic sign, device or signal.

3) Lighting for advertising signs shall be constructed so that illumination is directed upward.

d. Conversion:

- 1) Non-digital advertising signs may not be converted or updated to digital or other new technology.

8.9. Digital Graphic Advertising Signs

- a. To promote the goals of the Comprehensive Plan by enhancing traffic safety and community aesthetics, digital graphic advertising signs, except those digital graphic

advertising signs existing at the time of the adoption of these regulations, shall be prohibited in the unincorporated areas of Riley County.

10. Maintenance

a. All signs, whether new or existing, shall be kept adequately painted and in good structural repair at all times. The area under and adjacent to a post-mounted sign shall be kept neatly mowed and otherwise maintained.

b. Customary maintenance shall not include structurally altering a sign so as to enlarge or extend the area or height of the sign or to convert it from a non-digital to a digital sign.

~~b-c.~~ Non-compliance with these requirements shall be cause for the Zoning Officer to order the sign removed after 15 days following written notice to the owner of such non-compliance. Non-compliance with these requirements shall also be cause for the denial of an application for a sign permit renewal.

9.11. Nonconforming Signs

a. Signs not conforming to this regulation which were existing at the time of the adoption of this regulation and were permitted under previously issued sign permits or were a lawful non-conforming use may remain in existence as a lawful non-conforming use provided that they are maintained in accordance with the provision herein.

b. A lawful non-confirming sign which is damaged, by any reason, beyond 50% of its assessed value shall not be reconstructed until a new sign permit has been applied for and issued.

12. Abandoned Signs

Any person who owns or leases a sign or sign structure that becomes abandoned shall completely remove such sign and sign structure when it has been abandoned for 90 days:

a. If the person who owns or leases such sign fails to remove it as provided in this section, the Director shall give the owner of the building, structure or premises upon which such sign is located 60-days written notice to remove it;

b. If the sign has not been removed at the expiration of the 60-day notice, the Director may pursue available legal and equitable remedies in state district court.

SECTION 15 - SIGNS AND EXTERIOR LIGHTS

1. **Purpose:** The sign regulations are intended to implement the following planning and regulatory goals and purposes of Riley County:
 - a. To support the desired character of the County as expressed in adopted plans, policies, and regulations;
 - b. To promote an attractive visual environment while not creating or worsening visual clutter or visual blight;
 - c. To encourage the effective use of signs as a means of communication for businesses, organizations, and individuals;
 - d. To provide a means of wayfinding for visitors and residents;
 - e. To protect the safety and welfare of the public by minimizing hazards, confusion, and possible distraction for motorized and non-motorized traffic;
 - f. To ensure signs do not create a nuisance or safety hazard to the occupants of adjacent property by their brightness, size, height, or movement; and
 - g. To minimize the possible adverse effects of signs on the use or value of nearby public and private property.

(Move the following definitions to Section 2 – Definitions)

ABANDONED SIGN: A sign or any portion of a sign that refers to a discontinued activity or use formerly occupying the site; or a sign that contains no sign copy for a continuous period of 90 days.

AGRICULTURAL DIRECTIONAL SIGN: A sign that is placed in an off-premise location for the purposes of providing directional information to a destination for one of the following permitted uses within the AG zoning district: Agriculture, Agritourism, and Agricultural Roadside Stand.

CHANGEABLE COPY SIGN: Any sign where copy displayed on the sign can be changed periodically to display different messages. Where copy changes may be made through manual, mechanical, or other non-digital means the sign is a manual changeable copy sign. Where copy changes are made digitally the sign is an electronic message board. Signs on which the only change is a periodic price change for the product or products customarily sold on the premises and on which the location, size and color of the numbers remains constant are not changeable copy signs.

COPY, SIGN COPY: The visually communicative elements incorporated into and comprising a sign's message, including but not limited to words, letters, numbers, designs, figures, or other symbolic presentation.

CUSTOMARY MAINTENANCE: All manner of maintenance, repair, or component replacement of a legally permitted or lawful sign that is done to keep the structure and its various components in good repair. This definition applies to all parts of a sign, including the supporting structure, walkways, sign face, and all other component parts, except the base and foundation. An increase in height, a change in dimension or location, replacement of the base or foundation, installing additional support structures, or the addition of lighting or digital graphic display does not constitute customary maintenance.

DIGITAL DISPLAY: The presentation of sign copy on any digital or electronic sign.

DIGITAL GRAPHIC SIGN: A sign or portion thereof that appears to have movement or change to the copy caused by any method other than physically removing and replacing the sign or its components, which may or may not include text and/or images, including but not limited to television screens, plasma screens, digital screens, flat screens, LED screens, CCD devices, video boards, holographic displays, digital ink, or other technologies of a similar nature.

DIGITAL GRAPHIC SIGN, STATIC: A digital graphic sign where all the sign copy is fixed for a 24-hour period of time.

DISSOLVE: A type of display transition between static copy displays that is achieved with varying light intensity and where the initial copy gradually appears to dissipate and lose legibility simultaneous to the gradual appearance and legibility of the subsequent copy.

ELECTRONIC MESSAGE BOARD: A changeable copy sign or portion of a sign that uses light emitting diodes or has the ability to display electronically illuminated, scrolling, or moving copy that is composed of an ordered sequence of alphanumeric characters against a contrasting background.

FADE: A type of display transition between static copy displays that is achieved with varying light intensity and where the initial copy gradually loses light intensity to the point of not being legible and the subsequent copy gradually increases intensity to the point of legibility.

GOVERNMENT SIGN: Any temporary or permanent sign erected and maintained by a governmental entity for the display of government speech, including without limitation traffic signs, directional signs, warning signs, informational signs, and signs displaying a public service message.

HOLD TIME: The length of time that sign copy is fixed in place before changing.

ILLUMINATED SIGN: A sign that uses an internal or external source of light in order to make the message readable.

IMMEDIATE: A type of display transition that is achieved by the instantaneous changing from one copy to another.

MOVING LIGHT: The physical change in position of any visible illumination source while lighted or the simulation of movement achieved with a pattern of sequentially illuminating visible illumination sources within close proximity to each other.

NEON: Electric signs lighted by long luminous gas-discharge tubes that contain rarefied neon or other gases.

SCROLLING: A type of display during which the copy is moved/shifted across the display area in a horizontal, vertical, or diagonal motion.

SIGN: A name, identification, description, emblem, device, or structure that is affixed to, printed on, projected, or represented directly or indirectly upon a building, structure, or parcel of land and that directs attention to a person, place, product, institution, business, organization, activity, or service. Signs shall also include any permanently installed or situated merchandise, including any banner, pennant, placard, window sign, or temporary sign, that directs attention to a person, place, product, institution, business, organization, activity, or service, with the exception of internal window displays and national flags.

TIME AND TEMPERATURE UNIT: A sign or portion of a sign displaying only current time and temperature in an electronic, digital fashion.

TRANSITION TIME: The length of time it takes to change from one sign copy to another.

- 2. Permit Required.** No sign, except those specifically exempted within this Section 15, shall be constructed, reconstructed, remodeled, enlarged or otherwise structurally modified or relocated on any land or structure without first obtaining an approved permit from the Planning and Development Department. Applications for sign permits shall include a description and illustration of the location, dimensions, color, lighting and other details of the proposed sign. Applications for sign permits shall be accompanied by letters, leases or other documented evidence demonstrating that the applicant has permission or other established right to place the sign at the proposed location. No sign permit shall be issued for a sign which is subject to the regulations of the Kansas Department of Transportation, Bureau of Right-of-Way, Division of Billboard and Salvage Control unless the applicant has obtained prior approval from that agency. Highways in Riley County currently subject to state sign regulations are Interstate 70, U.S. 24, U.S. 77, K-16, K-18, K-82, K-113, K-114 and K-177.

3. **Sign Classifications.** For the purpose of this regulation the following terms shall be used to identify and classify various types of signs:

- a. **ADVERTISING SIGN** (a.k.a. "Billboard") - A commercial sign with copy that directs attention to a business, product, service, or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.
- b. **ADVERTISING SIGN, DIGITAL** (a.k.a. "Digital Billboard") - An advertising sign that is completely or partially a digital graphic sign.
- c. **BULLETIN BOARD SIGN** - A sign with copy that gives the name of the institution or organization on whose premises it is located and which may include the names of persons associated with the institution or organization and announcements and messages pertaining to activities thereof.
- d. **BUSINESS SIGN**- A commercial sign with copy that directs attention to a business, product, service, or entertainment conducted, sold or offered at the location of the premises upon which the sign is located. Business signs may be further identified as follows:



Freestanding signs with digital displays



Monument sign with digital display

1) **Sign, Awning.** An on-site sign attached to or integrated into awning or canopy, but excluding a sign not exceeding one sq. ft. in size attached to or integrated into the underside of the awning or canopy identifying the manufacturer of the awning or canopy.



Awning Sign

2) **Sign, Freestanding.** Any sign that is supported by a structure of one or more columns, uprights, or braces erected in or upon the ground, or affixed to outdoor business equipment or fixtures. Freestanding signs include monument signs, pylon signs, pole signs, and A-frame signs.



Freestanding Monument



Freestanding Pole

3) **Sign, Marquee.** A sign attached to or integrated into a marquee, which is an overhanging, substantially horizontal structure of permanent construction attached to a building, whether or not supported by the ground or sidewalk, that projects more than 18 inches over a sidewalk or other right-of-way, but not including balconies or bay windows. The sign may be located on the face, top, or underside of the marquee.



Marquee Sign

4) **Sign, Projecting.** A sign that is in any manner affixed to, printed, or painted on any exterior wall of a building or structure such that the sign extends more than 12 inches from the face of the building or structure to which it is attached. A sign that is attached to or integrated into the side panel of an awning or canopy shall be considered a projecting sign.



Projecting Sign

5) **Sign, Roof.** A sign erected upon and constructed wholly on and over the roof of a building, supported by the roof structure or parapet wall of a building, and extending vertically.



Roof Sign

6) **Sign, Service Station Canopy.** A changeable copy or static digital graphic sign affixed to a permanent structure above gasoline pumps which structure is supported by the building independently or partially by the building and other means.



Service Station Canopy Sign

7) **Sign, Wall.** A sign, not including a window sign, which is in any manner affixed to, printed, projected, or painted on any exterior wall of a building or structure such that the sign extends forward of that wall by 12 inches or less; or a sign attached to or integrated into the front or sloped panel of an awning or canopy. Wall signs include a sign that extends by 12 inches or less from the wall of a bay window parallel to the building façade.



Wall Sign

8) **Sign, Window.** Any sign, including a decal, that is attached to, affixed to, etched into, leaning against, or otherwise placed on a street-facing window, door, or other aperture in a manner so that the sign message is visible from the outside of the building.



Window Sign

- e. **DIRECTIONAL SIGN** – An on-premise sign indicating the location of or directions to a specific use or activity. Agricultural directional signs may be permitted off-premise subject to the requirements of Paragraph 7.d. Changeable copy is permitted for directional signs.
- f. **IDENTIFICATION SIGN** - A sign with copy denoting only the name and address of a building or establishment upon whose premises the sign is located or a sign denoting only the name of a neighborhood or development wherein the sign is located.
- g. **NAMEPLATE** - A sign with copy giving the name and address of the occupant of a building or premises on which it is located.
- h. **REAL ESTATE SIGN** - A sign with copy pertaining to the sale or lease of land or structures on which it is located.

- i. SUBDIVISION IDENTIFICATION SIGN - A sign with copy identifying the name of a neighborhood or development wherein the sign shall be located.
4. **Signs Exempt from Regulation.** The following signs shall be exempt from all regulations in this section:
- a. Flags or emblems of a governmental, civic, philanthropic, educational or religious agency, when displayed on private property.
 - b. Traffic, regulatory, instructional and safety signs of a governmental agency.
 - c. Address numerals and any other signs required by law or governmental regulations.
 - d. Informational and directional signs not more than (five) 5 square feet in area used to direct the public to entrances, exits, parking lots, restrooms, etc. on private property.
 - e. Scoreboards on athletic fields.
5. **Signs Exempt from Permit but Subject to Sign Standards.** The following signs may be erected without obtaining a sign permit, but shall comply with all regulations herein:
- a. Nameplate signs not exceeding two (2) square feet in area accessory to single family or two-family dwellings.
 - b. Identification signs not exceeding 40 square feet in area accessory to a multiple family dwelling.
 - c. Bulletin board signs not exceeding 40 square feet in area accessory to churches, schools or public or non-profit institutions.
 - d. Business signs located on land used for agriculture purposes pertaining to the sale of products produced on that land.
 - e. Real estate signs and signs pertaining to a structure under construction, all of a temporary nature, located on private property. Maximum sign area shall be 40 square feet.
6. **Signs Permitted by District.** The following signs are permitted within the districts listed below, subject to all requirements and regulations stated within this section and further subject to all applicable State and Federal regulations and controls.
- a. Residential Districts:
 - 1) One sign per lot or dwelling.
 - 2) Bulletin board sign, maximum 40 square feet.

- 3) Nameplate sign, maximum two (2) square feet.
- 4) Identification sign, maximum 40 square feet.
- 5) Real estate sign.
- 6) Temporary construction sign.
 - a) Minimum setback from any lot line = 15 feet.
- 7) No sign illumination except indirect lighting of bulletin board signs.
 - a) Digital graphic signs are prohibited.
 - b) Electronic message boards are prohibited except as government signs.
- 8) Subdivision Identification Signs
 - a) Minimum setback from any lot line = 5 feet.
 - b) Maximum height shall not exceed six (6) feet above ground elevation.
 - c) Signs shall not be located in the visual sight triangle and all sign locations shall be approved by the County Engineer.
 - d) Signs shall not have more than two (2) sign faces and each face shall not exceed 40 square feet fronting on a public trafficway.
 - e) Maximum number of signs shall be two per subdivision entrance.
 - f) Sign lighting, if used, shall not produce glare or other traffic hazards and shall not have direct lighting to produce an annoyance to adjacent residential areas and shall be exempt from Paragraph 7 of this section.

b. Commercial Districts:

- 1) Two signs per lot or business. Where the requirements of this Paragraph 6.b and Paragraph 7 can be met, one permitted sign may be either a digital graphic sign or an electronic message board.
- 2) Any sign defined herein except Advertising Sign.
- 3) Sign area shall not exceed one (1) square foot per lineal foot of lot facing street, maximum not to exceed 260 sq. feet, or in shopping center district, maximum not to exceed 50 square feet.

- 4) No minimum setback, but sign must be located on private property.
- 5) Digital graphic signs are permitted pursuant to Paragraph 7.d subject to the following requirements:
 - a) Digital graphic signs are restricted to wall, freestanding, and marquee signs.
 - b) The digital display may not exceed 50 sq. feet or 50% of the total allowable sign area, whichever is less. The remainder of the sign may not have any digital capability, even if it is not used.
- 6) Electronic message boards as permitted pursuant to Paragraph 7.e subject to the following requirements:
 - a) Electronic message boards shall be part of a wall or freestanding sign only.
 - b) The digital display may not exceed 50 sq. feet or 50% of the total allowable sign area, whichever is less. The remainder of the sign may not have any digital capability, even if it is not used.
- 7) Service station canopy signs shall not exceed 25% of the particular facade area of the canopy on which it is located and shall be permitted to have static digital displays limited to no more than 50% of the total sign area.

c. Industrial Districts:

- 1) Any sign defined herein. Where the requirements of this Paragraph 6.c and Paragraph 7 can be met, one permitted sign may be either a digital graphic sign or an electronic message board.
- 2) Maximum sign size: 50 sq. feet
- 3) An advertising sign shall not be allowed unless there is an operating industrial use located on the premises. The advertising sign shall be removed upon the discontinuance of the industrial use.
- 4) No maximum number of signs, but a minimum of 400 feet shall be maintained between signs.
- 5) Minimum setback from any lot line = 15 feet.
- 6) Digital graphic signs are permitted pursuant to Paragraph 7.d subject to the following requirements:
 - a) Digital graphic signs are restricted to wall, freestanding, and marquee signs only.

- b) The digital display may not exceed 50 sq. feet or 50% of the total allowable sign area, whichever is less. The remainder of the sign may not have any digital capability, even if it is not used.
 - 7) Electronic message boards as permitted pursuant to Paragraph 7.e subject to the following requirements:
 - a) Electronic message boards shall be part of a wall or freestanding sign.
 - b) The digital display may not exceed 50 sq. feet or 50% of the total allowable sign area, whichever is less. The remainder of the sign may not have any digital capability, even if it is not used.
 - 8) Service station canopy signs shall not exceed 25% of the particular facade area of the canopy on which it is located and shall be permitted to have static digital graphic displays limited to no more than 50% of the total sign area.
- d. Agricultural District:
- 1) Any sign defined herein except advertising signs.
 - 2) No maximum number of signs, but a minimum of 400 feet shall be maintained between signs.
 - 3) Minimum setback from any lot line or right-of-way line = 15 feet.
 - 4) Digital graphic signs and electronic message board signs are prohibited except as government signs.
- e. Planned Unit Development Districts:
- 1) Any sign defined herein is permitted; however, all matters pertaining to signs shall be included in and approved as a part of the development plan. An advertising sign shall only be permitted in a commercial or industrial planned unit development and shall not be allowed unless there is an operating business or industry located on the premises. A condition shall be added to the development plan that requires the removal of the sign and associated structures upon the discontinuance of the business or industry. A planned unit development shall not be used to alter the minimum requirements for advertising signs.
 - 2) Where digital graphic signs or electronic message board signs are permitted in planned unit development districts they shall be subject to the requirements of Paragraphs 7.d and 7.e. Digital graphic displays shall not exceed 50% of any total sign area and electronic message boards shall not exceed 50% of any total sign area.

f. University Development District:

- 1) Any sign defined herein except advertising signs. Where the requirements of this Paragraph 6.f and Paragraph 7 can be met, one permitted sign may be either a digital graphic sign or an electronic message board.
- 2) Digital graphic signs are permitted pursuant to Paragraph 7.d subject to the following requirements:
 - a) Digital graphic displays are restricted to wall, freestanding, and marquee signs only.
 - b) The digital display may not exceed 50 sq. feet or 50% of the total allowable sign area, whichever is less.
- 3) Electronic message board as permitted pursuant to Paragraph 7.e subject to the following requirements:
 - a) Electronic message boards shall be part of a wall or freestanding sign.
 - b) The digital display may not exceed 50 sq. feet or 50% of the total allowable sign area, whichever is less. The remainder of the sign may not have any digital capability, even if it is not used.

7. General Requirements for All Signs

- a. Externally illuminated signs shall be illuminated only with steady, stationary light sources that are shaded so as to prevent the casting of direct light on any trafficway or residential property. Except on digital graphic signs as permitted in Paragraph 7.d and electronic message boards as permitted in Paragraph 7.e, no flashing, rotating or otherwise moving signs and no signs lighted in such a way as to create the illusion of movement shall be located in any residential, commercial or industrial district. Any illuminated sign located within 150 feet of an existing dwelling or residential district shall not be lighted between the hours of 11:00 p.m. and 7:00 a.m.
- b. Exterior Lighting: No use permitted under these regulations shall erect or cause to be erected any exterior lighting device or devices that are situated in such a manner that the light emitting equipment is visible from any public right-of-way or adjacent residential properties so as to create either a hazard or a nuisance.
- c. No sign shall be so located, designed, colored or lighted so as to be confused with, obscure or obstruct any traffic control sign or otherwise tend to confuse or mislead traffic.
- d. Digital graphic signs may be permitted subject to the following:

- 1) Only one, contiguous digital graphic display is permitted per sign face. Static digital graphic signs may have up to three separate displays provided the hold time for each display is 24 hours. Time and Temperature units may be non-contiguous.
- 2) Message display requirements for digital graphic signs:
 - a) Minimum hold time: 30 seconds on roads with a speed limit of 45 mph or greater and 60 seconds on roads with a speed limit less than 45 mph.
 - b) Maximum transition time: No more than 0.25 seconds. Transitions between the display of a message, content, and/or image shall occur simultaneously on the entire display board. Fading, dissolving, scrolling, traveling, or any transition that creates the illusion of movement is prohibited.
 - c) No digital graphic display shall include animation/full motion, blinking, flashing, dissolving, fading, moving light, and/or scrolling messages, content, and/or images, nor shall it project a static image upon a stationary object.
 - d) All digital graphic signs shall incorporate systems/devices that will automatically freeze (remain static) the display should the sign malfunction or be damaged. The sign owner shall immediately stop the dynamic display when notified by the County that it is not complying with the standards of this regulation.
 - e) Sign copy shall not be configured to resemble a warning or danger signal or cause a driver to mistake the sign display for a warning or danger signal. A digital graphic display shall not resemble or simulate any lights or official signage used to control traffic.

3) Brightness

- a) A digital graphic sign may not exceed a maximum illumination of 5000 nits (candelas per square meter) during daylight hours and a maximum illumination of 250 nits (candelas per square meter) from dusk to dawn.
 - i. Brightness shall be measured from the brightest element of the sign's face.
 - ii. Before the issuance of a sign permit, the applicant shall provide written certification from the sign manufacturer that the light intensity has been pre-set so that it will not exceed 5,000 nits.
- b) The sign shall contain either automatic dimmer software or solar sensors to control brightness for nighttime viewing and variations in daytime ambient light. The intensity of the light source shall not produce glare, the effect of

which constitutes a traffic hazard or is otherwise detrimental to the public health, safety or welfare.

- c) No digital graphic sign may be of such intensity or brilliance as to impair the vision of a motor vehicle driver or to otherwise interfere with the driver's operation of a motor vehicle.
- d) No digital graphic sign may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device or signal.
- e) The person owning or controlling the digital graphic sign must adjust the sign to meet the brightness standards in accordance with the County's instructions. The adjustment must be made immediately upon notice of non-compliance from the County.

4) Location requirements:

- a) Digital graphic signs shall be located at least 35 linear feet in any direction from any other digital graphic sign.
- b) Digital graphic signs are prohibited within 100 feet of a residential zoning district or public park.

5) The maximum height for any non-pole digital graphic sign is 15 feet above existing grade. Digital graphic pole signs shall be a minimum of 10 feet above the ground.

6) Audio speakers shall be prohibited in association with a digital graphic sign.

e. Electronic Message Boards: Electronic message boards may be permitted subject to the following:

- 1) Only one, contiguous electronic message board is permitted per sign face.
- 2) Electronic message board signs shall be subject to the brightness standards established in Paragraph 7.d.3 and shall be equipped with dimming technology that automatically adjusts the display brightness based on ambient light conditions.
- 3) Flashing, intermittent, or moving light or lights are prohibited. There shall be no appearance of visual dissolving, fading, movement, animated text, video, or flow of message.
- 4) Each message shall be displayed for at least sixty (60) seconds before alternating to a new message. Transitions between messages shall be instantaneous and shall not involve animation or special effects.

- 5) The messages displayed shall be complete in and of themselves within the required dwell time.
 - 6) The conversion of an existing sign to a sign with an electronic message board is considered a change of use requiring a permit as if it were an entirely new sign.
- f. Agricultural Directional Signs: Agricultural directional signs may be permitted subject to the following:
- 1) Only one sign with a single face is permitted per destination.
 - 2) Maximum sign size of 32 square feet.
 - 3) Maximum sign height of 8 feet measured from existing grade.
 - 4) Written consent for the placement of the sign on private property must be obtained from the property owner and submitted with the sign permit application. Signs are not permitted on public property.
 - 5) A maximum of one (1) sign is permitted per off-premise lot or tract. Such sign shall not count toward the permitted number of signs on such lot or tract.
 - 6) Electronic message boards and digital graphic signs are not permitted.
- g. A time and temperature unit may be incorporated into any sign in a non-residential district and will be counted as part of the total sign area, subject to the requirements of Paragraph 7.d.
- h. No sign shall be placed closer than 100 feet from the intersection of the right-of-way lines of intersecting streets or roads.
- i. Message Substitution: Subject to the property owner's consent, a non-commercial message of any category or content may be substituted, in whole or in part, for any allowed commercial message or any non-commercial message, provided that the sign structure or mounting device is legal without consideration of message content. Such substitution of message may be made without any additional approval or permitting. The purpose of this provision is to prevent any favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. Message substitution is a continuing right which may be exercised any number of times. This provision does not:
- 1) Create a right to increase the total amount of sign area on a site.
 - 2) Create a right to substitute an off-site commercial message in place of an on-site commercial message or in place of a non-commercial message.

- 3) Affect the requirement that a sign structure or mounting device must be properly permitted.
- 4) Authorize changing the physical method of image presentation (such as digital or neon) display without a permit.

8. Special Requirements for Advertising Signs

a. Configuration, size and appearance

- 1) Advertising signs shall not be erected with sign faces which exceed 12 feet in height, 30 feet in length or 360 square feet in area, per facing, including border, trim and embellishments, but not including base apron, supports, and other structural members.
- 2) The maximum size limitations shall apply to each sign facing.
- 3) Two sign displays not exceeding 360 square feet each may be erected in back-to-back or V-type arrangement only. "Stacked" or "double decked" signs shall not be permitted. Back-to-back or V-type signs shall be treated as one structure with a maximum area of 360 square feet permitted for each side or facing. To be classified as "back-to-back" there must not be more than 10 feet between structures or faces, to allow for cross-bracing. V-type signs shall be constructed so that the angle between the faces on a sign shall not exceed 24 degrees and the total distance between the open ends of the faces shall not exceed 10 feet;
- 4) The area of any advertising sign structure shall be measured by the smallest square, rectangle, circle or combination thereof which will encompass the area of the sign display or displays.
- 5) No part of an advertising sign shall extend more than 50 feet above the ground.
- 6) Cutouts or extensions shall be permitted on legal conforming signs at a size not to exceed 30% of the size of the main display area, with a maximum extension of five (5) feet along the top edge, two (2) feet along the sides and one and one-half (1 ½) feet along the bottom of the main display area. Cutouts or extensions shall not be permitted where the configuration and size requirements of this subsection will be exceeded.
- 7) Advertising sign faces shall not be divided into two or more individual signs.
- 8) Advertising signs shall be of only the following structural types: ground, pole, or wall.
- 9) Advertising signs that are pole signs shall be constructed using a unipole method and the pole shall be painted in Pantone color #465 or equivalent.

10) Audio speakers or any form of pyrotechnics are prohibited in association with any advertising sign.

b. Spacing

- 1) Advertising signs shall not be erected or maintained in such a manner as to obscure or otherwise physically interfere with an official traffic sign, signal or device or to obstruct or physically interfere with a driver's view of approaching, merging or intersecting traffic.
- 2) The minimum spacing between advertising signs shall be 800 feet radial distance measured from any part of the sign to the nearest portion of any part of any other advertising sign.
- 3) Advertising signs shall be no closer than 200 feet to a residential district.
- 4) Advertising signs shall be setback from all property lines and all right-of-way lines a minimum distance of 25 feet.

c. Lighting

- 1) Advertising sign lighting shall be effectively shielded to prevent beams or rays of light from being directed at any portion of the traveled way of any highway and shall not be of such intensity or brilliance to cause glare or to impair the vision of the driver of any motor vehicle or to otherwise interfere with any driver's operation of a motor vehicle.
- 2) Advertising signs shall not be erected or maintained which are so illuminated that they obscure any official traffic sign, device or signal, or imitate or may be confused with any official traffic sign, device or signal.
- 3) Lighting for advertising signs shall be constructed so that illumination is directed upward.

d. Conversion:

- 1) Non-digital advertising signs may not be converted or updated to digital or other new technology.

9. Digital Graphic Advertising Signs

- a. To promote the goals of the Comprehensive Plan by enhancing traffic safety and community aesthetics, digital graphic advertising signs, except those digital graphic advertising signs existing at the time of the adoption of these regulations, shall be prohibited in the unincorporated areas of Riley County.

10. Maintenance

- a. All signs, whether new or existing, shall be kept adequately painted and in good structural repair at all times. The area under and adjacent to a post-mounted sign shall be kept neatly mowed and otherwise maintained.
- b. Customary maintenance shall not include structurally altering a sign so as to enlarge or extend the area or height of the sign or to convert it from a non-digital to a digital sign.
- c. Non-compliance with these requirements shall be cause for the Zoning Officer to order the sign removed after 15 days following written notice to the owner of such non-compliance. Non-compliance with these requirements shall also be cause for the denial of an application for a sign permit renewal.

11. Nonconforming Signs

- a. Signs not conforming to this regulation which were existing at the time of the adoption of this regulation and were permitted under previously issued sign permits or were a lawful non-conforming use may remain in existence as a lawful non-conforming use provided that they are maintained in accordance with the provision herein.
- b. A lawful non-confirming sign which is damaged, by any reason, beyond 50% of its assessed value shall not be reconstructed until a new sign permit has been applied for and issued.

12. Abandoned Signs

Any person who owns or leases a sign or sign structure that becomes abandoned shall completely remove such sign and sign structure when it has been abandoned for 90 days:

- a. If the person who owns or leases such sign fails to remove it as provided in this section, the Director shall give the owner of the building, structure or premises upon which such sign is located 60-days written notice to remove it;
- b. If the sign has not been removed at the expiration of the 60-day notice, the Director may pursue available legal and equitable remedies in state district court.

Digital Sign Regulations Comparison

Item	County				City				
	Electronic Message Board	Digital Graphic	Time & Temperature	Digital Advertising	Electronic Changeable Copy	Digital Graphic	Time & Temperature	Digital Advertising	Digital Animated
Zones Permitted in	Residential (Government Sign Only), Commercial, Industrial, University Development	Commercial, Industrial, University Development	Any non-residential district	Prohibited	Residential (Institutional use by CU only), C-1 (CU only), C-2, C-3, C-4 (CU only), C-5, C-6, LM-SC, University District	C-2,C-3,C-5,C-6, LM-SC, University District	C-1,C-2,C-4,C-5, C-6	Prohibited	Aggieville with conditional use approval only
Duration of Message	60 seconds	Static: 24 hours NS 45 MPH+ : 30 sec. NS < 45 MPH : 60 sec.	NS 45 MPH+ : 30 sec. NS < 45 MPH : 60 sec.	NA	60 seconds	60 seconds	No limitation	NA	No limitation
Special Effects	Prohibited	Prohibited	Prohibited	NA	Prohibited	Prohibited	Prohibited	NA	No Restrictions
Sign Area	Lesser of 50% of total sign area or 50 sq. ft.	Lesser of 50% of total sign area or 50 sq. ft.	Lesser of 50% of total sign area or 50 sq. ft.	NA	16 sq. ft. - 32 sq. ft. depending on zone	32 sq. ft.	Maximum allowed by zone	NA	32 sq. ft.
Luminance	5000 nits (day) and max 250 nits (night)	5000 nits (day) and max 250 nits (night)	5000 nits (day) and max 250 nits (night)	NA	Max 5000 nits (day) and max 500 nits (night)	Max 5000 nits (day) and max 500 nits (night)	No limitation	NA	Max 5000 nits (day) and max 500 nits (night)
Transition Time	Instantaneous	0.25 seconds max	0.25 seconds max	NA	Direct and immediate	Direct and immediate	No limitation	NA	No limitation