Development Guidance System

UPDATED THRU APRIL 2018

Adopted by Reference

Riley County Zoning Regulations

(May 21, 2012)

DEVELOPMENT GUIDANCE SYSTEM (DGS)

A. PURPOSE

The purpose of the Development Guidance System (DGS) is to provide a uniform and consistent method of evaluating applications to develop agricultural land. The intent is to direct development in the unincorporated areas of Riley County to those locations that can most efficiently accommodate development, given existing public infrastructure investments, and to minimize the fragmentation of highly productive, intact agricultural lands.

B. AUTHORITY

This document is adopted by reference as part of the Riley County Zoning Regulations, and, as such, is given legal authority by the Riley County Planning Board and Riley County Board of Commissioners, who are responsible for adoption of the zoning regulations. Modifications to this document may only be completed administratively following approval by the Riley County Planning Board and the Riley County Board of Commissioners.

C. DESCRIPTION AND APPLICABILITY

The DGS consists of four elements, applicable to proposed non-agricultural development within the AG district, as follows:

1. Conformance to the Goals, Objectives and Policies of Vision 2025, based upon an analysis by the Planning and Development Department;

2. Conformance with Vision 2025 Chapter 11, Future Land Use, based upon an analysis by the Planning and Development Department;

3. Land Evaluation/Site Assessment score; and

4. Determination of Hardship

D. LAND EVALUATION/SITE ASSESSMENT SYSTEM (LESA)

1. Purpose and Description

The purpose of LESA is to provide systematic and objective procedures to rate and rank sites for agricultural importance in order to help local officials make decisions regarding conversion to other uses. The policies and assumptions supporting the LESA system are described in VISION 2025, Chapter 12: Development Guidance System. The LESA system incorporates a series of seven factors determined by the county as relevant for evaluating whether a development application should be approved on AG zoned land. The factors are assigned points based on how they weigh for agricultural use versus residential development. Fewer points have been assigned for factors that indicate agricultural use, while more points have been assigned for

factors that indicate non-agricultural development. The higher the final score, the more appropriate the site is for non-agricultural development.

2. Applicability

LESA is applicable to all rezoning applications within the AG district. Applications subject to LESA review shall be scored by the Department according to the seven factors described below. The overall LESA score shall then be categorized according to the Riley County LESA Final Scoring Chart.

3. LESA Process

Applications for rezoning approval shall be scored using the LESA system by the Department following submittal of a complete application. The Department shall review the application and prepare a LESA score within 20 business days. Following the creation of a LESA score, the application shall be processed according to Section 23 – Amendments, of the Riley County Zoning Regulations.

4. LESA Factors

a. Factor One: Character of the Neighborhood

The subject property shall be scored in the following categories based on surrounding uses and conditions within a ¼-mile distance from the boundaries of the subject property ("¼-mile distance"):

i. Percent of Cropland/Grassland

The county shall determine what percentage of cropland/grassland surrounds the subject property within the ¼-mile distance.

PERCENT OF CROPLAND/GRASSLAND	
PERCENT OF CROPLAND/GRASSLAND	POINTS
More than 95%	0
80-95%	80
60-79.99%	165
Less than 60%	250

ii. Overall Housing Density

The county shall determine the overall housing density that surrounds the subject property within the ¼-mile distance.

OVERALL HOUSING DENSITY	
OVERALL HOUSING DENSITY	POINTS
More than 160 acres/residence	0
80-160 acres/residence	65
40-79.99 acres/residence	130
20-39.99 acres/residence	195
Less than 20 acres/residence	250

iii. Surrounding Non-Farm Residences

The county shall incorporate the Riley County Appraiser's determination of the number of non-farm surrounding residences within the ¼-mile distance.

NON-FARM RESIDENCES	
NUMBER OF NON-FARM RESIDENCES	POINTS
0	0
1	50
2	100
3	150
4	200
5 or more	250

iv. Surrounding Tracts Less Than 20 Acres

The county shall determine how many tracts of land that contain fewer than 20 acres surround the subject property within the ¼-mile distance.

SURROUNDING TRACTS LESS THAN 20 ACRES	
NUMBER OF TRACTS LESS THAN 20 ACRES	POINTS
0	0
1	50
2	100
3	150
4	200
5 or more	250

v. Determination of Agricultural/Residential Character

The point totals for subsections i. through iv. shall be totaled by the County to create a composite score that is measured against the following scale:

DETERMINATION OF CHARACTER	
AGRICULTURAL/RESIDENTIAL	POINTS
Strongly Agricultural	0
Moderately Strong Agricultural	100
Moderately Agricultural	200
Moderately-Mild Agricultural	300
Mildly Agricultural	400
Mildly Non-Agricultural	500
Mildly Non-Ag Residential	600
Moderately-Mild Non-Ag Residential	700
Moderately Non-Ag Residential	800
Moderately Strong Non-Ag Residential	900
Strongly Non-Ag Residential	1,000

vi. Rural Character Bonus Points

A development application that is in compliance with the Rural Design Guidelines in Chapter 5 of Vision 2025 - A Comprehensive Plan for Riley County Kansas, shall be awarded 500 bonus points.

b. Factor Two: Zoning and Uses of Nearby Property

The subject property shall be scored in the following categories based on surrounding zoning and uses within a one-mile distance from the boundaries of the subject property ("one-mile distance"). Some categories shall include weighting factors based on the distance from the site, as described below.

i. Compatibility of Zoning

(1) Perimeter

The county shall determine what percent of the perimeter of the subject property is adjoined by properties with similar zoning to the proposed zoning.

PERIMETER ZONING COMPATIBILITY	
PERCENT OF PERIMETER OF PROPERTY ADJACENT TO SIMILAR ZONING	POINTS
No adjacency	0
1-9.99%	50
10-24.99%	100
25-50%	200
Over 50%	250

(2) Proximity

The county shall determine how many acres of property within the one-mile distance from the subject property have similar zoning to the proposed zoning. This measurement shall be divided into three increments of measurement at 1,000 feet, ½ mile and 1 mile.

NUMBER OF ACRES OF SIMILAR ZONING WITHIN CERTAIN DISTANCES				
ACRES	POINTS	WITHIN 1000 FT.	BETWEEN 1000 FT. AND ½ MILE	BETWEEN ½ MILE AND 1 MILE
0	0			
.1-2	10			
2.1-5	20			
5.1-10	30			
10.1-15	40			
More than 15	50			
Weighting	--	2.5	1.5	1
Subtotal	--			
Total	--	--	--	(sum of 3 subtotals)

ii. Compatibility of Land Uses

NOTE: For the purposes of this subsection, agricultural residences shall not be considered similar to non-agricultural residences.

(1) Perimeter

The county shall determine what percent of the perimeter of the subject property is adjoined by properties with land uses that are similar to the proposed land use.

PERIMETER LAND USE COMPATIBLITY	
PERCENT OF PERIMETER OF PROPERTY ADJACENT TO SIMILAR LAND USE	POINTS
No adjacency	0
1-9.99%	50
10-24.99%	100
25-50%	200
Over 50%	250

(2) Proximity

The county shall determine how many acres of property within a mile of the subject property have land uses that are similar to the proposed land use. This measurement shall be divided into three increments of measurement at 1,000 feet, ½ mile and 1 mile.

NUMBER OF ACRES OF SIMILAR LAND USE WITHIN CERTAIN DISTANCES				
ACRES	POINTS	WITHIN 1000 FEET	BETWEEN 1000 FEET AND ½ MILE	BETWEEN ½ MILE AND 1 MILE
0	0			
.1-2	10			
2.1-5	20			
5.1-10	30			
10.1-15	40			
More than 15	50			
Weighting	--	2.5	1.5	1
Subtotal	--			
Total	--	--	--	(sum of 3 subtotals)

c. Factor Three: Suitability of the Property for the Uses Allowed Under the Current Zoning

The county shall determine the capability of the subject property to support production agriculture based on soil type and physical site criteria.

i. Crop Capability Test

The county shall determine the average value of the different soil types on the subject property. Soil types shall be identified based on the land capability class system of the Natural Resources Conservation Service (National Soil Survey Handbook Part 622) as follows:

(1) Class 1 soils have slight limitations that restrict their use.

(2) Class 2 soils have moderate limitations that reduce the choice of plants or require moderate conservation practices.

(3) Class 3 soils have severe limitations that reduce the choice of plants or require special conservation practices, or both.

(4) Class 4 soils have very severe limitations that restrict the choice of plants or require very careful management, or both.

(5) Class 5 soils have little or no hazard of erosion but have other limitations, impractical to remove, that limit their use mainly to pasture, range, forestland, or wildlife food and cover.

(6) Class 6 soils have severe limitations that make them generally unsuited to cultivation and that limit their use mainly to pasture, range, forestland, or wildlife food and cover.

(7) Class 7 soils have very severe limitations that make them unsuited to cultivation and that restrict their use mainly to grazing, forestland, or wildlife.

(8) Class 8 soils and miscellaneous areas have limitations that preclude their use for commercial plant production and limit their use to recreation, wildlife, or water supply or for esthetic purposes.

CROP CAPABILITY			
LAND CAPABILITY CLASS (COLUMN 1)	RELATIVE VALUE (RV) (COLUMN 2)	NUMBER OF ACRES IN SITE (COLUMN 3)	RV X NO. ACRES (COLUMN 4)
1	0		
2	25		
3	50		
4	75		
5	150		
6	225		
7	300		
8	375		
Totals	--		
Average Site Value (column 4 total/column 3 total)			

ii. Rangeland Productivity Test

The county shall determine the average site value for the property based on total dry weight crop production during a normal year as identified in the Natural Resources Conservation Service Web Soil Survey.

RANGELAND PRODUCTIVITY			
TOTAL DRY WEIGHT (LBS.) PRODUCTION – NORMAL YEAR (COLUMN 1)	RELATIVE VALUE (RV) (COLUMN 2)	NUMBER OF ACRES IN SITE (COLUMN 3)	RV X NO. ACRES (COLUMN 4)
8500+	0		
7500-8499	50		
6500-7499	100		
5500-6499	150		
4500-5499	225		
3500-4499	300		
2500-3499	375		
Totals	--		
Average Site Value (column 4 total/column 3 total)			

iii. Site Suitability Test

The county shall determine if the following factors exist that diminish the subject property's utility for agricultural production: small property size or site isolated from other agricultural land.

(1) Size of Site

Using the size of the proposed site, the county shall assign points based on the site's suitability for agricultural use.

SITE SUITABILITY	
SIZE OF SITE (ACRES)	POINTS
0-3	125
3.1-5	90
5.1-10	45
Over 10	0

(2) Isolation of Site from Other Agricultural Land

The county shall determine whether the subject property is smaller than 10 acres in size and is isolated from other agricultural land through ownership or physical features such as riparian areas, roads, topographic features, or other means as determined by the Director.

(a) Site Isolated: 125 points

(b) Not Isolated: 0 points

d. Factor Four: Impact of Rezoning on Nearby Property

The purpose of this factor is to determine how a rezoning could detrimentally affect agricultural and non-agricultural neighboring properties.

i. Agricultural Conflict Test

The county shall determine the proximity of the subject property to any existing confined animal feeding operation (CAFO), as defined in Section 2 – Definitions in the Riley County Zoning Regulations.

AGRICULTURAL CONFLICT	
DISTANCE BETWEEN RESIDENCE AND CAFO	**POINTS**
More than 1 mile	200
Between 1 mile and ¼ mile	0
Within ¼ mile	-250

ii. Proximity of Site to Other Agricultural Operations

(1) The county shall determine the proximity of the subject property to other agricultural operations, including:

(a) Permanently Reserved Land (land reserved for agriculture through a conservation easement or similar instrument);

(b) Cropping Operation; and

(c) Grassland Tracts (undeveloped tracts of grassland that are 20 acres or larger and do not have a dwelling).

PROXIMITY TO AGRICULTURAL OPERATIONS A				
DISTANCE (FT)	**POINTS**	**PERMANENTLY RESERVED LAND (COLUMN 3)**	**CROPPING OPERATION (COLUMN 4)**	**GRASSLAND TRACT (COLUMN 5)**
Over 1000	125			
500-1000	100			
250-499	75			
50-249	50			
Less than 50	0			
Subtotals	--			
Total (columns 3 + 4 + 5)				

(2) The county shall determine the proximity of the subject property to livestock enclosures that are not CAFOs.

PROXIMITY TO AGRICULTURAL OPERATIONS B		
DISTANCE (FT.)	POINTS	LIVESTOCK ENCLOSURE
Over 2000	125	
1000-1999	100	
500-599	75	
100-499	50	
Less than 100	0	
Total	--	

iii. Non-Agricultural Conflict Test

The county shall determine the proximity of the subject property to the Fort Riley Noise Zones, as identified in the Flint Hills Joint Land Use Study, defined as:

(1) Noise Zone II: An area where the A-weighted day-night noise level (DNL) is between 65 and 75 decibels and the C-weighted DNL is between 62 and 70 decibels.

(2) LUPZ: Land Use Planning Zone

LOCATION RELATIVE TO FORT RILEY NOISE ZONES	
LOCATION RELATIVE TO NOISE ZONE	POINTS
Outside of Noise Zone II and LUPZ	250
Within LUPZ	125
Within Noise Zone II	0

iv. Mitigative and Detrimental Impacts on Adjoining Property Values

An applicant may submit written information from a professional source that provides additional information about the potential impact of the rezoning on adjoining property values. The county shall establish a point system based on the possible impacts.

IMPACT ON ADJACENT PROPERTY VALUES	
EVIDENCE OF IMPACT OF REZONING	POINTS
Will increase value of adjoining property	250
Will not devalue adjoining property	125
No evidence will/will not devalue adjoining property	0
Will devalue adjoining property	-250

e. Factor Five: Impact of Rezoning on Public Health and Safety

This factor measures the public health and safety impacts of a rezoning request to allow the county to balance the impact on public health and safety against potential landowner hardship.

i. Public Health Test

(1). The county shall determine the impact of the proposed rezoning on the general public health as measured through availability of public sewer and water connections.

AVAILABILITY OF SEWER CONNECTION	
DISTANCE TO PUBLIC SANITARY SEWER CONNECTION	**POINTS**
Available at site	200
Within 400 ft.	175
400 ft. - .24 mile	150
.25 mile - .49 mile	100
.5 mile - .99 mile	50
More than 1 mile	0

AVAILABILITY OF WATER CONNECTION	
DISTANCE TO PUBLIC WATER SYSTEM CONNECTION	**POINTS**
Available at site	200
Within 400 ft.	175
400 ft. - .24 mile	150
.25 mile - .49 mile	100
.5 mile - .99 mile	50
More than 1 mile	0

ii. The county shall award bonus points in the following circumstances:

(1) The development will result in the creation/extension of a new/additional public sewer system, funded by the applicant – 500 points.

(2) The development will result in the creation/extension of a new/additional public water system, funded by the applicant – 150 points.

iii. Public Safety Test

The following four tests shall be used by the County to score the proposed rezoning in situations that may have an impact on public safety.

(1) Fire Insurance Rating

The fire insurance classes described below are based on the Insurance Services Office (ISO) Fire Suppression Rating Schedule that takes into account water supply and hydrant locations, county communication systems, building codes and building inspection programs. Using the Geographic Information System, the county shall determine the ISO rating for the subject property.

PUBLIC PROTECTION CLASSIFICATION	
FIRE INSURANCE RATING	**POINTS**
Within ISO Class 5	200
Within ISO Class 5Y	100
Within ISO Class 9 & 10	0

(2) Location of Building Site Relative to Floodplain

The county shall determine whether the proposed building site is located within a floodplain, using Riley County's floodplain maps.

FLOODPLAIN LOCATION	
FLOODPLAIN DETERMINATION	**POINTS**
Not in floodplain	200
Within 0.2% annual chance floodplain	0
Within 1% annual chance floodplain	-200

(3) Access to Building Site Relative to Floodplain

The county shall determine whether the proposed access to the site is located within a floodplain.

ACCESS LOCATION RELATIVE TO FLOODPLAIN	
FLOODPLAIN DETERMINATION	**POINTS**
Not in floodplain	200
Within 0.2% annual chance floodplain	0
Within 1% annual chance floodplain	-200

(4) Impact on Existing Roads

(a) The county shall determine how the proposed development may affect existing roads. For the purposes of this test, additional off-site improvements include but are not limited to:

(i) Addition of turning lanes, or

(ii) Improvement of drainage structures

(b) If both major improvements and off-site improvements are needed, both point totals shall apply.

(c) Maximum points shall be given for improvements funded by the developer.

(d) Points shall not be subtracted for improvements funded by the developer.

IMPACT ON EXISTING ROADS	
POTENTIAL IMPACT	**POINTS**
Current road adequate, no changes required	150
Minor improvements needed	0
Major improvements needed	-150
Additional off-site improvements needed	-150

f. Factor Six: The Public Cost/Benefits of a Rezoning

The purpose of this factor is to objectively examine various public costs or benefits associated with a particular application as a measure of the relative gain to public welfare.

i. Transportation Test

The county shall measure the application against the adequacy of the roadway network that will serve the project.

(1) Adequacy of Access Road Surface

The county shall determine the adequacy of the primary access road based on the existing surface material of that road.

ACCESS ROAD SURFACE	
SURFACE MATERIAL	**POINTS**
Paved	150
Gravel with 24 ft. roadbed	100
Gravel with 22 ft. roadbed	50
Gravel with 20 ft. roadbed	0
Gravel with 18 ft. or less roadbed	-50
Unimproved	-100
Trail or undeveloped	-150

(2) Distance from Paved Road

The county shall determine the distance from the lot line to the closest paved road based on the location of the proposed driveway.

DISTANCE FROM PAVED ROAD	
DISTANCE	**POINTS**
Direct access onto paved road	150
Within .25 mile	100
.25-.49 mile	50
.5 - .99 mile	0
1-3 miles	-50
Over 3 miles	-100

(3) Distance from Site to a Major Collector (or higher road classification) or Frontage Road

The county shall determine the distance from the lot line to a major collector (or higher road classification) or frontage road via the proposed driveway and existing paved roads. Road classifications are identified in VISION 2025, Figure 9.1 Road Functional Classification.

DISTANCE TO A MAJOR COLLECTOR (OR HIGHER ROAD CLASSIFICATION) OR FRONTAGE ROAD	
DISTANCE	**POINTS**
Direct access	150
Within .5 mile	100
.51-.99 mile	50
1 – 2.9 mile	0
3-5 miles	-50
Over 5 miles	-100

ii. Efficient Development Test

These tests measure the distance of the location of the proposed development from incorporated areas and public schools to determine the efficiency of providing public services.

(1) Distance from a City

The county shall determine the distance of the proposed development from any incorporated city within Riley County using the shortest travel distance via improved roads.

DISTANCE FROM AN INCORPORATED CITY	
DISTANCE	**POINTS**
Contiguous to city limits	200
Within .25 miles	150
.26 - .5 miles	100
.51 – 1 miles	50
1.1 – 3 miles	0
Beyond 3 miles	-50

(2) Distance from Nearest Public School

The county shall determine the distance of the proposed development from any public elementary or secondary school using the shortest travel distance via improved roads.

DISTANCE FROM NEAREST PUBLIC SCHOOL	
DISTANCE	**POINTS**
Contiguous to city limits	200
Within .25 miles	150
.26 - .5 miles	100
.51 – 1 miles	50
1.1 – 3 miles	0
Beyond 3 miles	-50

g. Factor Seven: Conformance to the Comprehensive Plan

The application shall be compared to VISION 2025 Figure 11.2, Future Land Use Map to determine the distance from the proposed development to a Designated Growth Area (DGA).

LOCATION RELATIVE TO DESIGNATED GROWTH AREAS	
DISTANCE FROM DGA	**POINTS**
Within a Designated Growth Area	1000
Within ¼ mile	500
Between ¼ and ½ mile	250
Over ½ mile away	0

7. LESA Final Score

The applicant's final score shall be calculated and the appropriate finding shall be made based on the following scale:

LESA FINAL SCORE	
PREFERRED USE	**POINTS**
Strong Finding for Development	4500-7000
Moderate Finding for Development	3500-4500
Moderate Finding for Preservation	3000-3500
Strong Finding for Preservation	0-3000

E. DETERMINATION OF HARDSHIP

1. Purpose

The purpose and intent of this section is to outline the methodology to evaluate the hardship factor. One of the Kansas Supreme Court's suggested factors to consider in rezoning requests is "The relative gain to the public health, safety and welfare by the possible diminution in value of the subject property as compared to the hardship imposed on the landowner if the request is denied". Although the public health, safety

and welfare aspects of this factor are intended to be objectively measured in the Riley County LESA System, the "hardship imposed on the landowner" is a more subjective issue and very difficult to quantify, especially in a way that can be uniformly and fairly applied to individual situations. Therefore, the guidelines in this section are meant to provide some method of evaluating this hardship factor and to give this factor emphasis as an important element to be considered.

2. Analysis

In the case of *Golden v. Overland Park (1978)*[1], the Kansas Supreme Court did not specify what constitutes a hardship. Therefore, local governments are presumably free to determine what may constitute a hardship. For purposes of this section then, hardship may be viewed in two different ways: financial or non-financial.

a. Financial Hardship: This can be calculated in a number of ways, however, some methods are less intrusive to a landowner than others. One method that does not require delving into personal financial situations is to compare the pre-development and post-development values of a property. This can be accomplished by simply using the Riley County Appraiser's value-per-acre of the tract in a pre-development state as compared with a hypothetical post-development state. The financial impact to the landowner in terms of loss of potential income as a hardship can then be compared with the other aspects of the DGS to provide the balancing test (gain to public health, safety and welfare compared to hardship), as suggested by the Supreme Court.

b. Non-financial Hardship: Another possible aspect of hardship virtually impossible to quantify is the non-financial type of hardship. Such situations could involve pressing family needs due to illness or death of a significant family member or the need to care for an aging member of the family. Other non-financial hardships could be imagined and it is the responsibility of the decision-makers to determine the legitimacy of any particular hardship claim by a landowner and how that hardship claim compares with the gain to public health, safety and welfare that may be involved with a particular rezoning request.

3. Procedures

a. Filing

A description of the perceived hardship, using either or both of the categories described above, shall be included on the application requesting LESA review to be filed by the affected landowner(s).

[1] *Golden v. Overland Park, 224 Kan. 591, 598, 584 P. 2 d 130 (1978)*