

## **Bobbie Walthall**

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**To:** Diane Stoddard  
**Subject:** RE: KTEN Crossing

From: "**Tim Bateman**" <[tbateman@rdje.com](mailto:tbateman@rdje.com)>

Date: Mon, Dec 7, 2015 at 7:42 AM -0800

Subject: KTEN Crossing

To: "Mike Amyx" <[mikeamyx515@hotmail.com](mailto:mikeamyx515@hotmail.com)>, "Leslie Soden" <[lsoden@lawrenceks.org](mailto:lsoden@lawrenceks.org)>, "Stuart Boley" <[sboley@lawrenceks.org](mailto:sboley@lawrenceks.org)>, "Matthew Herbert" <[matthewjherbert@gmail.com](mailto:matthewjherbert@gmail.com)>, "Lisa Larsen" <[llarsen@lawrenceks.org](mailto:llarsen@lawrenceks.org)>

Cc: "Diane Stoddard" <[dstoddard@lawrenceks.org](mailto:dstoddard@lawrenceks.org)>

Mayor and Commissioners,

I am writing to you today to discuss Agenda Item #4 for Tuesday night's meeting and why I, as a lifelong Lawrence resident, support the project.

1. No incentives—I think this is the most important item. In the last handful of years, countless other projects have come before the commission asking for incentives to build (which I am not opposed to). Here you have a project that is coming in and paying "full-fare" from day one. Why would we want to turn away someone wanting to make that investment in the City and not asking for anything in return from the City?
2. Additional tax revenue—The additional revenue will start as soon as they break ground due to sales tax on all of the construction materials used to build their site. In addition, once the business are open, the City will benefit from sales tax revenue and property tax revenue.
3. Retail Pull—Per the report by Richard Caplan & Associates, two of the categories with lower pull factors are home furnishings & clothing. These are the stores that KTEN is wanting to put in the retail development and are the categories in which City residents are going to other cities to purchase. Let's keep those dollars in the City of Lawrence if we can. In addition, because Lawrence has a low pull factor, putting this development in has a much lesser chance of hurting other local retailers.
4. This will not impact Mass. St—I do not believe the businesses that will go in at KTEN will directly compete with the types of business that are downtown. One could argue that the more people can do their shopping without leaving Lawrence, the more likely they are to do all of their shopping here, including downtown. Because once they leave for one thing, it becomes easier to leave for more of it.

I thank you all for your time and service to the City of Lawrence.

Thanks,  
Tim Bateman  
6212 Berando Ct.

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**Timothy C. Bateman**

COO/CFO

**RD Johnson Excavating Co./Asphalt Sales of Lawrence**

1705 N. 1399 Rd Lawrence, KS 66046

(O) 785.842.9100 ext 116

(C) 785.218.3802

[tbateman@rdje.com](mailto:tbateman@rdje.com)

## **Bobbie Walthall**

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**To:** Jeff Crick  
**Subject:** RE: KTEN Crossing

**From:** Zak Bolick [<mailto:czbolick@gmail.com>]  
**Sent:** Monday, 07 December, 2015 12:14 PM  
**To:** Mike Amyx; Leslie Soden; Stuart Boley; Matthew Herbert; Lisa Larsen  
**Cc:** Jeff Crick  
**Subject:** KTEN Crossing

Good afternoon Mayor Amyx, Vice Mayor Soden, and Commissioners Herbert, Larsen, and Boley –

I wanted to write to you today to ask for your support in the KTEN Crossing proposals before you on the evening of December 8<sup>th</sup>, 2015, related to amending the Comprehensive Plan and rezoning of the ground on the southeast corner of the SLT and US 59 Hwy.

We are fortunate to have the opportunity to have seasoned investors, with the capital and history of this kind of development, to seek out to do business in our community. They have not come to Lawrence with their own agenda. They have listened to the desires of the community, have designed a project that will not compete with downtown, are not asking for incentives, and found retailers that fill gaps that we have in terms of shopping options. In addition, it is located in an area of Lawrence that is desirable for retailers, on the corner of two state highways on the southern gateway into our community on ag ground that is not prime soil, and is ready to get started immediately.

The incremental opportunities for our community should not be ignored:

- \$207,000 in additional property taxes upon completion
- Nearly \$82 million in sales to the local economy, generating \$1.27 million in sales taxes
- 442 jobs

Developments like these are game changers for a community like Lawrence. The impact this kind of investment has on our schools, streets, parks, first responders, and other city services is significant. Perhaps, this is a good step in the right direction in finding the dollars needed to fund a new police facility.

You will hear, or may have the opinion that these will be ‘low paying’ jobs, and not desirable for Lawrence. Let me make the argument that if we want high paying jobs to come to our community, we better have the shopping options available for them. In addition, in the last year, Dick’s Sporting Goods and Menards have opened, hiring hundreds. They have not had any trouble recruiting employees, meaning the demand for these jobs is out there.

I hope that you see the value that this project brings to Lawrence. I encourage you to be a leader in our community, capturing opportunities such as this when they arise. Please vote in favor of Collett and their proposals related to KTEN Crossing, allowing them to move forward immediately.

Thank you for the time that you invest in our community.

Best regards,

Zak Bolick  
1204 Chadwick Court  
Lawrence, KS 66049

## **Bobbie Walthall**

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**To:** Jeff Crick  
**Subject:** RE: KTen Crossing

**From:** jacque Bermel [<mailto:jacquebermel@gmail.com>]  
**Sent:** Sunday, 06 December, 2015 8:11 PM  
**To:** Mike Amyx; Leslie Soden; Stuart Boley; Matthew Herbert; Lisa Larsen; Jeff Crick  
**Subject:** KTen Crossing

Hello City Commisioners:

My family and I have lived in Lawrence for just over 3 years now. We moved here from Fort Collins, CO. We all absolutely love Lawrence. But I always tell friends that the one thing I really miss in Lawrence is a great shopping district. Mass St is fantastic. I love the unique boutiques like Eccentricity and Kieu's. But there are just times when I want more choices, particularly for boys and men's clothing, or a Costco, and wish that my own town offered a great shopping experience in a concentrated location. Instead, I go to the Legends or Oak Park Mall. The majority of my Christmas shopping will be done outside Lawrence. What a shame: all those tax dollars leaving my own community. What a shame: a lost opportunity for community building and engagement in a great shopping district in my own town. What a shame: very inconvenient for me to have to drive 30-45 minutes to shop the stores I enjoy.

The other frustrating thing about Lawrence is how high our property taxes are (significantly higher than Fort Collins), Yet I drive down Harvard St and the road is literally falling apart where the road meets the curbs between Wakarusa and approximately Stoneridge. So what is being done with those higher taxes? Should we not welcome new tax sources to Lawrence via new businesses? We are a big enough town to support greater shopping opportunities. The types of stores proposed on KTen would not compare or compete with the flavor and shopping experience on Mass St.

My family and I support the KT Crossing. We want you to vote in favor of it in Tuesday's vote. Thank you so much for your service to Lawrence.

Jacque Bermel  
5603 Silverstone Dr.  
Lawrence, KS 66049

## **Bobbie Walthall**

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**To:** Diane Stoddard  
**Subject:** RE: K-10 crossing

-----Original Message-----

From: Dan Simon [<mailto:DSimon@KUEndowment.org>]  
Sent: Friday, December 04, 2015 5:04 PM  
To: Stuart Boley; Mike Amyx; Leslie Soden; Matthew Herbert; Lisa Larsen  
Cc: Jeff Crick; Diane Stoddard  
Subject: K-10 crossing

Good afternoon Commissioners-  
Thank you for your service to our community. I know this is a time-consuming job.

I am writing to urge you to support the project being discussed next week, K-10 Crossing. I have had the opportunity to review the plan and ask the developer some hard questions as I have strong feelings about the future of our community.

Suffice it to say, my questions were answered in such a way that I cannot see a reason you would turn this down.

The concerns I raised include:

\*What tax incentives are you seeking: they told me they are not seeking incentives \*What is the future of retail, downtown, etc.: Upon reviewing the tenant mix, none of which would locate downtown regardless, and the size of the stores (the SF of which is not available downtown), I am convinced this project only adds to our community. They shared this is a smaller project than last year. It is being developed by people who have done projects all over the country. They have a track record of success.

\*Why there: Retailers choose locations strategically. It is their market researchers' job to study and identify locations that will make a retailer the most successful. They are not going to locate there unless they feel this is going to be a successful location. These are smart people; they aren't going to go somewhere they can't make money. When they make money, our tax dollars grow.

\*We also discussed concerns about a past "Cornfield mall," which I have come to believe are short-sided, and unfounded statistically--unlike the decision they made to locate there after intensive market research far more reliable than "fear of the unknown or what might have happened." I might add the cornfield mall was before the internet, cell phones and when the Duggars probably only had 11 children. In other words--it is a different time and you have the opportunity to demonstrate leadership based on statistical research and not anecdotal fears.

\*What about other big box type retail, specifically the Mercato development: I am now confident that it is not the job of commissioners to play favorites, or make playing fields entirely uneven for factors outside what is best for our community. We live in a capitalist society. When retailers believe they can be successful in a location, they will go there. Until then, it is the job of our commissioners to allow them to determine market capacity, and it is their job to bring in retailers our community will support.

What more can a developer do to help our community? This will bring jobs, tax dollars and accessible shopping. This will keep our dollars in Lawrence, which will help every socio-economic and geographic segment of our community. It is one of the most important things you can and should do for our community.

I urge you to vote yes on this project.

Thank you for your attention to this important matter.

Sincerely-  
Dan Simon  
5503 Chamney Court  
Lawrence, 66049  
785.218.4734

Sent from my iPad



Lawrence Association of Neighborhoods

Mayor and City Commission  
City Hall  
Lawrence, Kansas 66044

**Re: Proposed KTen Crossing Shopping Center**

Mayor and City Commissioners,

The Lawrence Association of Neighborhoods (LAN) examined and discussed the proposed KTen shopping center. LAN opposes this project.

This proposal appears to be disingenuous. In the July version of this application, the developer proposed to build over one-half million square feet of retail space along both sides of the east-west road running through the center of the project. In the current version of the application, the developer claims the project to be smaller due to building on only the south side of the east-west road. The developer will hold the parcel on the north side of the road for future development. Future retail development on the north side of the road will eventually bring the project back to the one-half million square feet that was originally proposed.

The developer claims the project will add new sales taxes to the City but that claim is disputed by current market trends. It will likely add no new retail spending to the local market but rather take spending away from established Lawrence retailers, gaining no new sales tax revenues. The developer makes claims of leakage of local spending going to other markets. This is speculative at best. Lawrence and surrounding towns will continue to go to the Kansas City area for a different kind of shopping experience. Retail sales in Lawrence have been flat for several years. Adding more retail space to an already bloated market will only harm existing retailers and stress our downtown. Out of town shoppers are drawn to the uniqueness of downtown retail offerings, not big box stores.

The developer claims that the project will add retail jobs. But the trend in retail jobs is down in Lawrence due to greater internet shopping and big box retail. Both trends reduce, rather than increase retail jobs. This development will not change this trend.

The comprehensive plan, Horizon 2020, calls for the K-10 highway to be the southern boundary of the South Iowa Street regional shopping center. The proposed development leaps this boundary. The City Commission should adhere to the comprehensive plan and deny this proposal.

Sincerely, Candice Davis, Lawrence Association of Neighborhoods Chair

**Kirk McClure**  
**707 Tennessee Street'**  
**Lawrence, Kansas 66044**  
[mcclure@ku.edu](mailto:mcclure@ku.edu)

December 4, 2015

Mayor Mike Amyx	mikeamyx515@hotmail.com
Vice Mayor Leslie Soden	lsoden@lawrenceks.org
Commissioner Stuart Boley	sboley@lawrenceks.org
Commissioner Matthew Herbert	matthewjherbert@gmail.com
Commissioner Lisa Larsen	llarsen@lawrenceks.org
City Commission	
City Hall	
Lawrence, Kansas 66044	

Re: **Proposed KTEN Crossing Development**

Members of the City Commission:

The developer of KTEN Crossing seeks to add about 200,000 square feet of retail space southeast of the intersection of Iowa Street and the South Lawrence Trafficway.

There are many questions that the City Commission needs to address in considering this proposal. This letter will focus on one. Can the Lawrence retail market absorb the proposed space without significant negative impact upon existing retail districts?

*The Economics of Retail Markets.*

The economics of retail real estate are well established. In a well-balanced market, the supply should grow in proportion with growth in demand.

Demand for retail space is what determines the value of retail space, the number of jobs it will produce and the sales tax revenues that it will generate. The supply of retail space does not drive these outcomes. There are many false beliefs that building real estate grows the economy. It does not. Growth in the economy is a function of growth in the aggregate income of the households within the community because aggregate income sets the amount of spending that a market will realize. More stores do not create more spending. Rather, only more income in the community can drive growth in

the economy. As a result, more stores do not create more spending, more sales taxes, more retail jobs or more value of retail buildings. If too many stores are added to a market, the stores vie for the finite amount of spending available, driving down the revenue per square foot and the value per square foot, hurting all stores.

*Timing of new development.*

For too long, the community has practiced developer-led planning. The community zones and lets the developers set the pace of development. Here as elsewhere this leads to overbuilding which is unhealthy for the community, especially the older, existing shopping districts.

The timing of development is just as important to planning as the height, bulk and use. Good planning means keeping the growth of supply in close balance with the growth in demand for that supply. Private developers do not time their developments for the good of the community. They time their developments for market capture, independent of the impact on other properties. Developers are indifferent between attracting new customers to the market or taking existing customers away from other vendors.

Cannibalization of the existing market is a viable strategy for developers, but it is bad for the community. New space is filled and older space suffers. Developers do not admit that they are cannibalizing revenue from other shopping centers. More commonly, as with the proposed project, the developer constructs a false market analysis that makes claims that their development will attract new demand to the community.

*Claims: Improve the City's sales tax revenue.*

The developer is promising as much as \$1.2 million in new annual sales tax revenues. The assumptions on which this figure is based are:

200,000 square feet \* spending of \$400 revenue per square foot \* .0155 City tax rate = \$1.24 million

Despite assuming a highly optimistic level of spending, for the claim to be true, all of the spending would have to be net new spending to the community, taking none away from existing stores. This claim is not plausible.

Vendors do not pay the sales taxes; the consumers pay the sales taxes. The vendors are just conduits between the consumers and the local and state governments. The history of sales tax revenues over the last several years shows that inflation adjusted tax revenues are effectively flat. From the City's *Retail Report 2012*, retail spending in 2010 was actually below spending in 2000 declined 0.12% per year. This means that retail spending in Lawrence has been effectively flat for a very long time.

What growth in spending that should have been realized from new population growth has been washed out by growth in internet spending.



There will only be increases in sales tax revenues to the extent that there are increases in population and income and local spending. Table 1 shows that despite the significant increases in retail space since 1995, there has been virtually no growth in retail spending.

Table 1: Lawrence Retail Supply and Demand Conditions 1995 to 2012

Year	<i>Demand</i>	<i>Supply</i>
	<i>Inflation Adjusted Sales Taxes</i>	<i>Commercial Square Feet</i>
2012	\$ 13,593,996	9,105,151
2000	\$ 13,797,066	5,299,404
1995	\$ 12,695,769	4,372,183
<i>Demand Annualized Growth Rate</i>		
	<b>0.40%</b>	<b>1995 to 2012</b>
	-0.12%	2000 to 2012
<i>Supply Annualized Growth Rate</i>		
	<b>4.4%</b>	<b>1995 to 2012</b>
	4.6%	2000 to 2012

Source: City of Lawrence 2012 Retail Market Report

Every developer has promised new spending and new taxes; none have delivered.

Without new spending, there can be no new sales taxes. Adding the KTEN Crossing will not add people, income or spending.

*Claims: Improve City's pull factor with all new spending.*

The developer claims that the intrinsic mix of shops proposed for the KTEN Crossing will attract new shoppers to Lawrence who are now shopping elsewhere and will attract Lawrence shoppers who are now spending outside of Lawrence. This claim has a tiny kernel of truth, but it does not pass the simplest test of arithmetic.

The tiny kernel of truth is that if the new shops are built, a few people will change their shopping habits, but the number will be very small. Johnson County residents will not drive to KTEN Crossing; they have

these options closer. Shawnee County resident will not drive to K TEN Crossing; they have these options closer. A very few shoppers from Lawrence will drive to K TEN Crossing rather than Johnson County or Topeka. This will probably be a number too small to measure.

The developer's promotional material speaks to the percentage of local dollars spent outside of the community on fashion and home furnishings. The implication is that the development will stop this leakage. Lawrence sits on the edge of the Kansas City area which, as a metropolitan area of over 2 million people, has many regional shopping options that could not be found in a smaller metropolitan area, such as Lawrence with about 110,000 people. K-TEN development will not replace Nebraska Furniture Mart, the Legends, the County Club Plaza, or the Oak Park Mall. It is unreasonable to imply that the K TEN crossing will compete with these shopping districts.

The developer's claim is not only unreasonable, but the arithmetic is exaggerated. The applicant claims that the development will attract new spending from south of the City. When fully occupied the development will have 200,000 square feet of space. The market analysis indicates that the development will attract \$80 million of new spending annually. The aggregate income of Ottawa is \$264 million (Bureau of the Census, 2014). After taxes, housing and transportation, there is about \$80 million left for all other spending including retail spending. For the developer's arithmetic to be correct, not one citizen of Ottawa was spending any retail dollars in Lawrence before K TEN Crossing is built, and after K TEN Crossing is built, every citizen of Ottawa must spend every dollar at K TEN Crossing and nowhere else.

This claim is too unreasonable to believe. The claim is a cover for the cannibalization of shopping that will occur from elsewhere in Lawrence.

*Claims: Improve the City's property tax revenue.*

The K TEN Crossing proposal claims to add \$200,000 in new property taxes to the City's treasury. The \$200,000 figure is a plausible number for property tax revenue from the proposal. It is not plausible that this number will be net new property taxes.

Retail space only has value to the extent that there is demand for that space. The aggregate value of the retail space in the market is a direct function of the aggregate spending in the market. If there is no new demand, then the aggregate value is flat. Adding new space simply redistributes the same aggregate value across more space. The new space has value, but it simply captures a share of the fixed aggregate value. Older space will suffer a loss in value. The result is that there will be no net gain in property taxes.

If building more retail space was the answer to any city's fiscal squeeze, every city in the nation would build its way out of fiscal trouble. Many cities have tried this approach and failed because it does not work. Lawrence seems to be replicating the failures of these other cities.

*Claims: New retail jobs.*

The number of jobs in retail is a function of the amount of spending in the market, not the square footage or the number of vendors. We have added a few vendors and a great deal of square footage over the last several years, but the number of retail jobs in Lawrence has gone down, not up. There will be no net gain in jobs if KTEN Crossing is built. The jobs at the KTEN Crossing development will be cannibalized away from other shopping centers. There is nothing about the KTEN Crossing that will stop the slow downward glide path of retail jobs in Lawrence.

Table 2: Jobs and Firms in the Retail Industry, Douglas County, Kansas

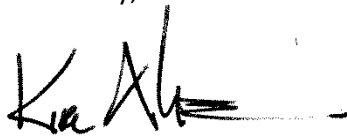
Year	Jobs	Firms
2000	6,648	403
2001	6,376	388
2002	5,618	377
2003	5,709	379
2004	5,885	382
2005	5,772	376
2006	5,769	373
2007	5,808	363
2008	5,584	362
2009	5,710	365
2010	5,685	364
2011	5,721	354
2012	5,595	338
2013	5,753	340
2014	5,836	347
Annual Growth Rate 2000-2014	-0.93%	-1.06%

Source: Kansas Department of Labor, Labor Market Information Services

*Conclusion and recommendation,*

There is no new demand for additional retail space. The amount of retail space has been expanded despite flat revenues, hurting the overall health of shopping districts throughout the city. The City should not make a bad matter worse. There may come a time when more retail space is a good idea, but now is not that time. The City Commission should deny this proposal.

Yours truly,



Kirk McClure

## **Bobbie Walthall**

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**To:** Scott McCullough  
**Subject:** RE: Support for KTen Crossing

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**From:** Simon, Heidi <[hsimon@ku.edu](mailto:hsimon@ku.edu)>  
**Sent:** Friday, December 4, 2015 9:51:54 AM  
**To:** Mike Amyx; Leslie Soden; Stuart Boley; Matthew Herbert; Lisa Larsen  
**Cc:** Jeff Crick  
**Subject:** Support for KTen Crossing

Dear City Commissioners-

Before the upcoming vote on Tuesday I wanted to take the time to share my strong support for the of the KTen Crossing development. Not only does Lawrence desperately need the tax dollars (both stopping the leakage of Lawrence residents shopping in Topeka and KC at these kinds of stores and to bring in more tax dollars from surrounding communities). Not only would this be a much better entrance to Lawrence than the currently zoned auto related retail. Not only would this be better for me and those like me who spend time traveling to Topeka and KC to shop at these stores. Not only does retail likes to be by other retail and it's good for business, both existing business and new business. But this is exactly the type of development and development group that Lawrence should not only allow, but embrace.

I attended the Lunch and Learn yesterday and the thing that struck me the most is how much they listened to Lawrence residents and genuinely want to do what is right for Lawrence. They heard us loud and clear when we said don't mess with Mass, don't ask for incentives and bring in new retailers. This is exactly what they have done. As a community, what more could we ask for? And if you are opposed to this, I would personally like to know, what else could we possibly ask for to change your mind?

Thank you for your service to our great city! I admire your willingness to do so and the time and commitment this must take.

Heidi Simon  
5503 Chamney Ct.  
Lawrence, KS 66049

**From:** Timothy Bateman [<mailto:timothybateman@yahoo.com>]  
**Sent:** Monday, August 24, 2015 10:05 AM  
**To:** Patrick Kelly <[PKelly@usd497.org](mailto:PKelly@usd497.org)>  
**Subject:** Southpointe

Patrick,

First of all, I hope you are having a good start to the school year and that you aren't completely buried with opening of the LCCC. I think it is great that the district is doing getting this up and running.

I am writing you today to express my support for the Southpointe Project that is before the planning commission this evening. I have spent a fair amount of time looking into this development and think it will be a net positive for the City of Lawrence.

1. The parcel of land already allows for commercial use, this plan would just change what kind of commercial use that could be there. I do not see changing from auto-related to retail to be a significant change.
2. This developer does not want any subsidies to development this property in the Lawrence. The City has had various large developments in the last few years and almost every time the developer asks for City assistance, which I think is ok in the right circumstance. Again, they are not asking for anything from the City in terms of incentives.
3. SLT Completion: With the completion of the SLT in the next year plus, this will be a major intersection/hub for people coming into the City. Let's take advantage of this and allow Southpointe to develop at the new interchange.
4. Retail sales tax dollars: Right now, there are a lot of people that shop outside this City and thus Lawrence is losing out on the sales tax dollars. Wouldn't it be great if we could keep more of those dollars right here in town? Yes, it is possible that this development could be cannibalizing sales from stores in town, but I think that is a small percentage compared to Lawrence people that are shopping elsewhere. In addition, I do not believe that these stores are direct competition with Mass St, which is a draw in and of itself.

In summary, this development is a net positive for the City and I urge you to for in favor of their proposal.

Thanks for your time and service.

Tim Bateman  
785-218-3802

**From:** Gary Rexroad [<mailto:grexroad@microsoft.com>]

**Sent:** Monday, August 24, 2015 9:29 AM

**To:** Heidi Simon <[heidi.j.simon@gmail.com](mailto:heidi.j.simon@gmail.com)>; [clay.britton@yahoo.com](mailto:clay.britton@yahoo.com); Patrick Kelly <[PKelly@usd497.org](mailto:PKelly@usd497.org)>; [Amalia.graham@gmail.com](mailto:Amalia.graham@gmail.com); [Julia.v.butler@gmail.com](mailto:Julia.v.butler@gmail.com); [bculver@gmail.com](mailto:bculver@gmail.com); [Robert.c.sands@gmail.com](mailto:Robert.c.sands@gmail.com); [Denney1@sunflower.com](mailto:Denney1@sunflower.com); [squampva@aol.com](mailto:squampva@aol.com); [bruce@kansascitysailing.com](mailto:bruce@kansascitysailing.com); [Eric.c.struckhoff@gmail.com](mailto:Eric.c.struckhoff@gmail.com)

**Cc:** [mikeamyx515@hotmail.com](mailto:mikeamyx515@hotmail.com); [lsoden@lawrenceks.org](mailto:lsoden@lawrenceks.org); [sboley@lawrenceks.org](mailto:sboley@lawrenceks.org); [matthewjherbert@gmail.com](mailto:matthewjherbert@gmail.com)

**Subject:** Please support South Point Zoning

Dear Commissioners,

Thank you for your service to our community. So many great things are happening in Lawrence today making this an exciting time to serve but all the more difficult I'm sure.

Please accept this letter as my strong support for the approval of request to rezone the Southeast corner of SLT and US-59 making way for the South Point project. A few points behind my support..

1. I believe this development is consistent with the way South Lawrence and Iowa has developed. Auto related businesses has grown north and retail has grown south. I Personally like that we have mixed use rather than just an Auto related Zone.
2. The South Point development as designed would be a superior gateway to Lawrence from the south or for those travelling the bypass. Development will occur for sure and this project acts as a standard for future development along the SLT and further south.
3. The use of this land for this purpose is consistent with the surrounding area and I believe will be an attraction inviting motorists off the bypass to stop and spend money in Lawrence

ETSI reports +\$190M of retail spend leaves DGCO every year giving objective evidence that retail is not saturated and that shoppers demand the option and updated buying experience required in today's economy. Please support this land use request and open the door to this development for the betterment of our community.

Gary Rexroad  
2824 Gill Ave  
Lawrence Kansas  
785.226.2908

**PRICE T. BANKS**  
ATTORNEY AT LAW, RETIRED  
P.O. Box 442341  
2018 CAMELBACK DRIVE  
LAWRENCE, KANSAS 66047  
785/766-5069  
price@pricetbanks.com

TO: Lawrence-Douglas County Metropolitan Planning Commission  
Amalia Graham (amalia.graham@gmail.com)  
Jim Denney (denney1@sunflower.com)  
Patrick Kelly (pkelly@usd497.org)  
Pennie von Achen (squampva@aol.com)  
Julia Butler (julia.v.butler@gmail.com)  
Clay Britton (clay.britton@yahoo.com)  
Bryan Culver (bcculver@gmail.com)  
Bruce Liese (bruce@kansascitysailing.com)  
Rob Sands (Robert.c.sands@gmail.com)  
Eric Struckhoff (eric.c.struckhoff@gmail.com)

CC: Scott McCullough, Director, Planning and Development Services  
(smccullough@lawrenceks.org)

FROM: Price T. Banks

DATE: August 24, 2015

RE: South Point Shopping Center

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Please see the attached letter prior to tonight's Planning Commission hearing.

**PRICE T. BANKS**  
ATTORNEY AT LAW, RETIRED  
P.O. Box 442341  
2018 CAMELBACK DRIVE  
LAWRENCE, KANSAS 66047  
785/766-5069  
price@pricetbanks.com

August 22, 2015

City of Lawrence Planning Commission  
PO Box 708  
Lawrence, Kansas 66044

Re: South Point Shopping Center

Commissioners:

The purpose of this communication is to voice opposition to the South Point Shopping Center proposals before you that fly in the face of good planning practices, and violate the policies and principals set out in the Comprehensive Plan for Lawrence and Douglas County.

I have been asked by a law firm to consult with landowners and others about the staff report findings generally and about whether the simultaneous action to amend the Comprehensive Plan and to rezone the subject property reflects the goals of the Comprehensive Plan.

By way of introduction:

I hold a Bachelor's degree in Urban Planning, and a Master's degree in "Community Development from Michigan State University. I hold a JD from Cooley School of Law.

I was Planning Director for Lawrence and Douglas County for 12 years from 1982 to 1994.

I have been a professional Planner for 47 years, and practiced Land Use Law and Municipal Law for over 20 years. I've worked in dozens of communities in Kansas, Missouri and Michigan, and have served as a City Attorney, and as a County Administrator.

I've taught Planning classes at the Graduate School for Urban Planning at the University of Kansas.

I presided over the ad-hoc committee that drafted the original version of the current Kansas Planning & Zoning Enabling Legislation.

I have drafted Land Use regulations for many Cities and Counties.

I am writing to encourage the Planning Commission to engage in sound, accepted planning practices when dealing with the South Point applications, and to uphold the



tradition of planning excellence in Lawrence and Douglas County. Moreover, I urge you to resist being rushed into decisions that imperil the existing commercial properties.

Horizon 2020 is the result of years of study and dialogue of many of the true stakeholders in Lawrence and Douglas County. Those were not efforts to be taken lightly. Amendments to the Comprehensive Plan should follow the same procedures and involve the same stakeholders. While the Plan has been amended many times in relatively minor ways, more significant amendments were carefully studied, and were not adopted until the planning commission and the governing bodies determined that there was a community consensus.

Community planning was originally conceived so that citizens, public officials and property owners would have policies and procedures on which they could base decisions regarding investments, both public and private. It was conceived as a mechanism to improve the quality of life in a community. Although plans must not be set in concrete, they should not be changed whenever a proposal is inconvenienced by those plans. They need to provide a steadying feature to assist planners to achieve a positive influence on the quality of life in the community. If they are amended on a reactive basis, they become meaningless.

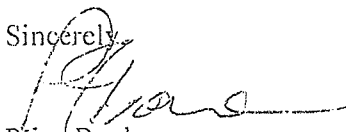
About thirty two years ago, Lawrence denied an application for commercial zoning for what became known as the "Cornfield Mall" at the site of the current proposal. That application was denied, and the courts affirmed the action, and affirmed the right of our community to map a future that could be depended on by the citizens.

In the present case, it is suggested that the purpose of the amendment is to bring Horizon 2020 and the Revised Southern Development Plan into alignment with the proposed commercial center.

That simply stated is putting the cart before the horse. A development proposal should be in alignment with Horizon 2020, or should not be considered. Any proposal needs to meet all of the criteria of the Plan or it should not be considered. Piecemeal leapfrog amendments to the Comprehensive Plan are not planning but are anti-planning, and take us back to the days when there was no planning at all.

The present proposal expands the regional center to intrude into lower intensity land uses including agricultural land and open space and regulated flood plain, and therefore is contrary to the provisions of the Comprehensive Plan. It meets none of the design criteria of the Plan. It expands the center far beyond the set maximum of 1.5 million square feet, and creates a precedent for additional expansion and a precedent for a gauntlet of strip commercial land uses, signs and the resulting traffic congestion.

I urge you to deny the request to amend Horizon 2020, and to preserve the tradition of excellent planning practice in Lawrence and Douglas County.

Sincerely,  
  
Price Banks

August 23, 2015

Dear Commissioner Britton and members of the Lawrence Douglas County Planning Commission, Mayor Amyx and members of the Lawrence City Commission  
c/o Director of Planning Scott McCullough:

I would like to express my support for the retail area being proposed for K-10 and South Iowa and encourage you to send it on to the city commission with a favorable recommendation.

We have a developer who is willing to invest their money in our community asking very little in return – only a zoning change from auto retail to general retail. What better place for this center than at a major intersection of two major roads. This center will keep shopping here in Lawrence and Douglas County as well as drawing from smaller communities around Lawrence.

This project would generate significant sales and property tax dollars that could help pay for many of the items on our community wish list. Many downtown merchants agree that this project will benefit their businesses and having additional shoppers, who make multiple stops in their shopping day, a positive for the city. Additional retail locations will keep the rents lower and benefit all of us.

Please give a favorable vote for the Southpoint development project.

Regards,

Jane Bateman  
926 West 29<sup>th</sup> Street  
Lawrence, KS 66046



**LEAGUE OF WOMEN VOTERS®**  
OF LAWRENCE/DOUGLAS COUNTY

**RECEIVED**  
  
AUG 24 2015  
  
City County Planning Office  
Lawrence, Kansas

August 22, 2015

*President*  
**Debra Duncan**

*Vice President*  
**Cille King**

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**Marlene Merrill**

**Marlaine Stoor**

**Austin Turney**

**Melissa Wick**

**TO: Mr. Clay Britton, Chair, and Members of the Lawrence-Douglas County Metropolitan Planning Commission**

**RE: ITEM NO. 1 COMPREHENSIVE PLAN AMENDMENT TO HORIZON 2020 CHAPTERS 6 & 14 (JSC) CPA-15-00335: ITEM NO. 2A RS10 TO CR; 63.89 ACRES; SE CORNER SLT & US-59 (JSC) Z-15-00327: ITEM NO. 2B RS10 TO OS; 2.61 ACRES; SE CORNER SLT & US-59 (JSC) Z-15-00328.**

The League of Women Voters is opposed to the request to amend Horizon 2020 and to rezone the acres under discussion. A Horizon 2020 Steering Committee has been updating the plan since February 2014 and they have received valuable public input along the way. The Committee next meets on August 31, 2015 to consider recommending that the Planning Commission, City Commission and County Commission accept their Issue Action Report. The League believes it would be irresponsible for the Planning Commission to acquiesce to a rezoning request until it has had the opportunity to accept and review the Steering Committee's Report.

Should the Committee decide to continue with the current agenda, we would like to point out that a quick perusal of two commercial realty websites identified 41 retail properties for lease in the city of Lawrence, including eight located in the downtown area. While several of those are small, one is 30,000 square feet and another 20,226 square feet. The vacant Discovery Furniture/Roommakers building on Iowa Street is 47,979 square feet and, of course Mercato, adjacent to Rock Chalk Park, is 600,000 square feet of vacant retail space.

For those reasons, we respectfully request that you deny the amendment to Horizon 2020 and the rezoning requests.

Sincerely,

Debra Duncan, President

Alan Black, Chairman Land Use Committee

August 24, 2015

VIA ELECTRONIC MAIL

Amalia Graham (amalia.graham@gmail.com)  
Jim Denney (denney1@sunflower.com)  
Patrick Kelly (pkelly@usd497.org)  
Pennie von Achen (squampva@aol.com)  
Julia Butler (julia.v.butler@gmail.com)  
Clay Britton (clay.britton@yahoo.com)  
Bryan Culver (bcculver@gmail.com)  
Bruce Liese (bruce@kansascitysailing.com)  
Rob Sands (Robert.c.sands@gmail.com)  
Eric Struckhoff (eric.c.struckhoff@gmail.com)  
Lawrence-Douglas County Metropolitan  
Planning Commission  
City of Lawrence, Kansas  
City Hall  
6 East 6th Street  
Lawrence, KS 66044

**Re: South of K-10 Commercial and Retail Applications, CPA-15-00335; Z-15-00327; Z-15-00328**

Dear Members of the Planning Commission:

I represent K-10/40 Development, L.C., whose managers have an interest in commercial properties in Lawrence, Kansas, including in downtown Lawrence and in the Mercato retail and commercial development at the northeast corner of Highways 40 (6th St.) and 10 in Northwest Lawrence. Tonight, the Commission will consider a Comprehensive Plan Amendment to Horizon 2020 Chapters 6 and 14 relating to an application for commercial development south of K-10, along with considering two rezoning requests affecting the same Project (the "Project"). For the reasons outlined here, the Commission should not recommend approval of the changes to the Lawrence Comprehensive Plan and related zoning.

The proposed Comprehensive Plan Amendment *does not conform* to certain Horizon 2020 policies. Staff acknowledges the proposed Project is a departure from the adopted form, level and type of commercial development envisioned for the site. Traditional neighborhood design is encouraged at this location and development should be undertaken in the form of Planned Development Overlays (p. 1-3), but these policies are proposed to be abandoned at the point in time they should be considered, that is, now (p. 1-3).

Further, staff notes in multiple places that a number of retail and commercial developments will be negatively affected by the Project because it could impact the timing of development for other properties (p. 1-2) and by potentially underserving the areas around these other locations (p. 2A-13). This includes Mercato and a number of other sites mentioned in the report, and there are businesses and locations that are not mentioned in the report. The pending requests veer from existing policies and implicate significant questions of public policy and planning.

These are not abstract considerations. There are approximately 1.3 million square feet of commercial inventory already available in the City (p. 1-9). The City should not change its Comprehensive Plan to add another 247,000 square feet -- what the Project applicants seek -- at the risk of damaging what exists.

Horizon 2020's goals and criteria for directing land use decisions center on the Nodal Development Concept for new commercial development (Horizon 2020, 6-2). Nodal Development is the antithesis of "strip development." Yet, tonight's proposed Comprehensive Plan Amendment and related zoning amendments would allow the extension of the already largest strip center in the City to jump across K-10 and into the flood plain.

Critically, staff states that the reason for the Comprehensive Plan Amendment is to "bring Horizon 2020 and the Revised Southern Development Plan into alignment with the proposed commercial center." But this approach assumes the Project itself should dictate what Horizon 2020 and the SDP should contain, rather than the other way around, that is, that the City's policies should dictate whether the Project is appropriate. This is a significant and sharp departure from public policy and Horizon 2020.

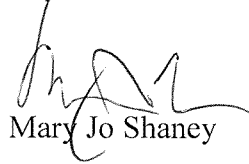
The direction established in Horizon 2020 for this location is that regional commercial "shall not" occur south of K-10. K-10 is viewed in Horizon 2020 as a "barrier" to commercial development of the kind now being proposed.

The central issue for tonight is to address whether the City process and directives under Horizon 2020 are being followed. Staff recognizes that there has not been a change in public policy (see p. 1-17 of the report). That the City has been working with a task force to review Horizon 2020 establishes that it is premature to change or gauge public policy.

The Project proposed is smaller than the proposal disapproved by the Commission last year, but the same planning principles that applied to the denial then apply with as much force now. The Project proposed is a smaller but no less potent dose of the type of development that has not been contemplated by or authorized under the City's Comprehensive Plan, and staff acknowledges that nearby properties will be entitled to further commercial development (p. 2A-13).

The proper focus for the Project plan is against the backdrop of the City's Comprehensive Plan policies and goals. We urge the Commission to adhere to Horizon 2020 and to vote against this Project until the public process has been properly engaged.

Very truly yours,



Mary Jo Shaney

MJS:hkm

cc: Scott McCullough, Director, Planning and Development Services,  
via e-mail [smccullough@lawrenceks.org](mailto:smccullough@lawrenceks.org)  
James C. Bowers, Jr., Esq., via e-mail [jbowers@whitegoss.com](mailto:jbowers@whitegoss.com)

**From:** Heidi Simon [<mailto:heidi.j.simon@gmail.com>]

**Sent:** Friday, August 21, 2015 4:42 PM

**To:** [clay.britton@yahoo.com](mailto:clay.britton@yahoo.com); Patrick Kelly <[PKelly@usd497.org](mailto:PKelly@usd497.org)>; [Amalia.graham@gmail.com](mailto:Amalia.graham@gmail.com); [Julia.v.butler@gmail.com](mailto:Julia.v.butler@gmail.com); [bculver@gmail.com](mailto:bculver@gmail.com); [Robert.c.sands@gmail.com](mailto:Robert.c.sands@gmail.com); [Denney1@sunflower.com](mailto:Denney1@sunflower.com); [squampva@aol.com](mailto:squampva@aol.com); [bruce@kansascitysailing.com](mailto:bruce@kansascitysailing.com); [Eric.c.struckhoff@gmail.com](mailto:Eric.c.struckhoff@gmail.com)

**Cc:** [mikeamyx515@hotmail.com](mailto:mikeamyx515@hotmail.com); [lsoden@lawrenceks.org](mailto:lsoden@lawrenceks.org); [sboley@lawrenceks.org](mailto:sboley@lawrenceks.org); [matthewjherbert@gmail.com](mailto:matthewjherbert@gmail.com)

**Subject:** SouthPoint Rezoning

Dear Commissioners,

First, I want to thank you for your time and commitment to Lawrence in your planning commissioner roles. What you do matters greatly to our amazing city and I know you fulfill this role with little recognition and appreciation. So, thank you!

I am writing today because I can't be at the meeting on Monday and I want to voice my strong support for the approval of the items on your agenda to rezone the Southeast corner of SLT and US-59.

I did attend the meeting last year and I was disappointed when the vote conversation turned from "rezoning" to how people feel about the development. My take on the vote is the following:

1. This area is already zoned for some type of commercial use. A vote for this is simply changing the type of zoning from auto-related to regional commercial. There will be development in this area. The question becomes what do we want this commercial development to add to our community (both visually and in tax dollars). I love me some Lawrence, KS, but one of my least favorite first impression/gateways to our city is the east 23<sup>rd</sup> st./K-10 entrance. All of the businesses along this corridor are great for Lawrence, however they just don't create a very welcoming entry point to Lawrence. I'm afraid if we keep the current zoning on the Southeast corner as auto-related, we will indeed have another E. 23<sup>rd</sup> st. entry to Lawrence.
2. Other developers in town might suggest that changing this to regional commercial will take away from other areas that are already zoned for this use. Before the Rock Chalk Park development I might have supported this thought. However, since RCP it is clear to me that area has special opportunities for development that won't work in other areas of the city. It is my personal belief that the RCP area would benefit most from hotels, restaurants and movie theatres. Not to mention, retail wants to be by other retail. I believe this be one of the biggest reasons it's not already developed. So even if we want this to happen, we can't make the retailers want this.
3. Tax dollars. I'm not sure if the developers estimates are exactly correct on the amount of money this development will bring to our city, but I know it's more than zero, which is the current amount. We are in desperate need of dollars staying in our city and coming into our city. I read somewhere that some say the stores coming in won't bring in more money, it will just shift it from other businesses in Lawrence. Although this may happen in few instances, it is a fact that millions of dollars leave our community for the exact type of stores that this development will be adding. I am an example of this and pretty much everyone else I know is too. This will keep money in Lawrence and will add money to Lawrence from our smaller communities surrounding us.
4. It is my understanding the developers are not asking for any tax breaks or incentives. This is unheard of. How can we turn this down when we so desperately need more tax dollars to come to and stay in Lawrence and on top of it they aren't asking for tax breaks?
5. I miss Old Navy.

At the end of the day, this really comes back to my first point. Do we want this to be auto-related or regional commercial? I want this commercial area to add tax dollars and a well-planned/designed/sculptured/landscaped area. Let's get this right.

Thank you for your time and I would be grateful to receive a response that you have at least read this email.

Heidi Simon  
5503 Chameny Ct.  
Lawrence, KS 66049



THE LAW OFFICES OF  
**DANIEL L. WATKINS**  
901 NEW HAMPSHIRE STREET, SUITE 200  
LAWRENCE, KANSAS 66044

TELEPHONE:  
(785) 843-0181

DANWATKINS@SUNFLOWER.COM

FACSIMILE:  
(785) 749-5652

**August 21, 2015**

Lawrence-Douglas County Planning Commission  
City of Lawrence, Planning & Development Services  
P.O. Box 708  
Lawrence, Kansas 66044

**Re: Supplemental Memorandum to the Lawrence-Douglas County  
“Planning Commission Report” for the August 24, 2015 Planning  
Commission Meeting**

Dear Chairman Britton and Members of the Planning Commission:

I am writing on behalf of Collett in support of the opportunity the Commission has at its August 24, 2015 meeting to consider and recommend approval of the following agenda items:

- Item 1:** Comprehensive Plan Amendment to Horizon 2020 Chapters 6 & 14;
- Item 2A:** Rezoning from RS10 to CR at the Southeast Corner of SLT & US-59; and
- Item 2B:** Rezoning from RS10 to OS at the Southeast Corner of SLT & US-59.

Each of the foregoing applications was filed by Landplan Engineering on behalf of the owners of the subject property, Armstrong Management and Grisham Management (collectively, the “Applicant”). After withdrawing its previous application to address concerns stated at the prior Planning Commission hearing that the project be scaled-down, the Applicant has reduced the proposed development consistent with the Planning Commission’s comments.

**INTRODUCTION**

By recommending approval of the three (3) requests above, the Planning Commission has an opportunity to benefit the entire City of Lawrence by creating expanded shopping opportunities that will prevent existing spending from exiting Lawrence and draw *new* dollars to the City, which will increase City sales and property tax revenues (to the tune of nearly \$1.5 million annually), and create nearly 500 new jobs for Lawrence and Douglas County residents.

But perhaps more importantly, SouthPoint presents the ideal opportunity to create an attractively-designed, graciously-landscaped southern “gateway” to the City of Lawrence at the

doorstep of the new K-10 expansion. The proposed shopping center generally complies with the long-term vision set forth in Horizon 2020, and enumerated in the Land Development Code, yet improves upon that vision, and brings it in-line with the significant opportunity that exists to grow Lawrence's retail market.

### **PLANNING COMMISSION REPORT**

Upon receipt of staff's Planning Commission Report on August 18, 2015 (the "Staff Report"), the Applicant was pleased that staff recommended approval of all three (3) applications. In addition to staff's findings regarding the potential "positive effect on the City's pull factor and tax revenue" (Item No. 1-1), the Applicant generally agrees with the conclusions of the Staff Report. This memorandum is intended to highlight, and in some instances clarify, a few of the facts and findings contained therein.

#### **A. The Current Zoning (RS10) is Inappropriate for the Subject Property and was Merely Intended to Serve as a "Holding Zone"**

As noted in the Staff Report, the existing residential zoning designation is a remnant of a past practice to apply low-density residential zoning *automatically* upon annexation. *See e.g.* Staff Report, at Item No. 2B-9 ("In 1979, as properties were annexed into the City Limits, the RS-1 district was commonly used as a holding zone.").

Thus, a residential zoning designation was never intended to be the permanent zoning for the site, nor is it the most effective use of this highway-interchange location or a desirable spot to place single-family homes.

In fact, Horizon 2020 already prescribes a very high intensity use for the site (auto-related commercial). The question is not *if* the site should be rezoned, but which of the two options before you (auto-related commercial or regional commercial) is the more appropriate alternative.

#### **B. The Requested Comprehensive Plan Amendment Represents a Lateral Move to a Similar-in-intensity, But More Appropriate and Desirable Alternative for the Southern "Gateway" to the City**

As set forth at Item 1-2 of the Staff Report, the Applicant is requesting that Horizon 2020 be amended to change the future land use designation from Auto-Related Commercial to Regional Commercial. These uses are essentially equivalent in terms of intensity and are subject to many of the same provisions under Horizon 2020. There is one major difference, however, in that auto-related commercial centers are not particularly attractive, and typically comprise small service buildings and large car lots and truck plazas. This stands in contrast to the attractively-designed and graciously-landscaped southern "gateway" that SouthPoint offers.

As the Staff Report explains:

SouthPoint will “provide a more substantial buffer for the Wakarusa River riparian areas,” and “[t]he public stands to gain . . . through preservation of a linear connection of the riparian lands leading into the Baker Wetlands.” *See* Staff Report, at Item No. 2B-1, -12.

In addition to the economic, aesthetic and environmentally-conscious factors that make SouthPoint a preferable alternative to an auto-related commercial center, the City has experienced significant redevelopment of auto-related commercial uses in recent years. Dealerships such as Briggs Subaru, Lawrence Kia, Jack Ellena Honda, Crown Toyota and Dale Willey Automotive have all invested significant additional capital toward enhancing and/or expanding their current locations. The result of this redevelopment is a limited demand for auto-related uses at the corner of SLT and US 59.

The Lawrence *retail* market, by contrast, is primed to see significant growth in the next few years through appropriate development, such as extending the South Iowa Regional Commercial Center to its logical southern terminus at SouthPoint. A commercial zoning designation *not* restricted to auto-related uses is the much more appropriate and desirable alternative.

### **C. SouthPoint Embraces the Significant Opportunity that Exists to Grow Lawrence’s Retail Market**

According to a recent study by Caplan & Associates, SouthPoint is the ideal location for a retail development based on a variety of factors. With the addition of national retailers who do not yet serve Douglas County shoppers and its prime location adjacent to Lawrence’s largest commercial district, SouthPoint is projected to increase City sales and property tax revenues by a combined \$1.5 million annually. *See SouthPoint Retail Market Study*, prepared by Richard Caplan & Associates, at 12 (Aug. 14, 2015) (attached to Staff Report as exhibit to Item No. 1). The development will also create expanded shopping opportunities and nearly 500 new jobs for Lawrence and Douglas County residents. *Id.*

**SouthPoint is Designed to Attract New-to-Market Tenants.** The Applicant has assembled a mix of tenants that will allow the shopping center to thrive in Lawrence’s retail market. As noted in the Caplan Study referenced above, Douglas County currently has a pull factor of 0.91, meaning the County “leaks” \$0.09 of every dollar to be spent elsewhere. Lawrence similarly ranks 17<sup>th</sup> out of the State’s 25 first-class cities. “Altogether, this leakage offers an opportunity for retail growth, especially among those sectors where the sales leakage is greatest.” *Id.* at 6.

Eight of the eleven major retail categories designated by NAICS are planned to be located at SouthPoint, including two of the poorest performing sectors in terms of pull factor:

NAICS CATEGORY	DOUGLAS COUNTY RETAIL PULL FACTOR	SOUTHPOINT TENANT
442 Furniture and Home Furnishings Stores	0.59	HomeGoods (Marshall's)
448 Clothing and Clothing Accessories Stores	0.62	DSW or Off Broadway Shoes

As framed by Caplan & Associates, this results in a “significant opportunity to increase Lawrence’s retail sales.” *Id.* at 11. SouthPoint seeks to take advantage of that opportunity by adding 237,000 square feet of retail space, an amount easily consumed by the market based on Lawrence’s demonstrated ability to absorb new commercial space.

**The SouthPoint Project will be Absorbed at the City’s Historic Absorption Rate.** According to the Caplan study, “the City has absorbed an average of 265,070 square feet since 2006.” *Id.* at 16. Lawrence has an approved unbuilt inventory of approximately 1,184,968 square feet, which increases to 1,431,968 square feet upon the inclusion of SouthPoint. But even in an unlikely scenario where “*all* of these projects are completed and phased into the local market by 2020 . . . this will result in adding an average increase of [only] 238,661 square feet per year,” an amount less than that averaged since 2006. *Id.*

Upon occupancy of SouthPoint, the city wide vacancy rate is, therefore, projected to drop from 7.2% to approximately 6.7%. These projections are actually quite conservative, however, in that they assume *all* approved unbuilt inventory will be completed and phased into the market by 2020. But as discussed in greater detail below, several of these undeveloped concepts are either unlikely to be completed in the near future, or involve commercial-retail categories that will not compete with any of the expected tenants at SouthPoint.

**D. Unlike Various Entitled, but Undeveloped Commercial Areas in the City, SouthPoint is Ready to Break Ground in 2016 and Provide Lawrence Residents with New-to-Market, National Tenants Shortly Thereafter**

Staff states that the “[p]roposal could impact the timing of development for other entitled, but entirely or partially undeveloped, commercial areas . . . thereby potentially under serving these areas of the community.” *Id.* at 2. It is important to clarify, however, that several of the development examples for this assertion are either unlikely to be completed in the near future, or involve commercial-retail categories that will not compete with any of SouthPoint’s tenants.

Menards is in the building materials and supplies category, for example, which “is not in competition with any of the expected tenants at SouthPoint.” *Id.* at 16.

The Mercato development, on the other hand, appears to need additional rooftops in the vicinity before retailers are willing to locate there. After attempting for several years to obtain tenants and move the project forward, the Commission has no evidence that Mercato will experience meaningful progress in the near future. There has been no public announcement of

tenants, nor have any development plans been submitted to the City. SouthPoint, by contrast, has tenants ready to go if it receives approval of the requested plan amendment and rezoning, and the Applicant plans to break ground in the Spring of 2016. These tenants recognize the significant opportunity that exists to grow Lawrence's retail market by being strategically positioned in a modern retail development at the southern entrance to the City.

**E. SouthPoint Meets or Exceeds Each of the Requisite Factors Set Forth in the Land Development Code and Identified Under Kansas Case Law**

Finally, from a purely legal and land use perspective, SouthPoint meets and/or exceeds each of the factors required to be considered under Section 20-1303(g) of the Land Development Code; the same factors identified by the Supreme Court of Kansas in *Golden v. Overland Park* as the quintessential items to be considered in making any rezoning determination.

SouthPoint is consistent with the character of the neighborhood and complements the zoning and uses of nearby properties. The current zoning is not at all conducive to maximizing the value of this uniquely-situated property, evidenced by the fact that the property, as zoned, has remained vacant and underutilized for more than thirty-five (35) years. The *rezoning* will, therefore, provide a benefit, rather than a detriment, to nearby properties, whereas denial of the application will harm the public by depriving Lawrence and Douglas County residents of the numerous benefits discussed in this memorandum. Finally, staff recommended approval of all three (3) applications upon finding, among other things, that "Horizon 2020 lists several key strategies that are applicable to the proposed development and support the proposed request." See Staff Report, at Item No. 2B-3.

**CONCLUSION**

SouthPoint will provide a number of benefits, including an attractive southern "gateway" to the City, increased sales and property tax revenues, expanded shopping opportunities and new jobs for Lawrence and Douglas County residents. It will facilitate completion of the much-needed public improvements that are currently underway, and the scope of the requested amendments meet and/or exceed the quintessential zoning factors established in *Golden v. Overland Park* and in the City's Land Development Code.

SouthPoint represents a lateral move to a land use that is similar-in-intensity, but much preferable to that currently contemplated by Horizon 2020. The development will have a positive impact on the retail market, and help to alleviate the leakage of retail sales currently experienced in Lawrence as well as in Douglas County.

August 21, 2015  
Page 6

For the foregoing reasons and others, we respectfully request that you recommend approval of all three (3) applications, as did staff.<sup>1</sup> We look forward to discussing the project further at the August 24, 2015 Planning Commission meeting.

Sincerely,



Dan Watkins

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<sup>1</sup> For the exact wording of staff's recommendations with respect to all three (3) applications discussed in this memorandum, please refer to **Exhibit A** attached hereto.

## **EXHIBIT A**

### **STAFF RECOMMENDATIONS**

#### **ITEM NO. 1:**

#### **COMPREHENSIVE PLAN AMENDMENT TO HORIZON 2020 CHAPTER 6, CHAPTER 14, AND TO THE REVISED SOUTHERN DEVELOPMENT PLAN (JSC)**

*“Staff recommends forwarding a recommendation of **approval** of this comprehensive plan amendment to Horizon 2020, to the Lawrence City Commission and the Douglas County Board of Commissioners to amend Chapter 6, and the Revised Southern Development Plan to expand the South Iowa Regional Commercial center to incorporate the proposed development.”*

#### **ITEM NO. 2A:**

#### **RS10 TO CR; 59.80 ACRES; SOUTHEAST CORNER SLT & US-59 HIGHWAY (JSC)**

*“Staff recommends **approval** of rezoning 59.80 acres from RS10 (Single-Dwelling Residential) District to CR (Regional Commercial) District, and forward it to the City Commission with a recommendation for approval based on the findings of fact found in this staff report.”*

#### **ITEM NO. 2B:**

#### **RS10 TO OS; 6.07 ACRES; SE CORNER SLT & US-59 HWY (JSC)**

*“Staff recommends **approval** of the request to rezone 6.07 acres from RS10 (Single-Dwelling Residential) District to OS (Open Space) District, located at the southeast corner of the South Lawrence Trafficway and US-59 Highway based on the findings presented in this staff report, and forwarding it to the City Commission with a recommendation for approval, subject to the following condition:*

1. *The following uses shall be prohibited:*
  - a. *Public and Civic Use Groups:*
    - i. *Community Facilities; Cemetery, Cultural Center/Library and Funeral and Interment, Utility Minor, and Utility Major*
    - ii. *Recreation Facilities; Active Recreation and Entertainment & Spectator Sports, Limited*
  - b. *Commercial Use Groups:*
    - i. *Transient Accommodation; Campground*
    - ii. *Parking; Accessory Parking*
  - c. *Other Use Groups:*
    - i. *Communication Facilities; Amateur & Receive-Only Antennas, Telecommunications Antenna, Telecommunications Tower and Satellite Dish*
    - ii. *Recycling Facilities; Small Collection Recycling Facilities”*



August 21, 2015

Lawrence –Douglas County Planning Commission  
C/o City Hall  
6 E. 6<sup>th</sup> St.  
Lawrence, KS 66044

RE: Proposed Retail Development at SLT and South Iowa

Dear Commission members:

I understand that the Lawrence-Douglas County Planning Commission will hear arguments for and against the proposed project for a new shopping center at the southeast corner of the SLT and Iowa Street interchange at its evening meeting on Monday, August 24<sup>th</sup> at City Hall. The Downtown Lawrence, Inc. board of directors has asked me to share their thoughts with the Planning Commission on this proposal.

In the past both the City Commission and the Planning Commission have been vigilant in maintaining Downtown Lawrence as the heart of the City. As far as this proposed project is concerned, we would ask the Planning Commission and the City Commission to continue this tradition of supporting locally owned, small and specialty businesses. Maintaining our retail mix and keeping Downtown vibrant and healthy are important not only to DLI but to our community as a whole. In the past year Downtown Lawrence has been named the number one tourist destination in the state by Trip Advisor and *Parade Magazine*, and the number two city for finding great local gifts by Yelp!. This is due in large part to the hard work of our local business owners and the excellent products and services that they offer.

Doubtless there are some advantages to welcoming new retail offerings to the community. As the discussion of it proceeds we would hope that the Planning Commission and the City Commission would be aware of the plans to include smaller, specialty businesses in the development and what effect that might have on downtown. Our goal and mission is to promote, preserve, and enhance this historic business district and to continue to engage the community and provide a place for locals and visitors alike to gather and enjoy our special brand of hospitality and tradition of unparalleled customer service.

Downtown Lawrence, Inc. would like to see the Planning Commission and City staff further explore this project including the various types of proposed retail businesses that might be included in it before any official recommendation or approval is determined. DLI wants to be an involved and active participant in the conversation as the conversation on this project proceeds.

Sincerely,

Sally Zogry  
Executive Director





August 12, 2015

Dear Commissioner Britton and members of the Lawrence Douglas County Planning Commission, Mayor Farmer and members of the Lawrence City Commission  
c/o Director of Planning Scott McCullough:

Some friends and I were sitting around talking the other afternoon after one of our get-togethers and the subject of the retail project that had been proposed for K-10 and South Iowa last summer came up in discussion. We were all fairly baffled as to why the project had not proceeded, and did a little research as to some of the issues surrounding this application. The result of our education was disappointment in the resistance we learned was directed toward the earlier project, and we wanted to share some thoughts with you to encourage you to approve the revised application.

The members of our group are between the ages of 55 – 75. Most of us are retired from professional careers. We continue to be involved in the community and support a variety of local social service and arts organizations through our contributions and service on boards. Those include organizations such as the Lawrence Art Center, the Lawrence Schools Foundation, Cottonwood, Bert Nash, the Boys and Girls Club, Rotary and many others. We love going to movies at Liberty Hall, eating at downtown restaurants, and frequenting our delightful mix of local retailers.

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Lawrence has struggled over the years to combat a reputation of being a hard place to do business. We see nothing but positives with this project and hope the developer gets a warmer welcome this time than was offered last summer. They seem to be professional and experienced and are requesting the opportunity to make a multi-million dollar investment in our community. They have commitments from numerous desirable retailers who want to be part of this project in this location. The project already received a positive recommendation from our professional planning staff last summer. This is being offered to us at a time when the state continues to cut funding for our schools and social services, and we are being asked to pick up those costs locally. We have among us retired teachers and are all strong supporters of public education. We support the city's plan to hire new police officers, build bike trails, and we support the homeless shelter and other not for profit organizations and agencies the city funds. Those are all desirable goals for our community that we should be able to afford without taxing ourselves out of our homes and businesses. This project would generate significant sales and property tax that could pay for many of the items on our community wish list. It is also our understanding that the developer is asking for an opportunity to make this multi-million dollar investment in our community without a request for any incentives.

We believe there are more than satisfactory answers to any and all of the objections and comments made against the project last year. These are as follows:

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City will benefit downtown, and that downtown merchants will capture an additional share of the dollars we currently lose to other communities. Additionally, having multiple sites and opportunities for retailers to locate will keep retail rents at competitive market rates, which will in turn allow our wonderful eclectic mix of locally owned “mom and pop” downtown businesses able to continue to operate successfully.

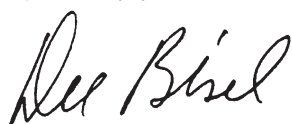
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You may have received this same letter from other members of our group, it was a collaborative effort based on our joint discussions. Thank you again for consideration of our thoughts.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "Dee Briel". The signature is written in black ink on a white background.

**From:** "Doug Brown" <[dougbrown@askmcgrew.com](mailto:dougbrown@askmcgrew.com)>

**Date:** August 4, 2015 at 2:48:13 PM CDT

**To:** <[clay.britton@yahoo.com](mailto:clay.britton@yahoo.com)>

**Subject:** SEC K-10 and Iowa Street

Hi Clay

I wanted to reach out to you and see if you had any concerns or comments on the captioned property slated for discussion at the August 24<sup>th</sup> Planning Commission meeting. I am part of the applicant group and we would very much appreciate your support. As you are no doubt aware, we did not receive a positive vote the last time we made application back in July of 2014. We listened to all comments and I believe we've made adjustments that will please the commission.

The main argument we heard at the last meeting in July of 2014 was that the project was too big. We have reduced the size of the project by around 60%. We still have commitments from our major tenants, so sales tax revenue, jobs and property tax should still be of strong benefit, not to mention construction jobs. But the size of the overall center is significantly smaller.

We are still not asking for any assistance from the city or county in the way of TIF, CID, TDD, etc. Other proposed developments cannot claim that.

The other main argument for not approving last year was "it is in the wrong place." We assumed from those comments that officials wanted to give the Mercato development a chance to find and bring new tenants to their project. We respectfully submit that The Mercato has now had 8 years to sign tenants to their project and as of the writing of this email, I am not aware of one tenant willing to locate in that project. We cannot tell retailers where to locate their stores. They tell us. And they are telling us they want to be at Southpoint, not Mercato. Mercato will no doubt be developed with the success of Rock Chalk Park in mind. But it will not attract these types of retailers, at least not for awhile. I'm guessing Mercato will attract motels, restaurants and smaller retailers who will cater to the weekend attendees at Rock Chalk. If Academy Sports, Marshalls Home Goods, Old Navy, Designer Shoe Warehouse and others were attracted to Mercato, they would be building there now. The site is approved and has been for years. These retailers are waiting for our development to be approved. And with your vote we can welcome them to Lawrence.

There was an argument made that this project should not be approved because it would require an amendment to Horizon 2020. Respectfully, Mercato also required an amendment to be approved and just recently required another amendment to be increased in size. Horizon 2020 has been amended over 40 times including the amendments for Mercato. And frankly, the amendment for this project is far less reaching than the ones for Mercato. This ground is already approved for commercial activity, we just want to broaden the use groups.

Someone said they thought this project would "kill downtown Lawrence." I heard the same argument when I brought Target to Lawrence in the '90s, as well as when we brought Kohl's, Home Depot, etc. These stores help Lawrence keep shoppers here, which benefits downtown. Also, Downtown Lawrence is healthier than it's ever been with more living units coming and more businesses eyeing it for development. I've lived here all my life and have been in the commercial real estate business for 28 years and I've never seen our downtown stronger.

Finally, as was discussed last year, this will become a "gateway" entrance to Lawrence. The zoning is already in place to allow car dealerships, car repair shops, convenience stores, truck stops, etc. I think we could all agree that a high end shopping area with beautiful amenities such as the ones we propose would be nicer at the entrance to South Lawrence than these already approved "vehicle related" uses. This will also be a nice amenity for commuters to Topeka and Kansas City traveling on the bypass.

Please let us know if you will not be able to attend this meeting. Last year we were very surprised that three commissioners were absent for our presentation and one had to abstain. Therefore, we only had six commissioners available to hear our comments. We'd very much like to be heard by all of you.

Thanks for your time on this. We appreciate all you do for our community by serving on this board. Please don't hesitate to contact me with comments or questions regarding this development.

Highest Regards,

Doug Brown  
Senior Commercial Partner  
McGrew Commercial  
1501 Kasold Drive  
Lawrence, Kansas 66047  
785-838-8244 D  
785-766-9355 C  
785-843-2466 F  
[dougbrown@askmcgrew.com](mailto:dougbrown@askmcgrew.com)

*"Principles mean more than any money or success"*

**McGrew**  

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**COMMERCIAL**

**From:** Karen Cochran [<mailto:kccochran321@gmail.com>]  
**Sent:** Tuesday, August 11, 2015 2:06 PM  
**To:** Scott McCullough; [clay.britton@yahoo.com](mailto:clay.britton@yahoo.com); Jeremy Farmer  
**Subject:** RE: South Iowa retail

August 2015

Dear Commissioner Britton and members of the Lawrence Douglas County Planning Commission, and Mayor Farmer and members of the Lawrence City Commission

c/o Director of Planning Scott McCullough:

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You may receive this same letter from other members of our group, so I want to let you know that it is the result of a collaborative effort based on our joint discussions.

Respectfully yours,

Karen Cochran

--

**Karen Cochran**  
321 Woodlawn Drive  
Lawrence, KS 66049  
785-550-5052  
[kccochran321@gmail.com](mailto:kccochran321@gmail.com)

**From:** Connie Friesen [<mailto:confriesen@aol.com>]  
**Sent:** Tuesday, August 11, 2015 12:36 PM  
**To:** Scott McCullough; Clay Britton; Jeremy Farmer  
**Subject:** South Iowa project support request letter

August 11, 2015

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c/o Director of Planning Scott McCullough:

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Respectfully yours,

Connie Friesen  
3604 Quail Creek Court  
Lawrence, KS 66047-2133

**From:** joanwebgolden [<mailto:joanwebgolden@sunflower.com>]

**Sent:** Thursday, August 13, 2015 6:53 PM

**To:** Scott McCullough; Clay Britton; Leslie Soden

**Cc:** [marilyn.bittenbender@colliers.com](mailto:marilyn.bittenbender@colliers.com)

**Subject:** South Iowa Project

Scott, Clay and Leslie:

I wanted to add my vote of support to the South Iowa Project.

I know you are getting letters from other ladies, voicing their support, so am not going to duplicate that message.

However, I believe that there is synergy from development and the re-sized development proposal will be a good draw to increase our retail sales tax base; and it will not take away from our vibrant downtown.

I understand this proposal will come before the Planning Commission on August 24, and then before the City Commission.

I appreciate your consideration and support of this project.

Joan Golden  
1132 West Hills Pky  
Lawrence, KS 66044  
785-842-7544

**Sheryl K Jacobs  
1524 Fountain Drive  
Lawrence, KS 66047**

August 12, 2015

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c/o Director of Planning Scott McCullough:

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4. Size. We understand one of the biggest concerns was the size of the project. We have learned that it has been reduced by more than 50%, which should address any concerns regarding size.
5. Planning. Our research indicates the area plan already shows this site as being appropriate for retail; and the only thing the developer is asking is for a change to traditional retail rather than auto related retail. We have no shortage of gas stations or fast food restaurants in town, and don’t ever leave Lawrence to buy gas or get fast food. We do however leave Lawrence to shop at the stores on the developer’s list. Traditional retail makes much more sense at this location; it is more aesthetically pleasing, it captures more of our leaking sales tax dollars, and it will attract new visitors and shoppers to our community. We believe it is a completely appropriate land use for this site.

Our group gets together in various ways several times a month. We try to stay current with local events and activities, but we very rarely make any comment or speak up on issues. This discussion about this project, and our continued curiosity about its status evolved to the point we became interested enough to write to you with our thoughts. We believe we are like most Lawrence residents in this regard; we are always interested but not often actively engaged, and trust you as our elected and appointed officials to make decisions that represent our interests. This time we felt it important to let you know what those interests are.

Our interests are encouraging you to roll out the red carpet for this project and say “thank you” to this developer and to these retailers. We would commit to patronizing their stores and shift a great deal of our Kansas City shopping to their cash registers. We also believe that our dozen or so members are highly representative of hundreds (and even thousands) of people in our community who share our opinion about this, and we encourage you to approve this project.

You may have received this same letter from other members of our group, it was a collaborative effort based on our joint discussions. Thank you again for consideration of our thoughts.

Respectfully yours,

Sheryl Jacobs

**From:** Marcia O [<mailto:mho3413@earthlink.net>]  
**Sent:** Wednesday, August 12, 2015 7:38 PM  
**To:** Scott McCullough  
**Subject:** South lawrence shopping center

I am very much in favor of the South Lawrence shopping center. Among many other things, I think it would keep many people from doing their shopping in KC. Lawrence could use and would support more good shopping.  
Marcia Oelschlager