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(1911-1998)

GLEE S. SMITH, JR.  
OF COUNSEL

Matthew S. Gough  
Email: mgough@barberemerson.com

February 28, 2014

**VIA HAND DELIVERY AND E-MAIL**

Mr. Scott McCullough, Director  
Planning and Development Services  
City Hall, 6 E. 6<sup>th</sup> Street  
Lawrence, KS 66044

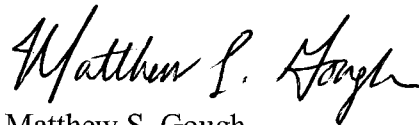
*Re: 2200 Noria Road and 4600 East 23<sup>rd</sup> Street (collectively, the "Property")  
Re-Zoning Application*

Dear Scott:

I enclose a re-zoning application submitted by the Economic Development Corporation of Lawrence and Douglas County, f/k/a Douglas County Development, Inc. (referred to herein as the "**Applicant**"), together with an application fee. Please do not hesitate to contact me if you require additional information.

Very truly yours,

BARBER EMERSON, L.C.

  
Matthew S. Gough

MSG:plh

cc: Denny Ewert (via e-mail only)  
Matthew H. Hoy (via e-mail only)



**ZONING MAP AMENDMENT  
 APPLICATION**

Pre-Application Meeting  
 required minimum 7 days  
 before submission  
 Planner \_\_\_\_\_  
 Date \_\_\_\_\_  
 Fee \_\_\_\_\_  
 \*Fees vary, contact office

**OWNER INFORMATION – *NOTE: OWNER IS THE APPLICANT***

Name(s) Economic Development Corporation of Lawrence and Douglas County, a Kansas corporation  
 Contact Matthew H. Hoy, Attorney  
 Address 900 Massachusetts Street, Suite 500, PO Box 189  
 City Lawrence State Kansas ZIP 66044  
 Phone ( 785 ) 843-0811 Fax ( 785 ) 843-0341  
 E-mail mhoy@stevensbrand.com Mobile/Pager ( ) \_\_\_\_\_

**CONTRACT PURCHASER INFORMATION**

Contact Roger and Gaye Kitsmiller, Attn: Matthew Gough  
 Company Barber Emerson, L.C.  
 Address 1211 Massachusetts Street  
 City Lawrence State KS ZIP 66044  
 Phone ( 785 ) 843-6600 Fax ( 785 ) 843-8405  
 E-mail mgough@barberemerson.com Mobile/Pager ( ) \_\_\_\_\_  
 Pre-Application Meeting Date February 26, 2013 Planner Scott McCullough

**PROPERTY INFORMATION**

Present Zoning District IG Proposed Zoning District A  
 Present Land Use Agriculture Proposed Land Use Agriculture  
 Legal Description (*may be attached*) See attached  
 Address of Property 2200 Noria Road and 4600 E. 23<sup>rd</sup> Street, Lawrence, KS  
 Total Site Area 87 acres, more or less  
 Number and Description of Existing Improvements or Structures None



Are you also submitting any of the following applications?			
<input type="checkbox"/> Building Permit	<input type="checkbox"/> Subdivision Plat	<input type="checkbox"/> Special Use Permit	<input checked="" type="checkbox"/> Zoning Change
<input type="checkbox"/> Variance	<input checked="" type="checkbox"/> Other (specify): De-annexation & Plat Vacation Petition		

**Please indicate the reason for requesting rezoning. (Attach additional sheets if needed.)**

The subject property (the "Property") consists of approximately 87 acres located at 2200 Noria Road and 4600 E 23<sup>rd</sup> Street, and is presently zoned "IG." However, industrial development of the Property has proven cost-prohibitive and unrealistic because of the Property's geographic realities. For example, the Property is partially situated in the 100-year floodplain, and industrial development would likely require a significant amount of additional fill (estimated at 6 feet) to be added to the site, and compacted for three years. These obstacles have caused the Property to remain on the market unsold and undeveloped for approximately fifteen years under its current zoning designation.

Multiple considerations support the rezoning of the Property for agricultural use. First, the property is currently being used for agriculture. Horizon 2020 instituted a policy of preserving High Quality Agricultural Land, a category which includes the Property. The Contract Purchaser proposes to continue the Property's use for agricultural purposes. Selling the property to the Contract Purchaser would both further the preservation goals of Horizon 2020 and further EDC's mission to create jobs for Lawrence, by allowing EDC to recoup its investment in the Property for use in other job-creation opportunities.

**In reviewing and making decisions on proposed zoning map amendments, the Planning Commission and the City Commission are required consider the following criteria. The Development Code places the burden on the applicant to show that an application complies with such criteria. Please respond to the following criteria to the best of your knowledge. (Attach additional sheets if needed.)**

**1. How does the request conform with the Comprehensive Plan, Horizon 2020?**

Rezoning the Property for agricultural use is appropriate under Policy 2.7 of Horizon 2020 Chapter 16, to "encourage the preservation of High Quality Agricultural Land for current and future agricultural use." The Property encompasses land that has been classified as Class II High Quality Agricultural Land (see



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Horizon 2020 Map 16-4). If approved, the rezoning will advance Horizon 2020's policy of encouraging the use of the Property for agricultural purposes in the future.

The rezoning of the Property is also consistent with Chapter 7 of Horizon 2020, which designates locational criteria for industrial developments. This criteria recommends that land for industrial developments "lie primarily outside of the regulatory floodplain." Because the Property lies partially within the regulatory floodplain, the Property's current designation for industrial development is not ideal under Horizon 2020's industrial development criteria.

**2. To what extent will approving the rezoning detrimentally affect nearby properties?**

The rezoning will have no detrimental impact on nearby properties, because the Property is adjacent to other properties used for agriculture, and because this rezoning request does not accompany a proposed change in use.

**3. Describe the character of the neighborhood.**

The Property is adjacent to Douglas County "A" and "V-C" zoning districts to the South, East, and North. The East Hills Industrial Park, which borders the Property to the West, is zoned "IG" by the City.

**4. What is the suitability of the subject property for the uses to which it has been restricted under the existing zoning regulations?**

There is no proposed change in use.

**5. What is the length of time the subject property has remained vacant as zoned.**

The Property has been vacant at all times.



City of Lawrence  
Douglas County

PLANNING & DEVELOPMENT SERVICES

Lawrence Douglas County  
Metropolitan Planning Office

6 East 6<sup>th</sup> Street, P.O. Box 708, Lawrence, KS 66044  
(785) 832-3150 Fax (785) 832-3160  
<http://www.lawrenceks.org/pds/>

**6. What is the gain, if any, to the public health, safety, and welfare if this application were approved as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application?**

Horizon 2020 encourages the preservation of High Quality Agricultural Land, and the approval of the rezoning request advances that public purpose. Denial of the application may preclude the Applicant from completing the sale of the Property to the Contract Purchaser, which may frustrate the Applicant's general purpose of promoting economic development and job creation opportunities in the community.

**SIGNATURE**

I/We, the undersigned am/are the **(owner(s)), (duly authorized agent), (Circle One)** of the aforementioned property. By execution of my/our signature, I/we do hereby officially apply for rezoning as indicated above.

Signature(s): *Jerry Samp, Chairman* Date February 28, 2014

Jerry Samp, Chairman of the Board of Economic Development Corporation of Lawrence and Douglas County, a Kansas not for profit corporation.

**STAFF USE ONLY**

Application No. \_\_\_\_\_  
Date Received \_\_\_\_\_  
Planning Commission Date \_\_\_\_\_  
Fee \$ \_\_\_\_\_  
Date Fee Paid \_\_\_\_\_



**OWNER AUTHORIZATION**

I, Jerry Samp, hereby referred to as the "Undersigned", acting as Chairman of the Board of Economic Development Corporation of Lawrence and Douglas County, Inc. (the "Applicant"), and being of lawful age, do hereby on this 28th day of February, 2014, make the following statements to wit:

1. I/We the Undersigned, on the date first above written, am an authorized agent of Applicant, which is the lawful owner in fee simple absolute of the following described real property (the "Property"): Lot One, Block One, East Hills Business Park East; and Lot One, Block One, East Hills Business Park East No. 2.
2. I/We the undersigned, have previously authorized and hereby authorize Roger and Gaye Kitsmiller, or their representatives (the "Contract Purchaser"), to act on the Applicant's behalf for the purpose of making application with the Planning Office of Lawrence/Douglas County, Kansas or other bodies, regarding the de-annexation, vacation of East Hills Business Park East and East Hills Business Park East No. 2 (the "Plats") (but excluding public right-of-way for Noria Road and East 23<sup>rd</sup> Street, if any), and re-zoning the Property. Such authorization includes, but is not limited to, all acts or things whatsoever necessarily required of Applicant in the application process.
3. It is understood that in the event the Undersigned is a corporation or partnership then the individual whose signature appears below for and on behalf of the corporation or partnership has in fact the authority to so bind the corporation or partnership to the terms and statements contained within this instrument.

IN WITNESS THEREOF, I, the Undersigned, have set my hand and seal below.

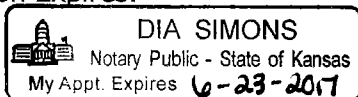
Economic Development Corporation of Lawrence and Douglas County, Inc.,  
a Kansas not for profit corporation

By: Jerry Samp  
Jerry Samp, Chairman of the Board

STATE OF KANSAS  
COUNTY OF DOUGLAS

The foregoing instrument was acknowledged before me on this 28<sup>th</sup> day of February, 2014, by Dia Simons

My Commission Expires:



Dia Simons  
Notary Public



**PROPERTY OWNERSHIP LIST CERTIFICATION**

As required by Article 13, Section 20-1301(q) of the Development Code, the applicant is responsible for providing certified Ownership information (including names and mailing addresses) of all real property owners within a defined radius from the subject property. The Planning Department is required by the Development Code to use the submitted Ownership list to mail notice of the public hearing to surrounding property owners regarding this Application.

**Ownership Information**

The applicant is responsible for providing certified Ownership information. Current Ownership information shall be obtained from the Douglas County Clerk. Ownership information will be considered current if it is **no more than 30 days old** at the time an application is submitted to the Planning Department.

**Radius of Notification**

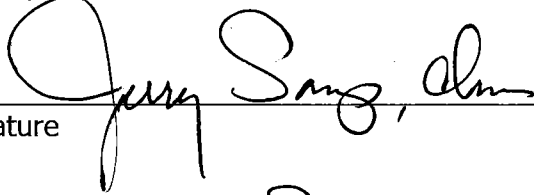
The Ownership list shall include the record Owner of the subject property and all Owners of property located within 200 feet of the subject property. If the subject property is adjacent to the City limits the area of notification shall be extended to at least 1,000 feet into the unincorporated area.

A map of the "Radius of Notification" can be obtained **at the Applicant's request** at the Planning Office. The map indicates ownership of each property and can be used to check the accuracy and completeness of the Ownership List. The map will be supplied **at the Applicant's expense. Allow 10 business days** to receive the map.

**THE FOLLOWING IS TO BE COMPLETED AND SUBMITTED BY THE APPLICANT.**

I certify that I have read and understood the above information and that the submitted Ownership list:

1. was obtained from and certified by the Douglas County Clerk,
2. is current (**no more than 30 days old**), and
3. includes all property owners within the required notification radius of the subject property.

  
\_\_\_\_\_  
Signature

2-28-14  
Date

Jerry Samp  
Printed Name



**EXHIBIT A – LEGAL DESCRIPTIONS**

Lot One, Block One, East Hills Business Park East;

and

Lot One, Block One, East Hills Business Park East No. 2.