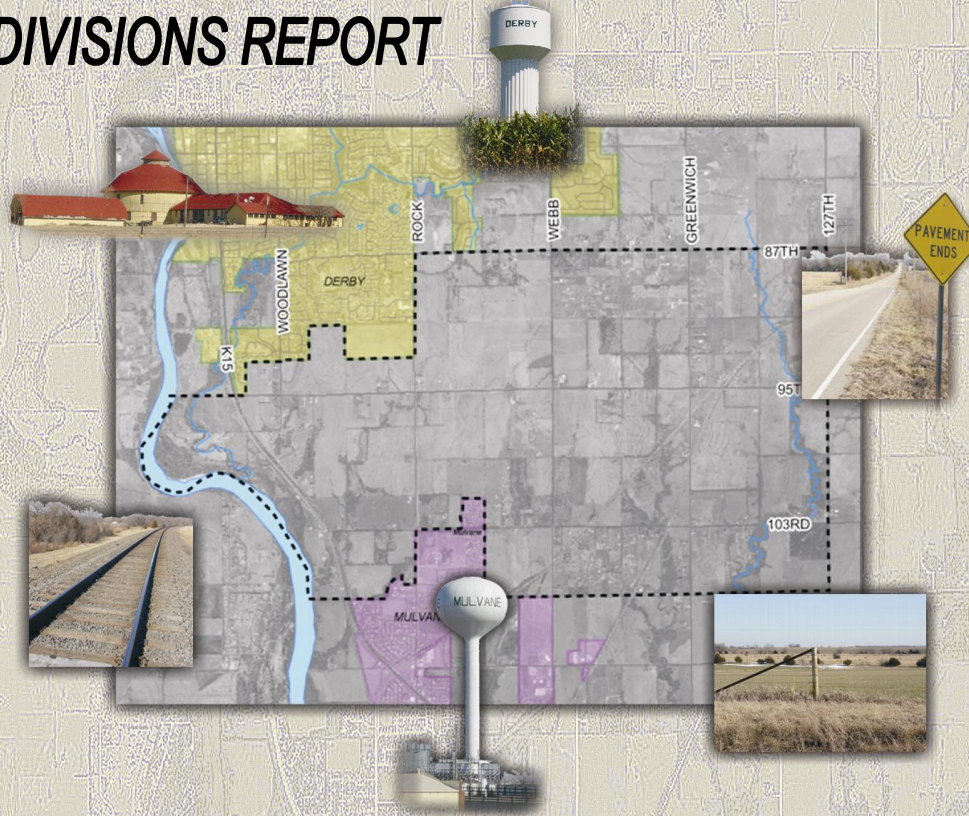


# DERBY-MULVANE JOINT AREA PLAN

## APPENDIX C: LARGE LOT RESIDENTIAL SUBDIVISIONS REPORT

2010-2030



June 2010



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## Introduction

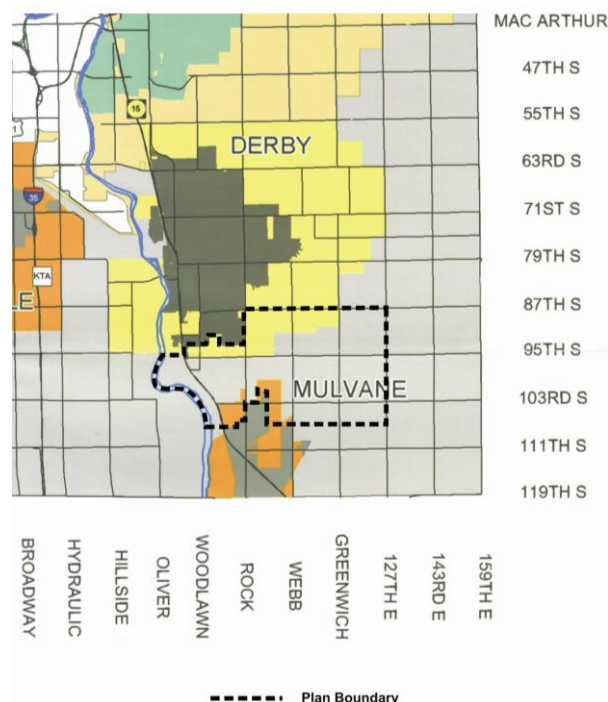
The creation of large lot residential subdivisions outside the city limits but within the urban growth area can impede the ability of Derby and Mulvane to provide efficient and effective services within their respective long-term urban growth areas. This report provides a brief overview of the current regulatory environment that influences the development of large lot residential subdivisions in the Derby-Mulvane Joint Area Plan (Derby-Mulvane Plan) area, problems that can result, and potential regulatory changes to help prevent them.

## Regulatory Authority

Land use and parcel size within the Derby-Mulvane Plan area are primarily regulated through the use of zoning and subdivision controls. Zoning regulates the land use and lot size, while the subdivision regulations govern the lot size and layout of the properties. The cities of Derby and Mulvane regulate the subdivision activities within the plan area, and Sedgwick County regulates the zoning activities. The ability to influence the development within the plan area is important for Derby and Mulvane, since much of the plan area is identified within their urban growth areas.

## Municipal Growth Areas

The City of Derby and the City of Mulvane urban growth areas, identified both in the Wichita-Sedgwick County Comprehensive Plan and each community's comprehensive plan, extend into the Derby-Mulvane Joint Area Plan boundaries. The Wichita-Sedgwick County Comprehensive Plan identifies the City of Derby's urban growth area generally includes the northeast portions of the plan area, while the City of Mulvane's urban growth area generally includes the south central portions of the plan area. The two growth areas do not overlap and have a separation of approximately a half mile at the narrowest point (see the map of growth areas below).



In addition to the Wichita-Sedgwick County Comprehensive Plan, both Derby and Mulvane have adopted comprehensive plans that identify future growth areas within the Derby-Mulvane Plan area. The City of Derby Comprehensive Plan, adopted in 2006, identifies the city's growth area boundary as the Arkansas River to what would be the intersection with Woodlawn Boulevard; then north along Woodlawn Boulevard to what would be 99<sup>th</sup> Street South; then east to 159<sup>th</sup> Street. The City of Mulvane Comprehensive Plan, adopted in 2002, identifies the city's growth area generally south of 103<sup>rd</sup> Street, except for an area at the northwest corner of the intersection of 103<sup>rd</sup> Street South and Rock Road; and lands generally located between Rock Road and Webb Road, south of what would be 99<sup>th</sup> Street South.

### **Recent Development Activity**

Approximately 8 percent of the plan area has been subdivided among 15 subdivisions. The majority of the subdivisions (47 percent by number) occurred in the 1990's. The oldest subdivision, Mulberry Hill Addition, was subdivided in 1971. The most recent subdivisions (Harkness Addition and Humbolt Addition) occurred December, 2005. Approximately 93 percent of the parcels within the plan area subdivisions have been developed, with the majority (89 percent) developed for residential uses.

### **Negative Effects of Possible Development Configurations**

Large lot residential developments without municipal services, on parcels smaller than 20 acres but larger than urban scale residential parcels, can have negative impacts on the ability of local governments to provide efficient and effective services in the future. The negative impacts can occur because the developments are often difficult to retrofit for municipal services, restrict the ability of municipalities to extend urban services, are difficult to redevelop, are difficult to service in a cost effective manner, and impair the ability of agricultural uses to operate in close proximity.

Large lot residential dwellings without urban services are generally difficult to retrofit for municipal services to due the amount of infrastructure needed to extend services to the property (i.e. water lines, sewer lines), and the ability to pay for the investment (based on costs per user ratio). Likewise, the provision of municipal services (i.e. fire protection, police services) can be expensive (based on a costs per user ratio).

The difficulty of providing services in a cost effective manner can result in unincorporated residential properties neither requesting annexation nor being considered for annexation by municipalities. The existence of jurisdictional doughnut-holes can substantially complicate the provision of services, including those for safety (i.e. fire and law enforcement), substantially reducing the quality of services and/or increasing the costs for services.

The high cost to provide urban services to large lot residential developments can also restrict the ability of local governments to extend urban services through and beyond the large lot properties. The inability or high cost to extend the services beyond large lot residential can result in additional costs for those who wish to receive urban services. The inability to extend municipal services in a cost effective manner can also limit long-term urban growth opportunities for municipalities.

The inability of municipalities to provide cost effective urban services to large lot properties within the urban growth areas is further complicated by the general difficulty of redeveloping the properties due to the limited size and layout. Generally, the large lot residential developments place the structures near the center of the parcel. This location can restrict the ability to subdivide the property into different parcel configurations that are marketable and cost effective to provide urban services to.

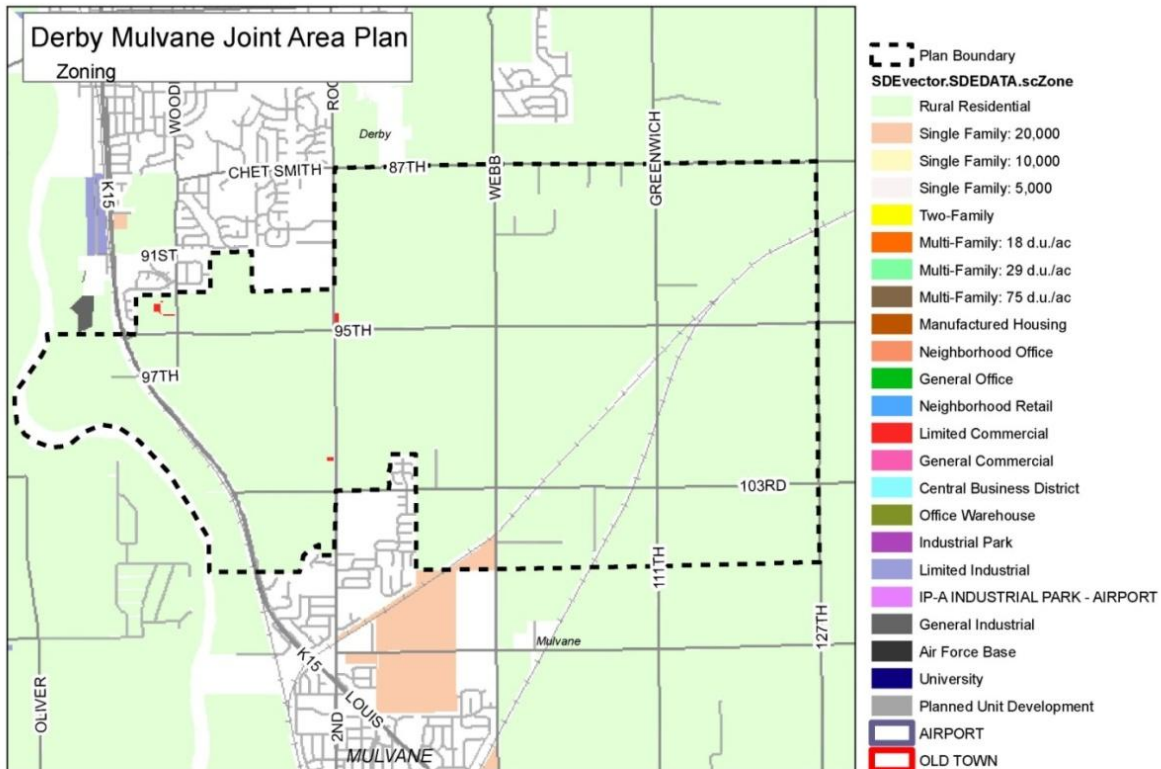
Large lot residential developments can also impair the ability of agricultural uses to operate within close proximity. The use of properties for agriculture can result in noise, sights, and smells that generally are not compatible with residential uses. This can lead to complaints and regulatory issues for specific agricultural operations.

## Zoning Regulations

### Existing Zoning

The City of Derby and the City of Mulvane control the zoning of the properties within their city limits. The unincorporated areas of Sedgwick County are zoned by Sedgwick County. More than 99 percent of the Derby-Mulvane Plan area is zoned "RR" Rural Residential (see the map below). Municipalities within Sedgwick County are able to influence but not control County zoning decisions for areas near their city boundaries through the zoning areas of influence.

Map 1: Existing Zoning



Software: ArcGIS  
 Map Data Sources: City of Wichita, Sedgwick County  
 Prepared: 4/13/2009

It is understood that while the City of Wichita Data Center Geographical Information Systems Department has no indication and reason to believe that there are inaccuracies in information incorporated in the base map, the Data Center-GIS personnel make no warranty or representation, either expressed or implied, with respect to the information or data.

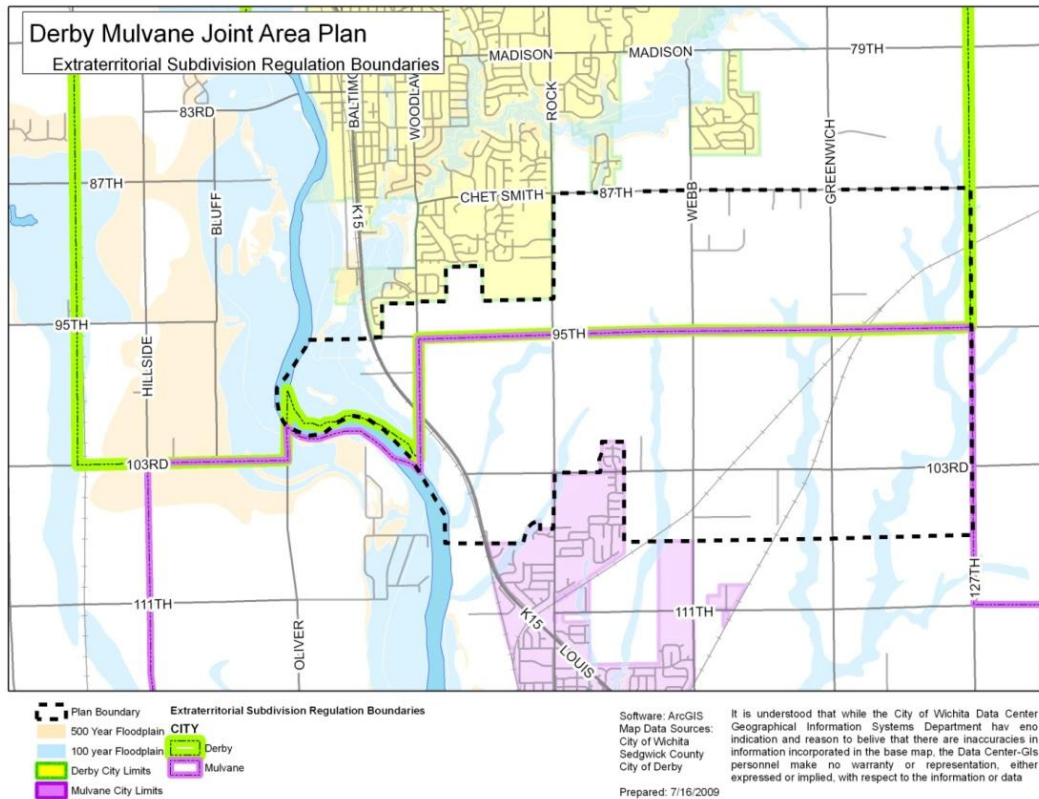
The use of parcels with “RR” Rural Residential zoning for single-family residential is permitted by right and does not require any zoning review. The minimum lot size required for a single-family use in this zone district is 4.5 acres if the property is served by a sewage lagoon. However, the lot size can be reduced to a minimum of 2 acres when specific conditions are met (see the table below). Larger minimum lot sizes may also be required by the applicable subdivision regulations.

Minimum Lot Size	Necessary Conditions per Wichita-Sedgwick County Zoning
2 Acres	Standard minimum size, unless subdivision regulations require larger; or a sewage lagoon or alternative sewer system is in use
4.5 Acres	If sewage lagoons are in use
2 Acres	If the following conditions are met: <ul style="list-style-type: none"> <li>• It is approved by the Sedgwick County Health Department;</li> <li>• the lot is within a platted and recorded addition that includes at least one open space reserve; and</li> <li>• the overall density of the addition, including all lots, rights-of-ways, and open space does not exceed 1 lot per 5 acres.</li> </ul>

### Zoning Areas of Influence

Nearly all of the municipalities within Sedgwick County have been provided a Zoning Area of Influence (ZAOI) through the Wichita-Sedgwick County Zoning Code. The Zoning Areas of Influence were created in 1985, when Sedgwick County adopted countywide zoning. All of the cities of the second and third class except Eastborough, were granted the authority to review and comment on zoning applications located within unincorporated Sedgwick County and in close proximity to each cities’ boundaries. When a zoning or conditional use application is filed with Sedgwick County and is located within a city’s Zoning Area of Influence, that city’s planning commission must be given the opportunity to review and comment on the application. If the city’s planning commission recommends denial, then it requires a unanimous vote of approval by the Board of County Commissioners to override the planning commission’s recommendation of denial. Since 1987, planning staff is aware of only four cases where the County Commission approved an application after a city has recommended denial.

The City of Mulvane’s Zoning Area of Influence covers the majority of the plan area, including all areas east of Woodlawn Boulevard, south of 95<sup>th</sup> Street and west of 127<sup>th</sup> Street. The City of Derby’s Zoning Area of Influence includes all other areas within the Derby-Mulvane Joint Area Plan boundaries (north of 95<sup>th</sup> Street and west of Woodlawn Boulevard).



### Impacts of Existing Zoning

More than 99 percent of the Derby-Mulvane Plan area is zoned “RR” Rural Residential by Sedgwick County. Single-Family residential developments as small as two acres are a permitted use within the zoning district and do not require zoning review by Derby or Mulvane. Single-family residential developments on parcels smaller than 20 acres but larger than urban densities, can occur throughout the plan area. This could substantially decrease the ability of Derby and Mulvane to provide effective and efficient services to lands within their growth areas.

### Possible Approaches

#### Zoning Approach: Change the Wichita-Sedgwick County Zoning

Portions of the plan area currently zoned RR Rural Residential can be rezoned to require a minimum lot size of 20 acres. Below are some examples of how this could be accomplished using the following changes (or combination of changes) to the Wichita-Sedgwick County Zoning Code:

- revise the existing “RR” Rural Residential zone district to require minimum lot sizes of 20 acres or more for residential uses;
  - revise the existing “RR” Rural Residential zone district to make residential lots smaller than 20 acres a conditional use;
  - create a new zone district (or overlay district) with a minimum lot size requirement of 20 acres;
- or

- create a new zone district (or overlay district) with a minimum lot size of 20 acres for residential uses, but with the ability to create lots smaller than 20 acres through the conditional use process.

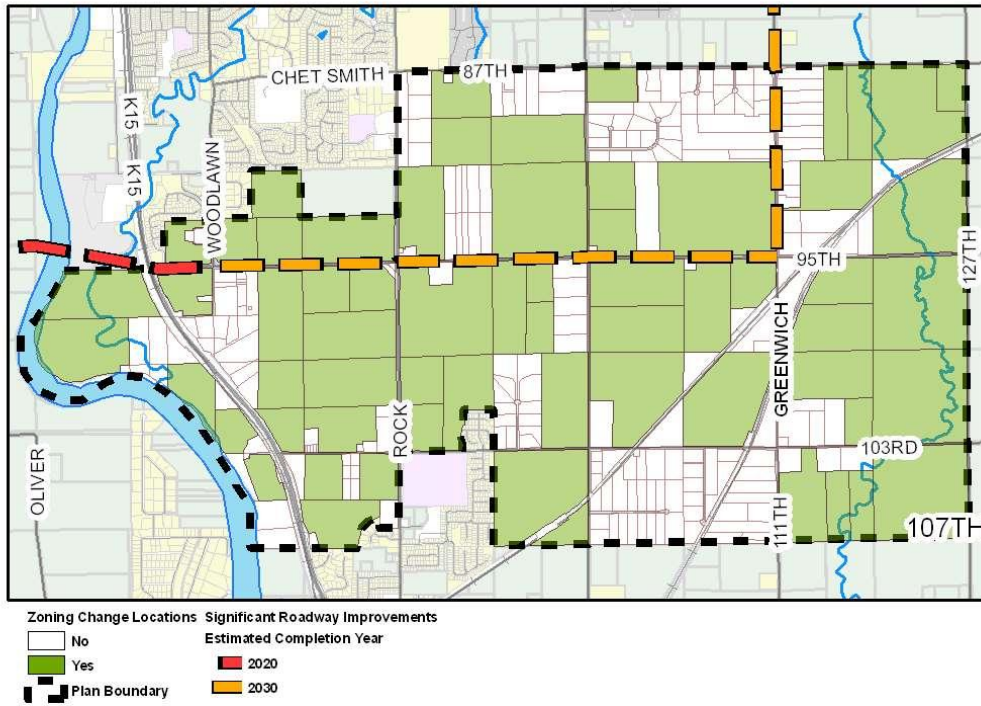
The zoning regulations provide the ability to regulate lot sizes, with the flexibility to address specific circumstances (land use, intensity, and location). The new zoning district, or possibly an overlay district, could be made to closely resemble the existing RR “Rural Residential” zone district, but require lot sizes of 20 acres or more. The new zoning district could be applied to specific areas as needed, and would allow for the property owner to request a different zoning district if needed. If this method was utilized; then large lot residential subdivisions could still be developed within the plan area, but would require a change to a different zoning district or approval of a conditional use (depending on how the zoning district was tailored). The new zoning could be tailored so that any requests to change the applicable property zoning district would still provide Derby or Mulvane an opportunity to review the appropriateness of the requested zoning through the use of their Zoning Area of Influence. It is also important to note that the Derby and Mulvane subdivision regulations exempt properties from platting that will be for residential or agricultural use, are 20 acres in size or larger, and meet the necessary conditions identified in the regulations.

If applied carefully, the new zoning regulations could be applied to portions of the plan area so that a few or no new non-conforming land uses are created. Per the Wichita-Sedgwick County Zoning Code Section VII-D, a non-conforming land use is only created based on lot size if the lot is less than 75 percent of the required minimum standard for the zoning district. This makes it even more unlikely that non-conforming uses would be created through a rezoning effort that increased the minimum lot size. If any non-conforming land uses were created, then they would still be able to operate so long as they complied with the applicable conditions listed in Article VII of the Wichita-Sedgwick County Zoning Code. These provisions generally work to prevent expansion of the non-conforming use at the site, limit the ability rebuild after substantial damages, and limit the ability of the operations to resume after an extended period of vacancy.

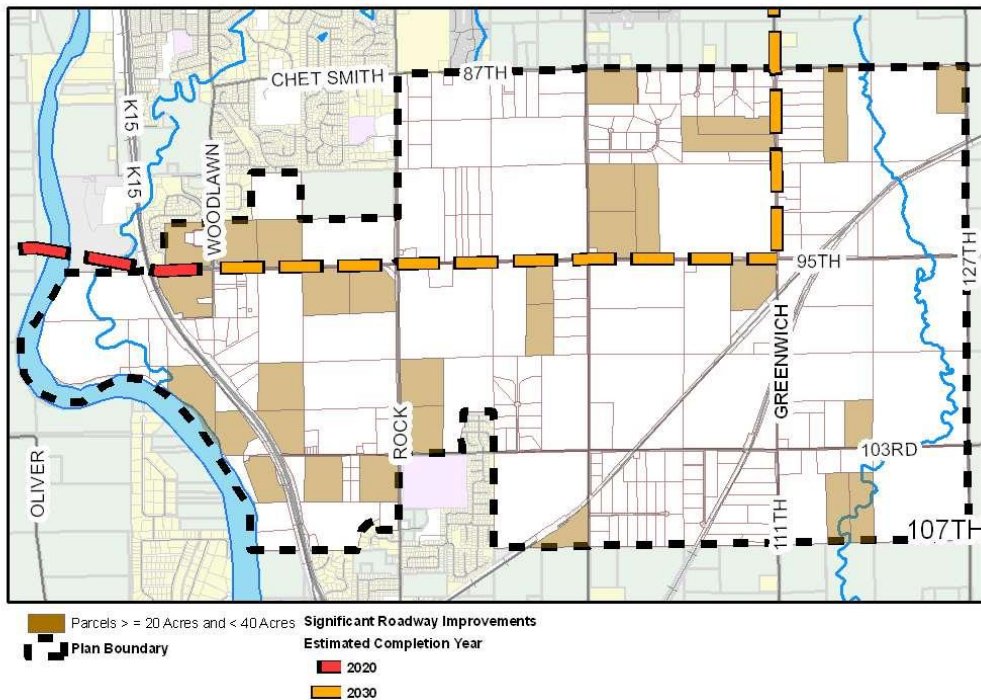
The locations identified for application of the new zoning category or overly district have been selected based on the recommended future land use and the ability to implement the zoning changes without creating non-conforming uses. The areas where the zone change is recommended are all currently in agricultural use (according to the County Assessor’s records), identified for a 2030 future land use other than Rural Residential Acreage, and larger than 20 acres in size. The maps below illustrate the recommended zoning change areas and the parcels in the plan area that are 20 acres in size or larger, but smaller than 40 acres. As currently proposed, all but two of these properties would be rezoned. This would result in approximately 23 property owners unable to divide their property into two or more residential use properties without a rezoning.

### Derby-Mulvane Joint Area Plan Recommended Zoning Change Areas

(requiring new residential properties to be a minimum of 20 acres in size)



### Derby-Mulvane Joint Area Plan Parcels 20 Acres in Size or Larger, but Smaller than 40 Acres



## Subdivision Regulations

The Wichita-Sedgwick County Subdivision Regulations provides the cities of Derby and Mulvane the authority to regulate subdivision activity in specified areas outside their municipal boundaries. Within these defined areas the municipalities have the ability to regulate and approve/deny all subdivision activities. All of the plan area is included in either the Derby or Mulvane Extraterritorial Subdivision Regulation Authority Areas, it is generally split between the Derby and Mulvane Extraterritorial Subdivision Regulation Authority Areas from the western boundaries of the plan area along the Ark River to Woodlawn; then north to 95<sup>th</sup> Street South; then east to 127<sup>th</sup> Street East.

## Derby Subdivision Regulations

### *Lot Size*

The Derby subdivision regulations, per Article 105.H exempts properties from platting so long as they meet specific conditions, including but not limited to

- the property will be 20 acres in size or larger;;
- it will be used for agricultural or single-family purposes only;
- they do not involve any new streets or easements;
- are adjacent to a public road or private road which conforms to the rights-of-way standards in the subdivision regulations;
- has land suitable for dwelling purposes which is not located in an area subject to flooding; and
- conforms with zoning and sanitary codes.

The Derby subdivision regulations, per Article 604.A, state that the minimum lot size shall conform to the size specified in the zoning district, except for areas that will not be served by a public sewer. In these areas, the County Department of Community Health may require larger minimum lot sizes.

Per Article 604.A(2), the City of Derby, through the use of restrictive covenants, can require development on platted lots to be configured so that when water and sewer services are available the lots can be re-subdivided and portions combined to create another buildable lot.

### *Infrastructure Requirements*

The City of Derby subdivision regulations, per Article 7.702, require that subdivisions outside the City, but within the Derby Extraterritorial Subdivision Authority Area and Derby growth area (identified in the Derby Comprehensive Plan or other officially adopted growth area map) provide specific infrastructure to the City of Derby standards. However, the requirement can be waived when the land is located one or more parcels removed from the Derby city limits and the subdivider submits an acceptable plan which indicates how all the improvements will be provided in the future. The required infrastructure includes the following, per Article 7.700:

- roadways, alleys, curbs, gutters, and street drainage facilities (any temporary streets constructed by the subdivider are the responsibility of the subdivider to maintain until they are accepted by the City);

- sidewalks or other Pedestrian Accessways;
- water supply system for each lot in the proposed subdivision;
- fire hydrants;
- sanitary sewer system;
- storm sewer system;
- street lighting system;
- street and traffic signs (temporary signs may be allowed);
- landscaping (if required, the planting plan shall be prepared and approved by the Planning Commission);
- monuments (designs approved by the City Engineer);
- underground wiring in residential subdivisions (except for lines rated over 12,000 volts, transformers and related infrastructure, or for areas where overhead distribution systems currently exist);
- fences or walls (subject to review).

## **Mulvane Subdivision Regulations**

### ***Lot Size***

The Mulvane subdivision regulations, per Article 1.105.B., provide a platting exemption for properties that meet all of the following criteria:

- are 20 acres in size or larger;
- will be for agricultural or single-family residential use;
- are more than 500 feet away from the Mulvane city limits;
- does not involve any new streets or easements (determined by Planning Commission)
- does not propose any residential developments in areas subject to flooding;
- complies with the Mulvane subdivision regulations for disposal of sewage and for water supply; and
- conforms to applicable zoning.

If a proposed lot does not meet the exemption criteria listed in Article 1.105, then it must be plated. The lot size shall conform to the minimum applicable zoning and sanitary codes, whichever is larger (Article 6.110(2)).

### ***Infrastructure Requirements***

The City of Mulvane has the right to require subdivisions in the “surrounding jurisdiction” to connect to public water supply and sewage disposal systems, as deemed feasible by the Governing Body (Article 6.110.B.1).

Per Article 6.110.C, the City of Mulvane, through the use of restrictive covenants, can require development on platted lots to be configured so that when water and sewer services are available the lots can be re-subdivided and portions combined to create another buildable lot.

The Mulvane subdivision regulations distinguish between Urban Type Subdivisions and Rural Type Subdivisions, with the Urban Type Subdivisions subject to more standards and improvements (i.e. paved facilities; storm drainage systems; sidewalks; etc.). Urban subdivisions are defined as the following:

- all subdivisions including a portion within the City limits;
- all subdivisions adjoining or touching the City limits;
- all subdivisions adjoining or touching the boundary of property being annexed by the City;
- all subdivisions adjoining or touching another subdivision which has previously received final plat approval by the City and adjoins or touches the City boundary; or
- all subdivisions which have or intend to have both municipal water and sewage service.

## Impacts of Existing Subdivision Regulations

### *Derby: Lot Size*

The City of Derby subdivision regulations generally do not regulate the lot sizes, which are established by the applicable zoning. The majority of the plan area is currently zoned so that residential subdivisions can be created with lots as small as two acres.

### *Derby: Infrastructure Requirements*

The City of Derby can require infrastructure that meets city standards (i.e. water lines, sewer lines, roadways). The City of Derby subdivision regulations are flexible and do allow for these requirements to be waived if an acceptable plan for future improvements is provided. Many times this results in property owners signing petitions for City of Derby infrastructure improvements that allow for the City to install infrastructure at cost to the property owner at anytime. Depending on the duration of time between the enactment of the petition and the infrastructure development, it is possible that the original property owner will have sold the property by the time the City moves to install the infrastructure and secure reimbursement. The ability to require infrastructure provides a great amount of flexibility for the city to regulate the creation of large lot residential subdivisions.

### *Mulvane: Lot Size*

The City of Mulvane does not regulate the size of lots not classified as Urban Type Subdivision (see the review of Mulvane subdivision regulations above for definition) through its subdivision regulations. The subdivision regulations allow the minimum lot sizes to be established by the applicable zoning. The result is that large lot residential subdivisions with lots as small as two acres are able to be developed within the City of Mulvane growth area in areas zoned RR "Rural Residential".

### *Mulvane: Infrastructure Requirements*

The City of Mulvane can require subdivisions in the "surrounding jurisdiction" to connect to public water supply and sewage disposal systems, as deemed feasible by the Governing Body (Article 6.110.B.1).

## Possible Approaches

### *Subdivision Approach: Revise the Subdivision Regulations to Require Lot Sizes of 20 Acres or Larger*

The Derby and Mulvane subdivision regulations can be changed to increase the required minimum lot size to 20 acres. The objective of the changes is to ensure that lots created in the unincorporated portions of the plan area are sufficiently large enough that they preserve the ability for the property owner to more easily subdivided/redevelop in the future.

Subdivision regulations generally do not differentiate between uses, the subdivision regulations generally apply uniformly to all properties and all uses. Changing the Derby and Mulvane subdivision regulations to require a minimum lot size of 20 acres (unless a larger minimum lot size is required by zoning) would generally apply to all uses including industrial, institutional, and commercial uses.

### *Subdivision Approach: Revise the Subdivision Regulations to Require Specific Urban Infrastructure*

The Derby and Mulvane subdivision regulations can be changed to require specific urban infrastructure for new subdivisions created in the unincorporated portions of the plan area. The objective of this option is to help ensure that the large lot residential developments have adequate infrastructure in place to integrate with urban services offered by Derby and Mulvane. By requiring the infrastructure to be installed during development, the municipalities and property owners save the expense of retrofitting the sites. The urban infrastructure could require the installation of infrastructure such as paved roads connecting the large lot subdivision and the nearest municipality, sewer and water lines that meet municipal standards. Examples of adopted urban infrastructure standards are available in Article VIII of the Wichita-Sedgwick County Subdivision Regulations.

The use of updated subdivision regulations could allow for the development of large lot subdivisions, while preserving the ability to connect the development to city infrastructure systems (i.e. water, sewer, roadways), or to subdivide/redevelop the property for urban/suburban type uses. The updated infrastructure standards will raise the costs of subdivisions. However, the costs would be substantially lower for property owners that wish to connect to municipal services in the future. Derby and Mulvane could also identify select areas where the changes to the subdivision regulations would not apply. The existing subdivisions would not be impacted by the new standards for proposed subdivisions.

## Recommendations

The ability to develop large lot residential developments (single-family residential uses on parcels smaller than 20 acres in size and larger than urban/suburban residential densities) is a concern for the long term ability of Derby and Mulvane to provide efficient and effective services to lands within their future urban growth areas. Based on a review of the approaches available to Derby and Mulvane, it is recommended that both Derby and Mulvane update their subdivision regulations to establish/require urban infrastructure standards for proposed subdivisions in the unincorporated portions of the plan area and that they encourage Sedgwick County to change the zoning for the plan area to provide Derby and Mulvane an opportunity to review the appropriateness of the requested zoning through the use of their existing Zoning Area of Influence.

Changes to the subdivision regulations to require specific urban infrastructure are recommended because they can be updated relatively quickly under the authority of each municipality, and can be tailored to meet their community needs. They will help to ensure that future developments have the ability to connect to municipal systems in a cost effective manner, and that the cost of development includes not just the present costs of development but also future adaptation for more urban/suburban needs. This document does not recommend specific solutions/updates to the subdivision regulations. Examples of infrastructure standards are available in Article VIII of the Wichita-Sedgwick County Subdivision Regulations.

The zoning regulations are also recommended because they provide the ability to regulate lot sizes, while also providing the flexibility to address specific circumstances (land use, intensity, and location). Utilizing this combination of tools, Derby and Mulvane can better ensure their ability to provide efficient and effective services to the lands within their future urban growth areas.

The approach of changing the Derby and Mulvane subdivisions to increase the minimum lot size to 20 acres is not recommended due to the inability of subdivision regulations to address specific situations (land use, intensity, and location). The minimum lot size of 20 acres would apply to all land uses including institutional, industrial, and commercial. In addition, the regulations could be difficult to modify. The changes to the subdivision regulations might also cause confusion, because they would probably need to be applied only to the plan area and would be unique from the other areas regulated by the Derby and Mulvane subdivision regulations.