

## LAND USE GLOSSARY

**Planning.** The process of identifying problems, determining alternative solutions, and deciding on courses of action to provide for anticipated needs within the context of agreed upon goals.

**Comprehensive plan.** An official public document adopted by a local government as a policy guide to decisions about the physical development of the community. Currently, state law gives the planning commission alone the power to adopt a comprehensive plan but on Jan 1, '92, the governing body will also have that power.

**Zoning.** The division of the city into districts and the establishment of regulations concerning the use of land in each district. These regulations are intended to promote stability, to uphold property values and to provide predictability. They also are intended to provide light, air, privacy, and freedom from noise and other irritants, and the ability to go about one's business without undue impediment. They include provisions for each district regarding the height and bulk of buildings, the area of the lot and the size of required open spaces between buildings (or yards), the density of the population, and the use of buildings and land for commerce, industry, residence or other purposes.

**Spot Zoning.** A zoning district given to an isolated parcel of land which is incompatible with the uses of the surrounding area, particularly when such an act favors a particular owner. Such zoning has been held to be illegal by the courts on the grounds that it is unreasonable and capricious. A general plan or special circumstance such as historical value, environmental importance, or scenic value could justify special zoning for a small area.

**Subdivision.** The division of a lot, tract, or parcel of land into two or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of sale or building development.

**Metes and Bounds.** A system of describing and identifying land by measures (metes) and direction (bounds) from an identifiable point of reference such as a marker, corner of intersecting streets or in times past even a tree or rock. Unplatted property is described by metes and bounds. When a verbal description of property is needed a metes and bounds description may be used. Regardless of whether a metes and bounds description of property has been legally recorded as in a deed, a plat of subdivided property is required by the city before a building permit will be issued under most circumstances.

**Easement.** The right to use property owned by another for specific purposes; also the tract of land covered by such authorization of right or privilege. Utility and drainage easements are common and are usually obtained without public cost during the process of platting and site planning. Access to landlocked properties through another's property in rural areas is commonly protected by an easement. In cities, access easements are rarely acceptable, and are normally prohibited by subdivision regulations when used as a substitute for direct access to a street. Each lot is required to be adjacent to a dedicated street.

**Conservation easements** may be used by public agencies to protect wildlife areas, riparian woodlands, streams, floodplains etc. by limiting uses to which the owner may put the land, or may be used to permit hunting, fishing, hiking etc. by the public on private land. Conservation easements are purchased (or voluntarily dedicated.)<sup>1</sup>

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<sup>1</sup>After the Glossary by Nancy Shontz was written, the Kansas Land Trust and Kansas enabling legislation allowing conservation easements was established. This gives legal standing to voluntary dedication of easements for preservation and conservation allowing stewardship and oversight by a third party--the Land Trust.

**Plat.** A plat is a map of the subdivision of land into lots and/or blocks that accurately describes their boundaries and dimensions and location of the area. A plat is required for any subdivision of land. All the contiguous land under one ownership must be included in that plat whether all of it is to be developed shortly or not. Agricultural land not intended for sale or development need not be shown in the plat. Plats must be reviewed by the planning and public works staff, and approved by the planning commission indicating that all of the regulations concerning plats have been followed. The governing body then determines whether it shall accept the easements and rights of way and the obligations that accompany such easements and rights of way. In order to make the lots marketable and developable, the approved plat must be recorded by the register of deeds.

**Preliminary Plat.** A map of proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate its suitability for the proposed subdivision. Among other things, a preliminary plat shows the elevation of the land by contour mapping, shows the dimensions and locations of streets serving the lots, locations and sizing of existing and proposed water and sewer facilities, locations of any unusual topographical features and the location of any area within the floodplain overlay district.

**Final Plat.** A map of a land subdivision prepared in a form suitable for recording by the register of deeds, and including necessary affidavits, dedications, restrictions, and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets, alleys, public areas and other dimension of land. Areas in the floodplain overlay district must be referenced on the plat.

**Site Plan.** A drawing based on an approved plat of the property which shows the design details of the proposed project. Location, size, type of access, utilities, drainage facilities, landscaping, location and outside dimensions (but not the architecture) of buildings, etc. are included. Site planning permits the city to coordinate infrastructure and access on the site with the larger systems so that city services can be delivered economically and the neighboring properties' ability to receive these services efficiently and economically will not be reduced. Site plans are required for most proposed projects, low density residential being an exception. Site plans are frequently presented to the city commission (the planning commission does not review site plans in Lawrence) before the plat has been approved by the planning commission and the rights of way or easements accepted by the city commission. If the city approves a site plan out of order, i.e., before platting, it may unknowingly be granting a variance or creating a conflict with future platting of the property, or both. An example was the case of the Bluffs at 6<sup>th</sup> and Iowa in the early '80s.<sup>2</sup>

**Street.** The dedicated right of way or easement, whether public or private. Streets are designed according to a specific function, but are also designated to serve certain functions whether designed for them or not. A local street, for instance, may have been designed to serve small numbers of vehicles traveling at low rates of speeds, yet be designated later as a collector street because of unexpectedly high traffic volume. In such cases, typically, parking is restricted in order to make up for the lack of street width.

**Street, Local.** A public right of way that provides access to abutting residential property and permits low speed circulation within a neighborhood.

**Street, Collector.** A public right of way that traverses a neighborhood, gathering up local traffic and carrying it at low speeds to arterials.

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<sup>2</sup>The lot size shown on the site plan of The Bluffs was larger than the actual lot measurements, which, by being approved before the plat was recorded, allowed approval of a multiple family district more dense than the actual lot size should have permitted; but because the site plan was approved first, the proposed development received a variance. This type of problem has been corrected in the new Lawrence Land Development Code (LDC) adopted in 2006. The new LDC gives the Planning Director authority to approve most site plans.

**Street, Arterial.** A public right of way that carries through traffic between areas and across the city to connect with the major arterial system and to provide for the distribution of traffic to and from the collector streets.

**Street, Major Arterial.** Such public rights of way are the major traffic carriers in urban areas.

**Thoroughfare; Minor, collector, Secondary and Major** are terms roughly equivalent to Local, Collector and Arterial and Major Arterial.

**Neighborhoods, Neighborhood Associations and Neighborhood Planning areas.**

A neighborhood planning area is an area generally about a mile square bounded by barriers such as major arterials or natural barriers such as river, etc. Besides its principal use such as residences, it contains public facilities such as schools, parks, churches and shopping for everyday needs, all within walking distance, with such uses generally located at the outer edges. Neighborhood Associations define their neighborhoods according to their members' perceptions of what constitutes an area within which there is some social and cultural cohesiveness (even when that perception is one of diversity!), their recognition of problems and needs of the area, and the presence of recognized boundaries. Associations sometimes do not extend to an entire neighborhood planning area believing that such an area would be impractically large, or that the area does not have a residential character. City planners have divided portions of the city into these large **planning areas** generally using arterials as boundaries. Although they frequently carry the name of an established association, they may include a much larger area.

**Planned Unit Development (PUD).** A self-contained development, often with a mixture of housing types and densities, in which the subdivision and zoning controls are applied to the project as a whole rather than to individual lots, as in most subdivisions. Densities are calculated for the entire development, usually permitting a trade-off between clustering of dwellings and provision of common open space. PUDs are an alternative to conventional zoning and have their own regulations and standards. Our local PUD ordinance incorporates some of the provisions in the state statute by reference. Since the statute will no longer exist on Jan. 1, 1992, the city will have to either rewrite the PUD ordinance or develop a new ordinance by another name.<sup>3</sup>

**State enabling legislation.** Laws enacted by the legislature that give local governments the right to adopt local ordinances or resolutions on subjects stated in the legislation. Frequently, enabling legislation not only lists the subject, but lays out the types of provisions such local enactments may or may not contain. The state's new recodification of its planning laws spells out for the first time the right for local governments to adopt zoning regulations on planned unit developments, preserve properties on the various historic registers, control the aesthetics of development and several zoning features. No requirements or restrictions accompany those particular enabling provisions.

**Planning commission.** A body of 10 people, half appointed by the county commission and half by the city commission, which is responsible for the comprehensive planning documents of the city and the county, for advising the governing bodies on proposed land uses, land use laws and regulations, capital improvements, and for approving preliminary plats.

**Board of Zoning Appeals.** A seven member body which hears appeals from the provisions of the zoning

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<sup>3</sup>The new Land Development Code (LDC) does not allow new PUD zones as such, but now provides a new Planned Development (PD) Overlay District. This district has similar flexibility to that of PUDs, but utilizes the underlying Base District to determine its basic density, housing types, and other characteristics of the underlying Base District.

ordinance and interprets regulations brought to it by an administrative officer of the city. Most commonly, BZA deals with requests to reduce yard dimensions beyond minimum size to accommodate a garage or an addition to a house. State law provides 5 conditions all of which must be met before a variance can be granted. No variance may be granted permitting property to be used for a purpose prohibited by the ordinance. For instance, a request to construct a crafts manufacturing shop on property zoned single family could not be honored by the BZA.

**Variance.** A lessening of a standard or requirement in the provisions of the zoning ordinance granted by the Board of Zoning Appeals or in the provisions of the subdivision regulations by the planning commission in the process of platting. Neither the governing body nor the city staff may permit a lessening of a standard or requirement below the minimum unless the regulations expressly grant such permission. Most common requests for variances are for a reduction in yard sizes. Recently, BZA heard an appeal by a neighbor who asserted that a triplex use in a house in a single family district had been abandoned and the building should not have been allowed to be renovated into a triplex again. The case has been heard twice by BZA and is now in the court system.

**Use Permitted Upon Review.**<sup>4</sup> A permit for particular uses in some zoning districts with conditions to make the uses compatible with their neighbors. An electrical substation in a residential district is an example. The governing body may attach whatever conditions it deems to be advisable to the permit. A protest petition may be filed by the neighbors.

**Federal Insurance Administration (FIA), or National Flood Insurance Program (NFIP).**

Governmental agency that administers the flood insurance program, promulgates rules and regulations concerning development (in the broad sense) of floodplains in the NFIP system and enforces these regulations. Local governments wishing to enter the program must adopt local regulations consistent with those of the national program. The Federal Emergency Management Agency in Kansas City has been delegated the responsibility of administering the program for our region. Because Lawrence is a member of the program, the citizens of the entire city are eligible to purchase flood insurance.

**100 year Flood.** An inundation of a watercourse having a chance occurrence in any one year of one percent. The 100 year flood is the standard for flood insurance program. The 1951 flood was thought to have been a 500 year flood.

**Floodplain Overlay Districts, Regulatory.** Those areas consisting of a stream channel and adjacent land subject to inundation from a flood having a chance occurrence in any one year of one percent (100 year flood) that are designated as such. It is important to know that not all tributaries to our major streams have been designated as a floodplain overlay district, even though they are known to flood, and so are not subject to the floodplain overlay district regulations. In addition, our older floodplain zoning district regulations (authorized by the State of Kansas) have been deleted so that they are not available to protect some of these non-overlay district floodplains. However, there is a provision in our flood insurance regulations permitting the governing body to bring these streams under the regulations if it so chooses.

**Floodway, Regulatory.** The channel of a watercourse plus whatever adjacent land is necessary to reserve in order to carry the volume of water in a 100 yr. Flood without raising the height of the floodwaters more than one foot. It is important to note that a floodway is an imaginary (theoretical) dimension. When a floodway fringe is gradually or intermittently filled, flood waters will naturally follow the paths of least resistance, regardless of the “location” of the officially designated “floodway.”

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<sup>4</sup>The Use Permitted Upon Review has now been renamed Special Use Permit (SUP) as it applies in the City of Lawrence and Conditional Use Permit (CUP) in Douglas County. The basic provisions have not been substantially changed.

**Floodway Fringe, Regulatory.** The portion of the regulatory floodplain beyond the limits of the regulatory floodway. Because these floodplain terms are concepts used in mapping, they are seldom found in natural settings. Even after development takes place, the limits of the floodway and fringe are often not visible.

[N.B. These definitions, explanations, examples come out of several text books, old notes and mental ruminations. They are for your general understanding of land use as it is practiced in Lawrence and do not necessarily constitute a legal lexicon.]

Nancy Shontz, October, 1991