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## **CHAPTER 1 – THE PLAN AND ITS ROLE**

### **INTRODUCTION**

The Comprehensive Plan is an official public document adopted by the Planning Commission and City Council for the physical development of the community within the City of De Soto, Kansas and its “Planning Area” (see Figure 1.1). The Plan indicates, in general, how the citizens of the community want the City to improve in the next 10 to 20 years. The Comprehensive Plan also is a rationale and guide for physical development that fosters quality growth, conservation and redevelopment of the City.

The City of De Soto Comprehensive Plan, 2003 (referenced hereafter as “the Comprehensive Plan,” “the Plan” or “this Plan”) is an official update to the City’s 1996 Comprehensive Plan. Long range in nature, the Plan is intended to be a source of direction and guidance toward a desired end, rather than a static blueprint of future development of the City.

### **COMPREHENSIVE PLAN PURPOSE**

The Comprehensive Plan is intended to guide policy and provide recommendations for future actions involving land development and land preservation. The Plan is the nexus to the legal framework on which the zoning ordinance and subdivision regulations are enacted and amended by the City Council upon recommendations from the Planning Commission. These two land use regulatory ordinances shape the locations, type, quality, and comprehensiveness of the physical development of De Soto. More specifically, the Plan:

1. Serves as a “database” for the City’s long-term planning activities. This database includes information regarding population, economic development, housing, utilities, land use, the natural environment, public facilities and transportation.
2. Delineates the City’s major planning goals.
3. Analyzes the factors that affect De Soto’s development and assesses planning implications.
4. Recommends the future development of De Soto in policy and map formats. The policies serve as a general guide for planning decisions and the Future Land Use Plan map is a graphic representation of those general policies.
5. Presents recommended changes to the City’s land use and development control regulations as a means to implement the Plan’s recommendations.
6. Provides a basis by which future development, subdivision and annexation requests can be considered and evaluated.



The Plan provides a comprehensive, long-term, and general policy framework that will direct the future growth of the City. It is long term because it represents the long term vision of the future physical condition of the community and its socio-economic well being. It is general in order to accommodate the very dynamic nature of community planning. The Plan strives to ensure orderly, healthy and harmonious growth that maximizes public benefit while minimizing public cost.

The Plan also has a near-term focus. It provides a foundation for land use and development control regulations. The Plan outlines the City's intentions for near-term development and outlines recommended modifications to current regulations in order to implement its recommendations. While the Plan provides direction, it should not be viewed as a zoning document or ordinance. As opposed to regulatory documents, the Comprehensive Plan should be recognized and utilized as a flexible, evolving document to be interpreted within the broad spectrum of land development possibilities and changing conditions. At the same time, proposals or actions that are not in conformity with the Plan and its intent are deemed inappropriate unless proper procedures are followed to amend the Plan.

The development of the Plan itself serves another important function or purpose: obtain public input through a public participation process in the identification of long-term community development policies. The policies represent the community's common understanding of what growth can be expected.

The Plan continues a process whereby De Soto, an established community, is poised for continued growth, development, and renewal in partnership with residents, business owners, and landowners. Its underlying purpose is to preserve and enhance investment by all citizens. It intends not only to provide the foundation for economic growth and stability, but growth in a safe and healthful environment, to nurture future generations that will take pride and invest in the City of De Soto.

The Plan will not ensure success. Rather, successful development and revitalization in De Soto will be achieved by community leaders and caring and concerned citizens who, while using this Plan as a guideline, adhere to sound judgment, using thoughtful, intelligent, and reasonable observation. That process was clearly demonstrated by the active and positive participation of De Soto residents and community leaders in the development of the long-range vision and specific recommendations outlined in this Plan. Stagnant, dilapidated, and dying cities do not occur by accident. They occur when communities refuse to plan wisely for the long term, when special interests are vocal and pandered to, and when the rights of a few are elevated above those of the community-at-large.

The City of De Soto Comprehensive Plan of 2003 forms a visionary yet achievable basis for planning programs and development guidelines. It is intended to suggest additional areas of study and planning that are essential in moving projects forward to successful completion.

#### **AUTHORITY**

Since the landmark case of Village of Euclid vs. Amber Realty Company, decided in 1926, the U. S. Supreme Court has consistently recognized the legitimate right of government to legislate land use for the protection of the public welfare. In exercising this right, the City cannot deprive a property owner of all reasonable economic use of his property, nor can it act arbitrarily, using the law to accomplish against an individual property owner what it is otherwise unable or unwilling to do through direct compensation.



However, the City has a broad ability to mitigate the public impact of private development. This is an authority that has been used to uphold laws mandating historic preservation, natural resource protection, zoning, signage restriction, aesthetic regulation, impact fees, excise taxes and required dedications. Euclid is still the law today. The government cannot single out individual property owners, nor can it act in an arbitrary manner. The ends must justify the means.

Within Kansas, state law providing cities the authority to prepare and adopt a Comprehensive Plan, Zoning Regulations and Subdivision Regulations manifests this authority. The Kansas Statutes provide cities the authority to prepare a Comprehensive Plan through KSA 12-746 (a).

*A city planning commission is hereby authorized to make or cause to be made a comprehensive plan for the development of such city and any unincorporated territory lying outside of the city but within the same county in which such city is located, which in the opinion of the planning commission, forms the total community of which the city is a part.*

Under current planning and zoning statutes, however, the City is under no obligation to prepare a comprehensive plan unless it wants to adopt subdivision regulations (KSA 12-748). Similarly, the City is not required by statute to follow the recommendations of the Plan unless so specified by City ordinance. In spite of this, case law within Kansas and throughout the nation has effectively established that the Comprehensive Plan forms the basis for enforcing zoning regulations. Without a Comprehensive Plan, determining and justifying specific zoning districts within a city is arbitrary at best.

To this extent, the Comprehensive Plan is often primarily used by the Planning Commission as a guide when presented with rezoning requests. In considering a rezoning request, state statutes (KSA-756) require the City to review the application in relation to “matters to be considered” as adopted in the Zoning Regulations. These considerations should include review of the application’s consistency with the Comprehensive Plan. Although the City is not required to follow the Plan’s recommendations regarding future land use, state statutes specifically provide that rezoning requests that are consistent with the Plan are presumed to be reasonable (KSA 12-756).

*Any such (proposal for zoning) amendment, if in accordance with the land use plan or the land use element of a comprehensive plan, shall be presumed to be reasonable.*

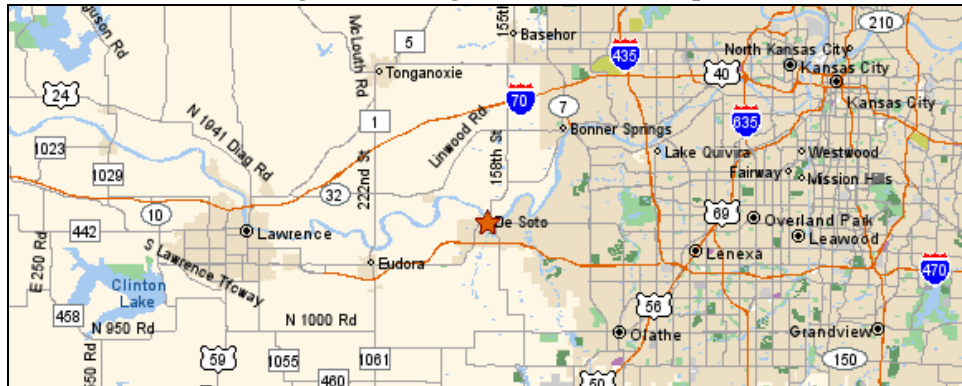
However, it must be clear that the Plan is not a set of regulations or zoning ordinance. The Plan is a guide for development within the City, providing direction regarding the community’s preferred future, goals, objective, priorities and policies. For this reason the Plan must be kept up to date. KSA 12-746 requires the Planning Commission to review or reconsider the Plan at least once each year in order to ensure that the Plan is still valid and relevant. During this review the Planning Commission is authorized to propose amendments, extensions or additions to the Plan following the same procedure for adoption of the original Plan.



## VICINITY AND PLANNING AREA

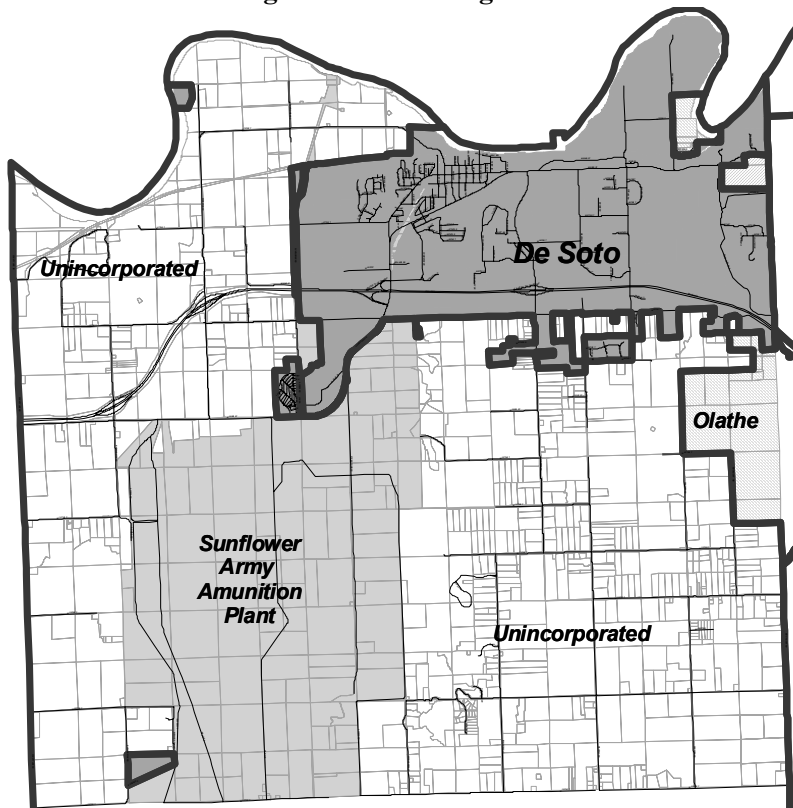
The City of De Soto is located within western Johnson County, in the northeastern region of the State of Kansas. **Figure 1.1** shows the City's geographic location relative to other cities, highway and major physical features in the surrounding region.

**Figure 1.1: Regional Location Map**



**Figure 1.2** shows the City and surrounding planning area, generally defined by the Kansas River to the north, 135<sup>th</sup> Street to the south, the Lexington Township boundary to the east, and Douglas County to the west.

**Figure 1.2: Planning Area**





## HISTORY OF DE SOTO AND PLANNING IN THE COMMUNITY

Founded in 1857, the City of De Soto will celebrate its sesquicentennial (150 year) anniversary in 2007. Named for the Spanish explorer Hernando de Soto, several families of settlers first established the town around a steam saw mill on the Kansas River. Originally, Shawnee was the town's main street, along which various business ventures, including a grocery store, blacksmith's shop, boarding house and ferry service took root. Abbott's Hall, built by its namesake in 1865, was host to the small town's dances and other social activities until the turn of the century. The stone building, still situated at the Southwest corner of Peoria and 83rd Streets, is now home to a local museum and is listed on the Kansas Register of Historic Places (see **Figure 1.3**).

**Figure 1.3: Historic Abbott's Hall in Downtown De Soto**



In the late 1800's, A. T. Andrews of Chicago, Illinois published William G. Cutler's *History of the State of Kansas*. The following excerpt, taken from the book first published in 1883, describes De Soto from inception through 1879.

*This town is situated in the northwestern part of the county, on the south bank of the Kansas River. The surrounding country is rolling, partially timbered and fertile prairie. The town was laid out in the spring of 1857 by a town company composed of B. W. Woodward, James F. Legate, James Findley, and G. W. Hutchinson, and named De Soto, after the great Spanish adventurer of that name.*

*The first frame building upon the town site was occupied for a short time as a store by Zera Nichols. During this same year, 1857, Stratton & Williams built a saw-mill on the river bank, employing D. Rolfe to construct the mill and run the engine one year. Mr. Rolfe arrived July 12, 1857, and was so well pleased with the country that he sent for his wife and family, who arrived April 3, 1858. During the year, two or three buildings were erected in De Soto. In 1858, Perry Teters, erected a double dwelling in which his family and that of Jacob Van Rankin lived for some time. In August of this year the De Soto hotel was completed, and Mr. Rolfe moved into it, thus being the first hotel keeper in the*



*town. John Van Rankin started the first regular store, in 1859. The post office was established in 1860, with James Smith first Postmaster.*

*The Methodist Church was organized in 1858. Elder Beach being the first minister. Services were conducted for some years in private houses, and in the hotel, until in 1870, a stone church was built at a cost of about \$2,500.*

*The Presbyterian Church was also organized in 1858. They built a stone church in 1879, costing \$2,000. Rev. William H. Smith became Pastor in 1860, and still remains in charge.*

*The first birth in De Soto, was that of a child of Mr. and Mrs. Richard Gentry, the death of which child was the first death.*

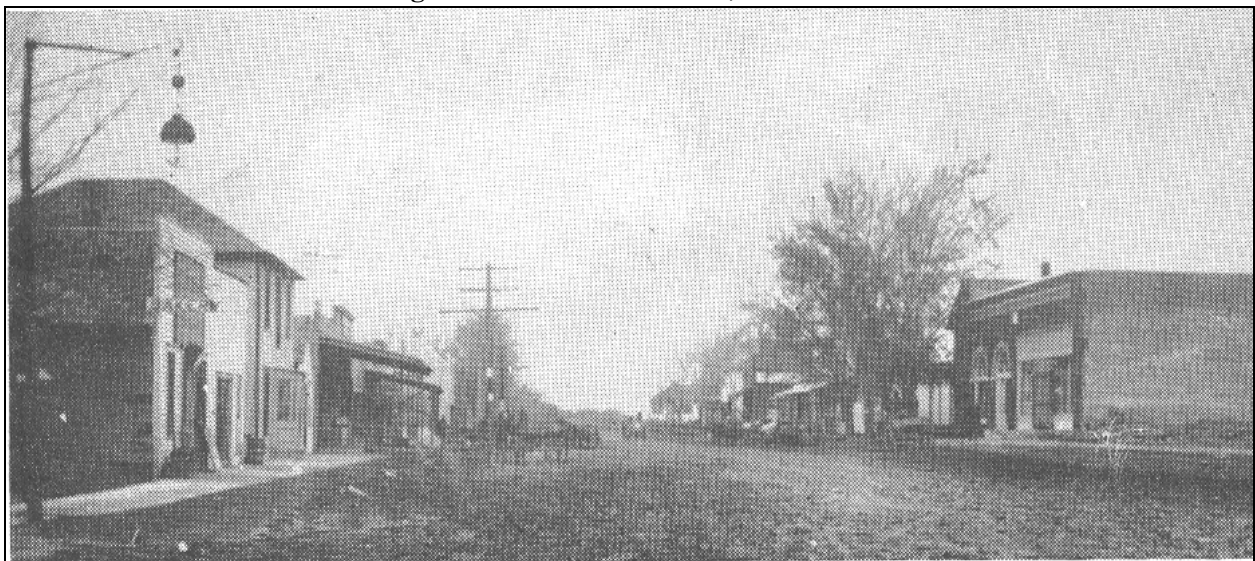
*The first marriage was a double one - Truesdale Barclay to Miss Melissa Gentry, and Robert Todd to Miss Mary Gentry, the ceremony occurring in 1859.*

*De Soto now contains two general stores, two drug stores, one hotel, one notion store, two blacksmith, one wagon maker, and about seventy-five inhabitants.*

*In 1879, a brick flouring mill was erected near the railroad depot, by Skinner & Barrett. It is two stories high and contains two run of buhrs. The mill is now owned by J. M. Hadley.*

According to Cutler's record, the Lexington Township population, including the City of De Soto, increased by over 60% between 1870 and 1880, growing from 1,256 people in 1870 to 2,042 people in 1880.

**Figure 1.4: Shawnee Street, circa 1907**



Source: "De Soto, Kansas is 100 Years Old 1857 – 1957", Dot Ashlock-Longstreth





Although De Soto continued to make modest progress, including becoming a third class city and establishing a mail route in 1902, the City saw only modest increases in population during the early 1900's. Even with the availability of public utilities and other community advancements, the lives of De Soto's founding families continued on much the same as those of other small, riverside communities of the time, until World War II. In the spring of 1942, plans to hurriedly construct a munitions plant on a 9,080 acre site to the southwest of De Soto were announced. The \$100 million project soon brought an overwhelming influx of workers to the area. A May, 1943 article from the Kansas City Star reported on a town rapidly growing with a population increase from 400 to 1,000 persons in under one year. This sudden overflow in population put a great strain on housing and other resources in the City. Many original residents prospered during this time, buying property and starting new businesses.

Production flowed steadily at the Sunflower Army Ammunition Plant until the plant went on standby in March 1948, with small scale production following shortly after. Many of the plant's previous employees stayed on in De Soto, commuting to work in nearby cities, helping to establish De Soto as a "town of homes." Dot Ashlock-Longstreth, author of the book *De Soto, Kansas is 100 Years Old 1857-1957*, penned the following almost 50 years ago:

*Hundreds of fine people have been added to our community, and with Kansas City and Lawrence edging closer and closer, someday, in the not too distant future, we'll be caught in between, one of the little communities, in a connecting link between the two towns.*

As with most communities the mass production and availability of the automobile also had a great influence on the development of De Soto. Historically, most development in De Soto had occurred in the area north of Lexington Avenue, bounded on the north by the Kansas River. During the 1950's and 1960's development began to spread out, largely due to the influence of old Kansas Highway 10 (83rd Street and Lexington Avenue). Several businesses located along the highway in scattered locations. During this same period several residential developments were built in the unincorporated areas just east of De Soto. **Figure 1.5**, taken during the flood of 1951, records the expansion of commercial and convenience services along old K-10 Highway east of De Soto near what is now Miller Park on 83<sup>rd</sup> Street.

**Figure 1.5: Commercial Development on Old K-10 Highway**





City development was again greatly influenced by transportation improvements in 1985 when K-10 Highway was relocated to a new corridor about a mile south of the former highway. Like its predecessor, K-10 Highway has spurred new development in and around De Soto. Most of this new commercial and industrial development has occurred near K-10's Lexington Street interchange. With a shift in major transportation routes, the make up of the older portions of the community, including downtown, have changed. As with many historic community hubs, Downtown De Soto, once the commercial center of the community, has lost much of its commercial vitality. With the relocation of the highway and improved regional access, citizens which once relied heavily on local goods and services often spend their money outside the City. As with Downtown, the businesses on Lexington Avenue have also been impacted as the City's development focus has been shifted outside the core of the community and toward the current K-10 Highway location. In conjunction, little activity has taken place in the Historic "Old Town" district with the exception of continued public investment in facilities like City Hall. In spite of these changes, the area has not decreased in scale or population.

Unlike many other communities of comparable size, De Soto has continued to grow despite these major changes. This trend is directly related to the City's location in Johnson County and strategic location on K-10 Highway between the Kansas City Metropolitan Area and Lawrence, Kansas. Because of this continued growth, De Soto's image has changed in the last two decades from a small town surrounded by a predominantly rural community to that of a bedroom community for the Kansas City and Lawrence Metro Areas.

Much of this growth has been realized in the form of residential development consistent with the historic development patterns in the Historic "Old Town" district north of Lexington Avenue. This growth has taken place as a continued expansion of the core of the City, spurring substantial growth to the south and west of Lexington Avenue north of K-10. In addition to this moderate density development on expanded City utilities, many large, rural lots were subdivided and sold particularly east of Kill Creek Road and south of K-10 Highway.

Throughout its history, the City has planned and reacted to growth. Beginning with the original plan for the community established in 1857, the City and its residents have continued to plan for growth and change. Although major events throughout the City's history have required reactionary planning, many of the development decisions have been intentional and the result of the community's planning. This is most apparent during the last four decades as the City has formalized land use and development planning, and the planning and implementation process through major updates to City codes, regulations and ordinances.

In 1996, the City adopted major updates to prior plans and regulations adopting an updated Comprehensive Plan, Zoning Regulations and Procedures Manual. Another major update to the Zoning Regulations and new Subdivision Regulations were adopted in 2000. Today the City continues its planning efforts through the Plan contained herein.



## CURRENT PLANNING PROCESS AND PUBLIC BENEFITS

The planning process is designed to balance the public's rights with individual and community-wide interests. The public benefits of non-development, or of development with conditions, must be balanced with individual economic interests. This balancing act may include the inclusion of landscaping, lighting, drainage, buffering, sidewalks, and public spaces to mitigate impacts of a specific development proposal and help ensure that the development will function within the greater community.

The public also has the right to know what is projected for the future of the City of De Soto and what improvements are planned to support this vision. Likewise, the public has a right to expect that development decisions will be orderly, compatible and withstand the test of time. Will the development serve not only present but also future public needs?

The Comprehensive Plan addresses these rights and expectations by serving as a guide for development within the City and planning area, outlining community interests as a means of "saying yes" to proposed development that is consistent with the Plan. The Plan is a tool to be utilized by the City to help ensure that De Soto reaches its preferred future in an orderly and equitable manner.

This Comprehensive Plan marks an important step in an on-going process of comprehensive community planning. It is the result of the joint efforts of the Governing Body, the Planning Commission, the City Staff, other government and non-government agencies, and interested groups and citizens. The Plan started with a Strategic Profile Questionnaire to analyze and stimulate discussion between the Governing Body, Planning Commission and Staff regarding past, present and future conditions, policies and goals of the City. Further issue identification was compiled during a public meeting where focus groups of volunteer citizens were charged with identifying the issues most critical to the growth of De Soto through the next 20 years. The process continued with a "policy charrette" where the issues were studied and policies evaluated regarding the City's future growth, land development patterns, and strategies for adequate public infrastructure and services. The planning process culminated in a public hearing, to continue citizen input meeting the requirements of KSA 12-746 which authorizes the City to adopt the Plan.

Although adopted, the development of the Comprehensive Plan and planning process is on-going. Annual reviews of the Plan must be conducted following its adoption and updates made as needed to reflect the changing values and characteristics of the community. Likewise, changes in the City's vision resulting from new information or studies, changes in circumstances, or other currently unforeseen reasons should be reflected in the Plan through periodic updates as necessary to maintain the Plan as reasonable representation of the City's vision and expectations for the future. To that end, the Plan is a living document that must be continually developed to provide direction and guidance toward a desired end, rather than a static blueprint of future development of the City.

*"Even if you are on the right track,  
you'll get run over if you just set there."  
Will Rogers*



## **PLAN IMPLEMENTATION**

The healthy and orderly growth of a community relies on the successful implementation of a set of well-defined development policies that serve as guidelines for all development decisions at present and in the future. These development policies should be formulated around a well-structured scope of planning that looks ahead and even beyond a pre-set time horizon.

At the same time, near-term implementation is important. Regulation of land development is one way the Plan is implemented. De Soto's Capital Improvements Program (CIP) is another means of implementing the Plan. Following are the roles played by key policy makers and officials, and the relationship of the Plan to De Soto's regulations. Note that these relationships are discussed beyond their role in implementing the Comprehensive Plan. The relationships are discussed in a broader context to illustrate the interrelation between the Comprehensive Plan and the City's other ordinances.

### **The Public's Role - Civic Responsibility**

Civic responsibility is critical to the strength of the community. Citizens who spend hours of their free time trying to make their community a better place to live view themselves as part of a whole. They understand that their neighborhoods and community will survive only with their participation and they know that participation cannot be left to others. At the same time they recognize that the well being of the community is in their individual interest.

A community's strength builds from the bottom up. Where there is a sense of responsibility toward the neighborhood, there is a sense of responsibility toward the larger community. Communities cannot be strong without strong neighborhoods.

As such the citizens of De Soto should be embraced - their leadership welcomed and dedication, enthusiasm and talents directed toward community betterment. The Plan is developed based on this principle. Likewise, as the community progresses and the Plan evolves, citizen input and support will be critical to the Plan's implementation and reaching the preferred future of De Soto.

### **Role of the Planning Commission**

The following are the roles of the Planning Commission in the planning and zoning process.

1. Adopt a Comprehensive Plan for the physical development of land within the City of De Soto and any unincorporated areas outside of the City, which together are considered to form the De Soto community.
  - Before adopting or amending the Comprehensive Plan, hold a public hearing.
  - After adoption, certify a copy of the adopted Plan to the City Council and City Clerk.
  - Record a copy of the adopted Comprehensive Plan in the Office of the County Register of Deeds office.



2. Serve as an advisory body to the City Council.
  - Hold public hearings to obtain public opinion regarding each rezoning and special use permit application and proposed text amendment.
  - Adopt a recommendation to the City Council on each rezoning and special use permit application and proposed text amendment.
3. Approve or disapprove both preliminary plats and final plats.
4. Approve or disapprove site plans.
  - Review and approve or disapprove site plans for all development except single-family and two-family residential development after considering the Site Plan Review Committee's recommendation.

### **Role of the City Council**

The following are the roles of the City Council in the planning and zoning process.

1. Adopt and amend the Comprehensive Plan and all associated plan maps after considering the Planning Commission's recommendation.
2. Enact and amend the Zoning Regulations and zoning district map after considering the Planning Commission's recommendation.
3. Enact and amend the Subdivision Regulations after considering the Planning Commission's recommendation.
4. Approve annexations following the appropriate considerations.
5. Approve Special Use Permits after considering the Planning Commission's recommendation.
6. Grant waivers to required public improvements and/or public improvement specifications of the Subdivision Regulations as deemed necessary.
7. Accept or reject dedications of easements, rights-of-way and public lands on subdivision final plats after the final plat has been approved by the Planning Commission. This responsibility does not include approving subdivision plats.
8. Approve engineering plans for construction of public improvements.
9. Approve financial guarantees or financing mechanisms to ensure construction of all public improvements within subdivision plats.



10. Accept public improvements after they have been constructed and are found to have been constructed in accordance with the approved engineering plans.

### **Role of the Zoning Ordinance**

The Zoning Regulations are a legislative tool used for implementing the Comprehensive Plan. K.S.A. 12-753 permits the Governing Body to adopt Zoning Regulations dividing land into districts of such number, shape, area and of such different classes, according to the use of land and buildings and the intensity of such uses, as deemed necessary to carry out the purposes of the adopted Comprehensive Plan.

The purpose of the zoning ordinance is to:

1. encourage appropriate uses of land;
2. maintain and stabilize the value of property;
3. reduce fire hazards and improve public safety and safeguard the public health;
4. decrease traffic congestion and its accompanying hazards;
5. prevent undue concentration of population;
6. create a comprehensive and stable pattern of land uses on which to plan for transportation, water supply, sewerage, schools, parks, public utilities, and other facilities; and
7. protect and promote the public health, safety, convenience, comfort and general welfare.

### **Role of the Subdivision Regulations**

Subdivision regulations are another legislative tool to implement the Comprehensive Plan by guiding the subdivision and development of land. Subdivision regulations provide coordination of otherwise unrelated plans as well as internal design of individual sites. The City of De Soto needs to assess elements of the subdivision regulations for amendment in response to planning issues and the goals, objectives and strategies of the Plan.

The general purposes of the subdivision regulations are to:

1. protect and promote the public health, safety, convenience, comfort and general welfare;
2. guide the future growth and development;
3. provide for the proper location and width of streets, roads, building lines, open space and recreation and to avoid congestion of population;



4. protect and conserve the value of land, buildings and improvements and to minimize conflicts among the uses of land and buildings;
5. establish reasonable standards of design for subdivisions in order to further the orderly layout and use of land; and
6. ensure that public facilities, including parks, roads, water, sewer and drainage facilities are adequate to serve the needs of proposed subdivisions.

### **The Basis of Decision-Making**

The Comprehensive Plan forms a guide for enforcing zoning and subdivision regulations. As with other "police powers," the exercise of zoning and subdivision regulations is subject to certain legal limitations. One of the most important of these limitations requires that zoning and subdivision regulations cannot be applied in an "arbitrary or capricious" manner. Decisions regarding zoning and subdivision issues cannot be fixed or arrived at through an exercise of will or by caprice, without consideration or adjustment with reference to principles, circumstances, or significance.

The Comprehensive Plan serves as a foundation for making educated and logical decisions regarding application of the City's regulations. Consistency with the Comprehensive Plan should be one of the matters considered when reviewing regulatory applications including proposed zoning district changes (rezoning), annexations, development plans (site plans), subdivisions (plats), special use permits, text amendments and ordinance updates.



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