



CITY OF
TOPEKA

A G E N D A

TOPEKA PLANNING COMMISSION

MONDAY, SEPTEMBER 16, 2019
6:00P.M.

214 EAST 8TH STREET
CITY COUNCIL CHAMBERS, 2ND FLOOR
MUNICIPAL BUILDING
TOPEKA, KANSAS 66603

Persons addressing the Planning Commission will be limited to four minutes of public address on a particular agenda item. Debate, questions/answer dialogue or discussion between Planning Commission members will not be counted towards the four minute time limitation. The Commission by affirmative vote of at least five members may extend the limitation an additional two minutes. The time limitation does not apply to the applicant's initial presentation.

Items on this agenda will be forwarded to the City Council for final consideration.

All information forwarded to the City Council can be accessed via the internet on Thursday prior to the City Council meeting at: <https://www.topeka.org/calendar>



ADA Notice: For special accommodations for this event, please contact the Planning Department at 785-368-3728 at least three working days in advance.

HEARING PROCEDURES

Welcome! Your attendance and participation in tonight's hearing is important and ensures a comprehensive scope of review. Each item appearing on the agenda will be considered by the City of Topeka Planning Commission in the following manner:

1. The Topeka Planning Staff will introduce each agenda item and present the staff report and recommendation. Commission members will then have an opportunity to ask questions of staff.
2. Chairperson will call for a presentation by the applicant followed by questions from the Commission.
3. Chairperson will then call for public comments. Each speaker must come to the podium and state his/her name. At the conclusion of each speaker's comments, the Commission will have the opportunity to ask questions.
4. The applicant will be given an opportunity to respond to the public comments.
5. Chairperson will close the public hearing at which time no further public comments will be received, unless Planning Commission members have specific questions about evidence already presented. Commission members will then discuss the proposal.
6. Chairperson will then call for a motion on the item, which may be cast in the affirmative or negative. Upon a second to the motion, the Chairperson will call for a role call vote. Commission members will vote yes, no or abstain.

Each item appearing on the agenda represents a potential change in the manner in which land may be used or developed. Significant to this process is public comment. Your cooperation and attention to the above noted hearing procedure will ensure an orderly meeting and afford an opportunity for all to participate. Please Be Respectful! Each person's testimony is important regardless of his or her position. **All questions and comments shall be directed to the Chairperson from the podium and not to the applicant, staff or audience.**

Members of the Topeka Planning Commission

Katrina Ringler, 2019 Chairperson
Brian Armstrong
Ariane Messina
Corey Dehn
Marc Fried
Carole Jordan
Wiley Kannarr
Corliss Lawson
Matt Werner

Topeka Planning Staff

Bill Fiander, AICP, Planning & Development Director
Carlton O. Scroggins, AICP, Planner III
Dan Warner, AICP, Planner III
Mike Hall, AICP, Planner III
Tim Paris, Planner II
Annie Driver, AICP, Planner II
John Neunuebel, Planner II
Taylor Ricketts, Planner I
Bryson Risley, Planner I
Kris Wagers, Administrative Officer



CITY OF
TOPEKA

TOPEKA PLANNING COMMISSION

Agenda for Monday, September 16, 2019

- A. Roll call**
- B. Approval of minutes – August 19, 2019**
- C. Declaration of conflict of interest/ex parte communications by members of the commission or staff**
- D. Public Hearings**
 - 1. Z19/07 by: Milk & Honey Coffee Company, LLC** requesting to amend the District Zoning Map on property located at 2200 SE 29th Street from O&I-2 Office and Institutional District to C-2 Commercial District to allow a coffee shop with drive-through service. **(Driver)**
 - 2. PUD19/03 Wanamaker West Development PUD by: Cook, NT & Flatt, DW & Strobel, Kenneth E Trust d/b/a CF&S PR**, requesting to amend the District Zoning Map for the subject property located at 6017 SW 30th Terrace from C-2 Commercial District and O&I2 Office and Institutional District **all to** PUD Planned Unit Development to allow for C-4 Commercial uses and I-1 Light Industrial uses such as warehousing for general & contractor use including potential limitations and restrictions. **(Neunuebel)**
 - 3. PUD19/02 Sports Zone PUD by: T&J Land Co. LLC**, requesting to amend the District Zoning Map from R-1 Single Family Dwelling District with an existing Conditional Use Permit for “Outdoor Recreation Fields, Retail Sales, and Food Service” and existing Special Use Permits for “Private Membership Club with Golf Courses” and “Community Building with Alcohol Sales” **all to** PUD Planned Unit Development (I-1 Uses) on a 23 acre property located at 3907 and 3909 SW Burlingame Road. **(Driver)**
 - 4. ACZR19/01** - The proposal to be presented to the Topeka Planning Commission would amend the Topeka Municipal Code (TMC) Title 18 (Comprehensive Plan-Signs-Subdivisions-Zoning) as follows:
Amendments to the Definitions in Chapter 18.55, Use Tables in Chapter 18.60, and Special Use Requirements in Chapter 18.225 to regulate Small Cell Wireless Facilities. Amendments to other chapters of TMC Title 18 may also be considered as needed to regulate Small Cell Wireless Facilities. **(Hall)**
- E. Communications to the Commission**
 - 1. Presentation to Outgoing Commissioner Carole Jordan**
- F. Adjournment**

PUD19/02
Sports Zone PUD
by T&J Land Company LLC

**STAFF REPORT – PLANNED UNIT DEVELOPMENT
TOPEKA PLANNING DEPARTMENT**

PLANNING COMMISSION DATE: Monday, September 16, 2019 2019

APPLICATION CASE NO

PUD19/02 By: T&J Land Company LLC (Sports Zone PUD)

**REQUESTED ACTION /
CURRENT ZONING:**

Rezone from "R-1" Single Family Dwelling District with Special Use Permits (SUP) for "*Community Building and alcohol sales*" and "*Private Membership Club and Golf Course*" and a Conditional Use Permit (CUP) for "*Outdoor Recreational Uses, Retail Sales, and Food Service*" ALL TO "PUD" Planned Unit Development Master Plan (O&I-2, I-1; plus Outdoor Recreation, Type I and II and Indoor Recreation Type I uses, and any other uses allowed by existing CUP #CU97/7 which is to remain in effect.)

The existing SUPs (SP65/18 and SP89/13) will expire with approval of this PUD Master Plan.

**APPLICANT / PROPERTY
OWNER:**

T&J Land Company LLC

**APPLICANT
REPRESENTATIVE:**

Kevin Holland, P.E. - Cook, Flatt, and Strobel Engineers

**PROPERTY ADDRESS &
PARCEL ID:**

3909 / 3907 SW Burlingame Road / PID: 1462301003008000 and 1462301003003010

PARCEL SIZE:

23 acres

STAFF:

Annie Driver, AICP, Planner

RECOMMENDATION:

Based upon the above findings and analysis Planning Staff recommends **APPROVAL** of this proposal, subject to conditions listed on Pgs. 10

RECOMMENDED MOTION:

Based on the findings and analysis in the staff report, I move that the Topeka Planning Commission forward to the Governing Body a recommendation of **APPROVAL** subject to conditions listed on Pgs. 10

PHOTOS:

View of front of north building (Knights of Columbus building)



View separating houses on east side from subject property



View of north end of Knights of Columbus building



Apartments adjacent to site



Church north of the site



Sports Zone Complex from south side



Residential east of the site and adjacent to east property line



PROJECT AND SITE INFORMATION

PROPOSED USE / SUMMARY:

The applicant proposes the zone change to PUD to “clean up” the historic SUPs and CUPs and better market the property for future uses. The proposed PUD rezoning is speculative and there is no project for the site at the present time, except to continue the current uses. The owner wants to be able to sell off the southern portion (Tract C) for light industry. The PUD Master Plan is intended to allow limited light industrial uses but maintain compatibility with the residential and recreational character of the area.

The northernmost building used as office/day care/dance studio is approximately 18,000 sf and the larger Sports Zone complex immediately south of it is approximately 50, 000 sf. The adjoining grounds west of the Sports Zone are used as recreational fields and not included in this rezoning.

DEVELOPMENT / CASE HISTORY:

1960 – Annexed and subsequently zoned for single family dwellings

1965 – Special Use Permit for “Private Membership with Golf Course” approved on the site containing the northern most building that was constructed for use by the Knights of Columbus as a meeting lodge. There have been various uses in this building overtime, including the State Driver’s License Bureau. This building is currently is used as a day care and dance studio.

1989 – Special Use permit for “Community Building with Alcohol Sales” approved for site containing the Knights building. An

addition was added to the existing building The building was expanded and the ball diamonds were developed after that time.

1998 – Conditional Use Permit for “Outdoor Recreational Fields, Retail Sales, and Food Service” approved. The Sports Zone Building (50,000 sf), indoor sports recreational facility, was constructed on the south side of the Knights of Columbus building.

**ZONING AND CHARACTER OF
SURROUNDING AREA:**

North: PUD (Multiple Family uses) / Church and apartment complex

South: “I-1” Light Industrial / Budweiser warehouse distributor

West: “R-1” Sports Zone recreational fields, flood way and 1% floodplain zone

East: “R-1” Single Family Dwelling District / Residential; cemetery

**PUD MASTER PLAN ELEMENTS
(PROPOSED):**

PARKING, CIRCULATION &

PUD Note: The PUD establishes mutual cross access between all tracts and adjacent property to the west and north that are currently accessing across this property.

PUD Note: New access openings will be reviewed and approved by the City Traffic Engineer for a substantial addition, new construction or a major change of use. New development or changes of use may need to address changes to the existing access openings on Burlingame at the time of Site Plan Review.

LANDSCAPE:

PUD Note: Compliance with TMC 18.235 Landscape Regulations is required for substantial changes of use or new development. The PUD requires a 6’ wide landscape buffer along north and east lines of Tract A and B if a substantial change of use of new development is proposed. Landscaping for Tract C will be provided as indicated in TMC 18.235 for “I-1” Light Industrial zoning.

BUILDING AND STRUCTURE:

PUD Note: Type C standard in TMC 18.275 Non-Residential Design Standard applies to new construction in Tracts A, B, and C.

Building Setbacks: Setbacks are established on the PUD Master Plan of 30’ for Tract A and B along the front.

SIGNAGE:

PUD Note: Governed by TMC18, Division 2 Signs unless stated otherwise.

COMPLIANCE WITH DEVELOPMENT STANDARDS AND GUIDELINES: The Master PUD Plan establishes development standards and guidelines, as indicated above.

OTHER FACTORS

SUBDIVISION PLAT: Platted as Lot 1, Knights of Columbus Subdivision and a part of Lot 1, Saint Sebastian Sports Subdivision.

A replat may be required if there is a sale or change of ownership to areas described by the PUD zoning that sale creates new parcels while creating land locked lots to the west.

TRAFFIC/TRANSPORTATION: SW Burlingame is an arterial roadway. The PUD requires that access on Burlingame will be reviewed by Traffic Engineering for consistency to City design specifications if there is a new addition/new building or there is a major change of use.

FLOOD HAZARDS, STREAM BUFFERS: Floodway / Zone AE 1% chance of annual flooding

HISTORIC PROPERTIES: Not Applicable

NEIGHBORHOOD MEETING: The applicant conducted a Neighborhood Information Meeting on Monday, August 26, 2019. The applicant and planning staff attended the meeting. Surrounding owners were at the meeting. No major objections were presented at the meeting. The meeting summary and attendance sheet is attached. Staff received a phone calls from residential to the east who expressed concerns with the premature nature of this rezoning action as it opens the door to uses the site is not yet suitable to accommodate as related to primarily traffic, driveway opening, and roadway improvements from a public safety perspective.

REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES

ENGINEERING/STORMWATER: No new development is proposed at the current time. Future plans or permits will be reviewed by Engineering/Utilities for compliance with Stormwater requirements.

ENGINEERING/TRAFFIC: No new development is proposed at the current time. Future plans or permits will be reviewed for compliance with traffic engineering requirements.

ENGINEERING/UTILITIES: No new development is proposed at the current time. Future plans or permits will be reviewed for connections to sewer and water.

FIRE: No new development is proposed at the current time. Future plans or permits will be reviewed for fire suppression needs.

DEVELOPMENT SERVICES: No new development is proposed at the current time. Permits will be required.

METROPOLITAN TOPEKA TRANSIT
AUTHORITY (TMTA):

None

KEY DATES

SUBMITTAL: July 19, 2019

NEIGHBORHOOD INFORMATION
MEETING: August 26, 2019

LEGAL ADVERTISING: August 23, 2019

PROPERTY OWNER NOTICE
MAILED: August 21, 2019

STAFF ANALYSIS: As this is a zoning case, Planning staff have considered the golden factors as indicated in Topeka Municipal Code Section 18.245 (*Donald Golden vs. City of Overland Park, 1978 Kansas Supreme Court*). This staff analysis evaluates the proposal based on these factors as indicated below.

CHARACTER OF THE NEIGHBORHOOD: The surrounding area is characterized by large open spaces used for outdoor recreation. The applicant's remaining property to the west is almost entirely covered by the floodway. The site is within proximity to the Interstate 470 and the Kansas Turnpike interchange. The west side of Burlingame contains open space/agriculture land/rural lots with light industrial uses, cemetery, and three single family residences located along the east side of the property that have been there since the 1950s. The east side of Burlingame consists mostly of U.S. 75 Highway and rural residential lots. The proposed rezoning to accommodate office & institutional uses, and light industrial uses for enclosed warehousing and light manufacturing as well as the existing indoor and outdoor recreational uses is in character and keeping with the surrounding area.

ZONING AND USES OF PROPERTY NEARBY: The immediate property to the north is zoned "PUD" for multiple family and contains a church and apartment complex. The surrounding area to the east and west is zoned "R-1" Single Family Dwelling District with existing CUP for Outdoor Recreation on property to the west and contains three residences, a cemetery and ball fields. Property to the immediate south is zoned "I-1" Light Industrial and contains a Budweiser distributor. A propane fueling station zoned "I-1" Light Industrial lies between areas designated Tract C and Tract B on the PUD Master Plan. Based on the pattern of surrounding uses, the proposed uses as mitigated by the PUD Master Plan with landscaping, setbacks, and use/building size restrictions are compatible with the zoning and land uses of property nearby.

LENGTH OF TIME THE PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER THE PRESENT CLASSIFICATION: The property has been zoned Single Family Dwelling District since it was annexed in 1960. The property has been zoned under a very limiting Special Use Permit (SUP) allowing the Knights of Columbus hall (north building) since 1965 as a membership hall. A 1989 SUP further broadened this use to allow a community building with alcohol sales. The building was expanded at that time and ball diamonds were added. The Conditional Use Permit (CUP) approved in 1998 allowed expansion of the property for the indoor sports facility with sales of food and beverage. The north building is currently used for a dance studio/day care and previously housed the State of Kansas Driver's Licensing Bureau.

SUITABILITY OF USES TO WHICH THE PROPERTY HAS BEEN RESTRICTED: The subject property is zoned to allow single family dwellings and uses allowed under the existing Conditional Use Permit/Special Use Permits of an indoor/outdoor sports facility, private membership club and community building. The intent of the original Conditional

Use Permit/Special Use Permits was to substantially limit the scope of uses since the area was residential and not suited for industry/commercial uses. However, the site is also not suitable as zoned "R-1" Single Family Dwelling District since residential has never existed on the property and much of the owner's property is in the floodway. The very narrow scope of the existing special permits and conditional use permits also makes it difficult for the owner to market the property for other uses. The PUD Master Plan will continue to allow indoor and outdoor sports recreation, but broadens the allowed uses on the site to make it more feasible to market existing buildings and undeveloped portions of the property for future use and/or sale in a manner that is consistent with the pattern of land uses and zoning to the north and south. The area proposed for future development is located outside the floodway and flood plain making it suitable for other more uses from which it has been restricted.

CONFORMANCE TO THE COMPREHENSIVE PLAN: The subject property lies within an area that is designated "Parks/Open Space/Recreation" on the north side and "Industrial" and "Rural Residential" on the south side in the Land Use and Growth Management Plan – 2040 (LUGMP). The PUD Master Plan limits uses on the north tracts to "O&I-2" Office and Institutional, Outdoor and Indoor Recreation, and allows all "I-1" light industrial district uses on the south tract. The primary reason for limiting light industrial uses on the northern two tracts is proximity and compatibility with adjoining residential uses.

The LUGMP – 2040 future land use map was not meant to define future land uses on a parcel by parcel basis, but is more general in scope. Since the area is predominantly covered by the flood way/Zone AE flood plain and has been used for outdoor recreation or is rural residential in character since the 1960s, the overall area was designated as such on the map. As restricted in the PUD Master Plan and recommended by staff, the request broadening the allowed uses may be in Comprehensive Plan.

THE EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTAL AFFECT NEARBY PROPERTIES: The recommended PUD Master Plan is anticipated to have few if any detrimental effects on nearby properties since it addresses improvements that may be needed with a change of use. With the conditions of approval recommended by staff, the proposed PUD Master Plan will allow a broader range of uses than currently allowed but is effectively written to promote compatibility and prevent conflicts with adjacent residential and institutional uses. In particular, the PUD Master Plan limits Tracts A and B primarily to office, institutional, and recreation uses, while allowing for a narrow range of light industrial uses of Tract B, but prohibiting any substantial outdoor storage. Upon any substantial change of the use to Tracts A and B, a landscape buffer will be required along the east and north property lines where they abut residential and institutional uses. Planning staff has concerns that the northernmost driveway is not designed adequately for public safety to accommodate semi-tractor trailers and therefore recommends its use be limited to passenger vehicles and light trucks only. Additionally, the PUD Master Plan requires a Traffic Impact Analysis if there is a substantial change of use/occupancy or construction of new buildings on the site to address any necessary off-site or on-site roadway or traffic improvements.

THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY, AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE OWNER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER: There is a significant hardship on the individual landowner since the current zoning significantly limits allowed uses on the property, which has never been used for single-family residential. Additionally, the existing "R-1" zoning combined with CUP/SUPs are cumbersome on the landowner who wants to make improvements to better market their property and this is not possible under the current use permits. There would appear to be no harm to the public health, safety and welfare as the PUD Master Plan limits the uses and establishes standards for new development.

AVAILABILITY OF PUBLIC SERVICES:

All essential public utilities, services and facilities are presently available to this property with all connections being made at the expense of the developer at the time of site development.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

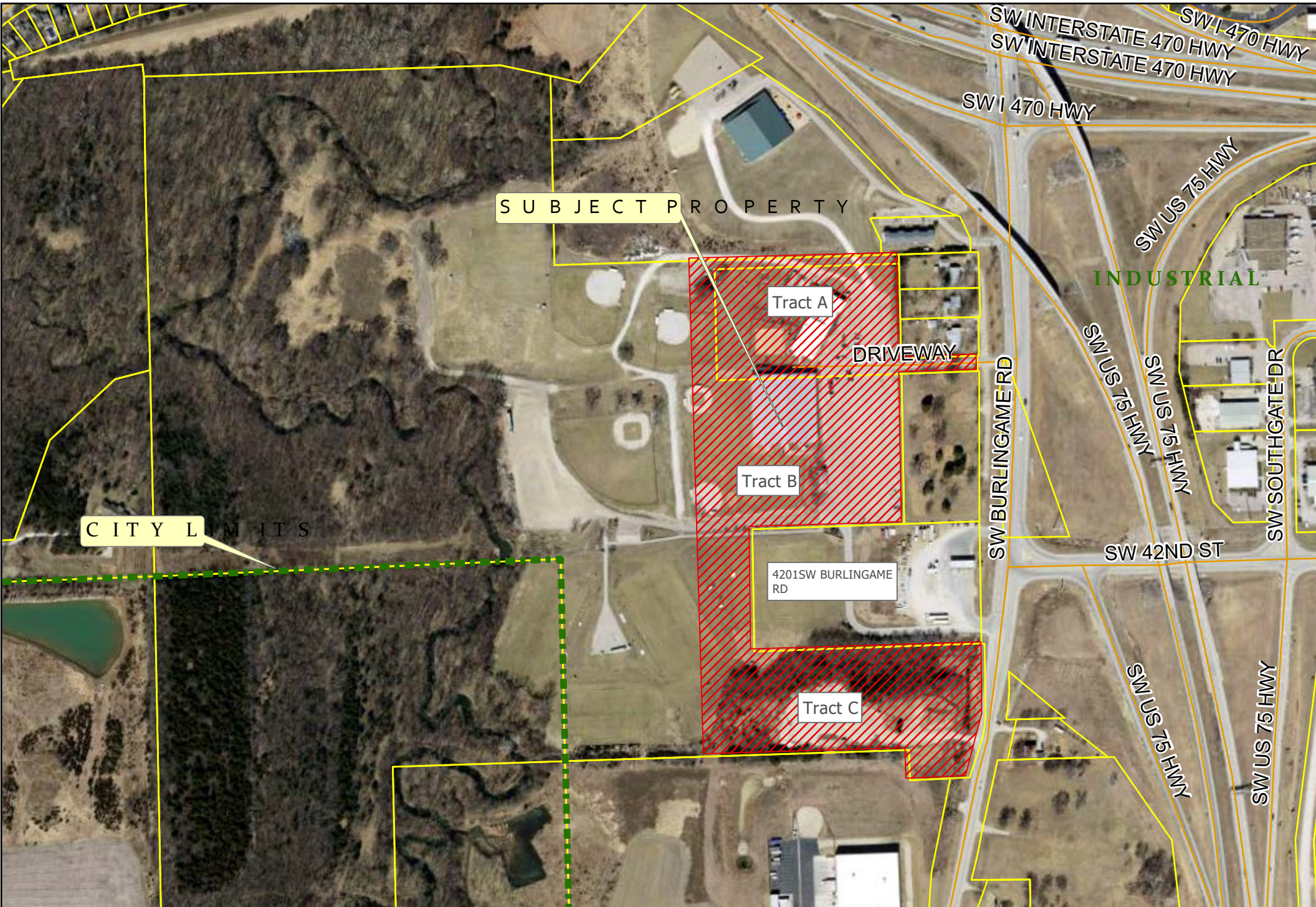
The Master PUD Plan establishes development standards and guidelines as stated herein.

STAFF RECOMMENDATION

Based upon the above findings and analysis Planning Staff recommends **APPROVAL** of this proposal, **subject to:**

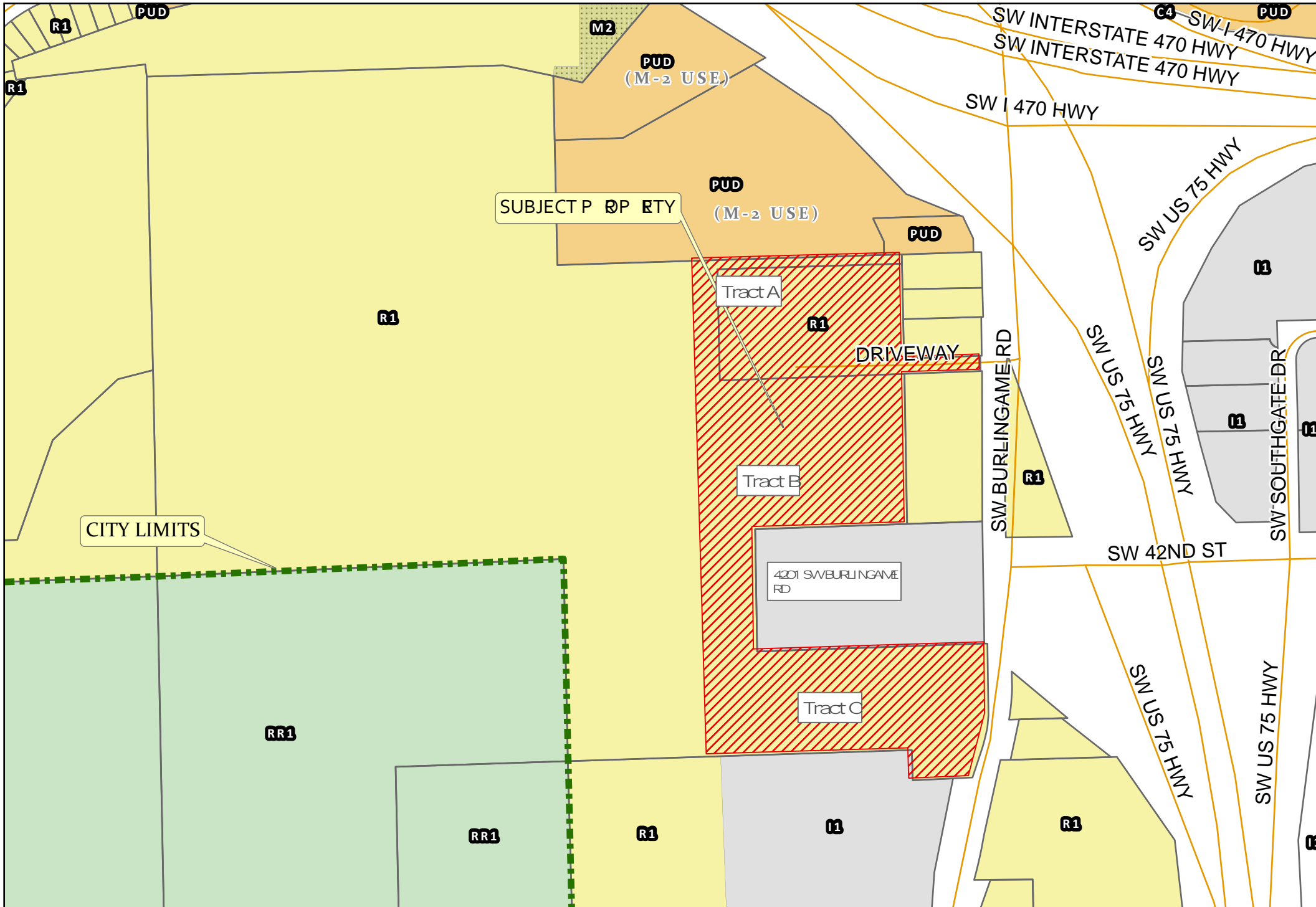
1. Use and development of the site in accordance with the **Planned Unit Development Master Plan for Sports Zone** as recorded with the Office of the Shawnee County Register of Deeds.
2. Revising note #4 under Circulation, Parking, and Traffic to rather state: *"Access openings along SW Burlingame Road are existing for the existing uses only. A Change of Use/Occupancy or substantial new construction shall only be approved by the City of Topeka Traffic Engineer at the time of Site Plan Review or Building Permit review. A Traffic Impact Analysis (TIA) shall be required as determined by the City of Topeka traffic engineer to address on-site and off-site roadway improvements. The northernmost driveway is intended only for passenger vehicles and light trucks. Semi-tractor trailers shall not use this northernmost driveway opening on to Burlingame Road. Alternate access may be approved through the adjacent parcel at 4201 SW Burlingame Road provided legal rights of access are established."*
3. Identifying on the PUD Master Plan the existing freestanding sign with the electronic message center at the northernmost entrance to the property. Under *Signage Notes* add the following note after note #1: *"2. Any alteration to the existing freestanding sign at the northernmost entrance shall require compliance with sign standards applicable to O&I-2 zoning. Upon any change to a use not allowed under the O&I-2 use group on Tracts A or B the existing freestanding sign shall be modified as needed to comply with sign standards applicable to the O&I-2 zoning classification."*
4. Add Signage note #3: *"One freestanding sign shall be allowed on Tract 3 and subject to the standards for signs applicable to O&I-2 zoning."*
4. Replacing Signage note #2 (now note #4) with: *"The regulations of TMC 18, Division 2 Signs, applicable to O&I-2 zoning, shall govern all other signs unless specifically stated herein."*
5. Revising Building note #1 to indicate: *". . . Type C standard in TMC 18.275 applies for Tracts B and C and Type B standard in TMC 18.275 applies to Tract A"*
6. Revising Project Information notes:
 - a. Remove redundant description of the tracts in parentheses next to Tract A, B, C as those buildings may no longer remain for the long-term.
 - b. Tract A:
 - i. Add Type 1 and 2 next to "Outdoor Recreation" under use group.
 - ii. Remove *"Enclosed warehousing/storage"* as allowed use
 - iii. Change Maximum Building Size to 20,000 sf.
 - c. Tract B:
 - i. Revising Tract B, note d: *Adding note addressing the north side building setback for the existing building since it is less than the required 7 ft. side yard setback in O&I-2*
 - ii. Include "Outdoor Recreation Type 1 and 2" under use groups
 - iii. Revising Tract B allowed uses as follows:
 1. Revise *"Contractor yard"* to *"Contractor shops without outdoor storage of equipment, materials, vehicles"*
 2. Remove "Truck/Freight Terminal" as an allowed use
 3. Indicating "enclosed" Welding/Tinsmith machine shop
 4. Remove "Light" from Manufacturing and Processing Type I as this use is already defined in section 18.55.

5. Adding Note: *"The outside storage and sales of products, material, equipment shall not be permitted either as primary or accessory use."*
7. Revising General Note #2: *"No building permits for new construction or substantial Change of Use/Occupancy shall be issued until. . ."*
8. Revising General Note #5: *"A replat may be required prior to building permit issuance for any substantial change of use or new construction."*
9. Revising "Planning Director" to *"Planning & Development Director"* and title to *"Planned Unit Development Master Plan"*



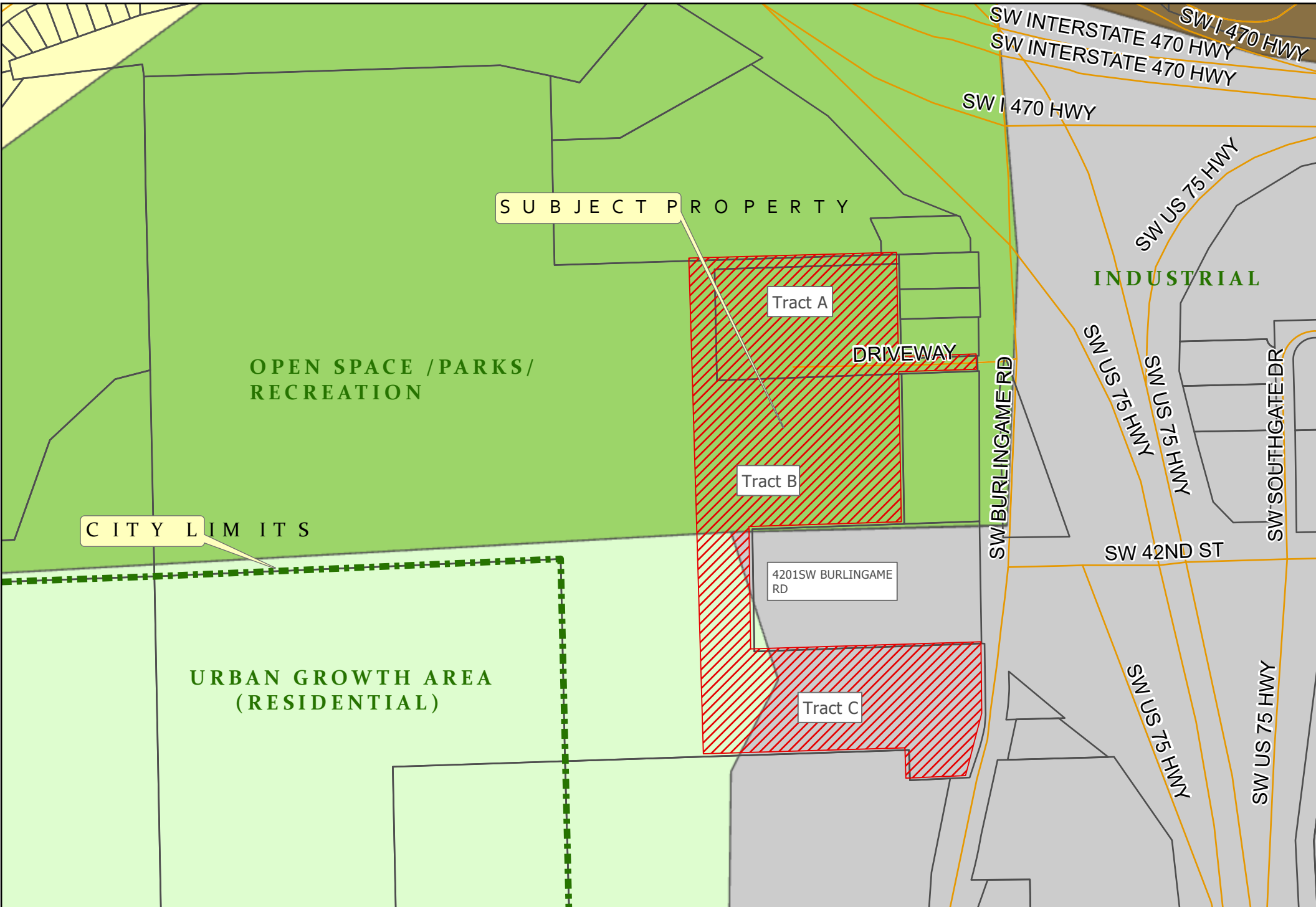
PUD19/02 SPORTS ZONE (T&J LAND CO. LLC)





PUD19/02 SPORTS ZONE (T&J LAND CO. LLC)

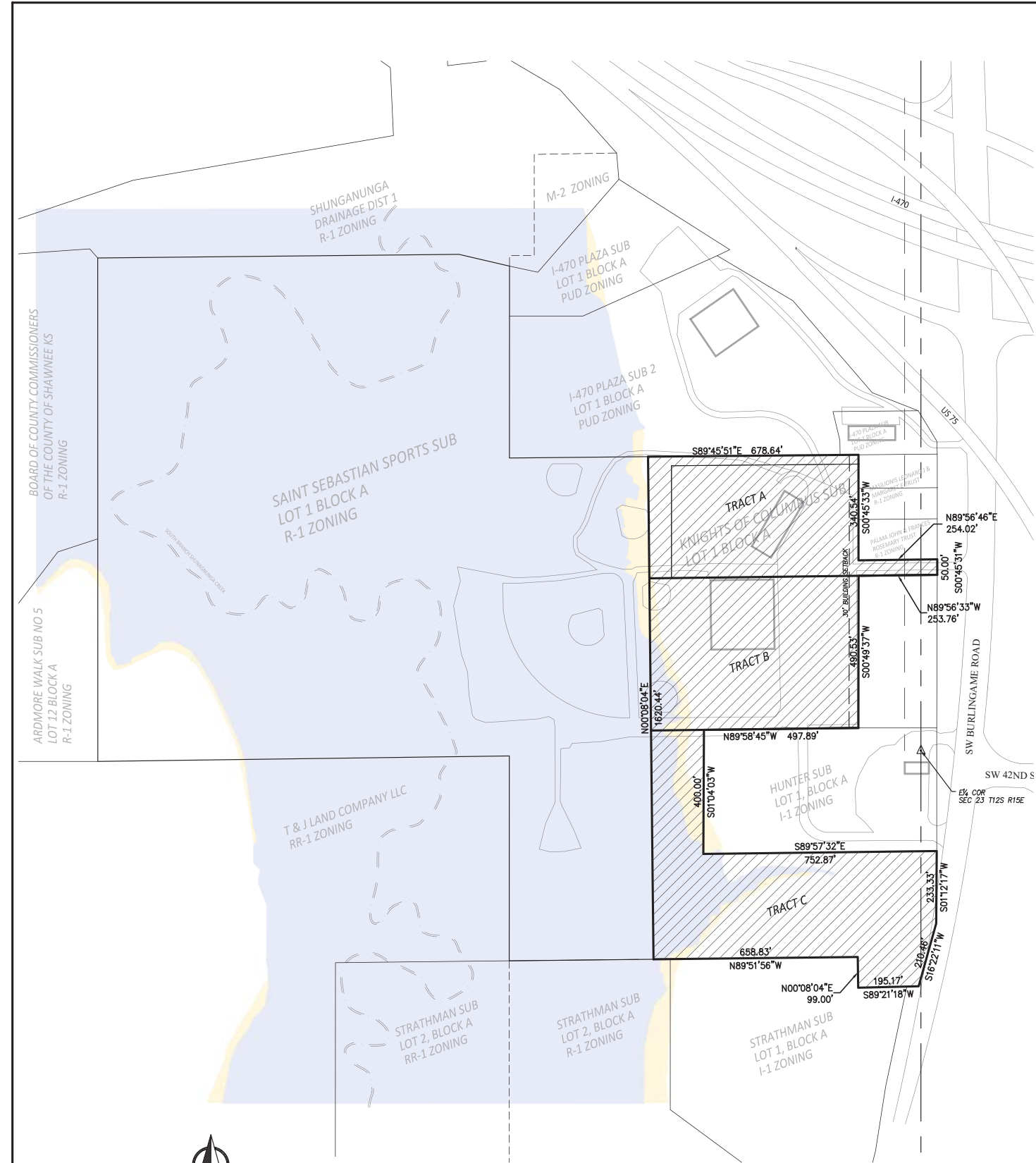




**PUD19/02 SPORTS ZONE (T&J LAND CO. LLC) -
FUTURE LAND USE MAP**



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A: 2/20/2019 1:58:43 PM CADD (Meeting_Zoning_and_Land_Survey) 180143_PUD.dwg



SPORTS ZONE COMPLEX

MASTER PLANNED DEVELOPMENT PLAN

CFSENGINEERS

cfse.com

2930 SW Woodside Dr., Topeka, KS 66614
o: 785-272-4706 f: 785-272-4736

DESCRIPTION

ALL OF LOT 1, BLOCK A, KNIGHTS OF COLUMBUS SUBDIVISION AND A PART OF LOT 1, BLOCK A, SAINT SEBASTIAN SPORTS SUBDIVISION, IN THE CITY OF TOPEKA, SHAWNEE COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE SOUTH 89 DEGREES 21 MINUTES 18 SECONDS WEST A DISTANCE OF 195.17 FEET; THENCE NORTH 00 DEGREES 08 MINUTES 04 SECONDS EAST A DISTANCE OF 99.00 FEET; THENCE NORTH 89 DEGREES 51 MINUTES 56 SECONDS WEST A DISTANCE OF 658.83 FEET; THENCE NORTH 00 DEGREES 08 MINUTES 04 SECONDS EAST A DISTANCE OF 1620.46 FEET; THENCE SOUTH 89 DEGREES 45 MINUTES 51 SECONDS EAST A DISTANCE OF 678.64 FEET; THENCE SOUTH 00 DEGREES 45 MINUTES 33 SECONDS WEST A DISTANCE OF 340.54 FEET; THENCE NORTH 89 DEGREES 56 MINUTES 45 SECONDS EAST A DISTANCE OF 254.02 FEET; THENCE SOUTH 00 DEGREES 45 MINUTES 31 SECONDS WEST A DISTANCE OF 50.00 FEET; THENCE NORTH 89 DEGREES 56 MINUTES 33 SECONDS WEST A DISTANCE OF 253.76 FEET; THENCE SOUTH 00 DEGREES 49 MINUTES 37 SECONDS WEST A DISTANCE OF 490.53 FEET; THENCE NORTH 89 DEGREES 58 MINUTES 45 SECONDS WEST A DISTANCE 497.89 FEET; THENCE SOUTH 01 DEGREES 04 MINUTES 03 SECONDS WEST A DISTANCE OF 400.00 FEET; THENCE SOUTH 89 DEGREES 57 MINUTES 32 SECONDS EAST A DISTANCE OF 752.87 FEET; THENCE SOUTH 01 DEGREES 12 MINUTES 17 SECONDS WEST A DISTANCE OF 233.33 FEET; THENCE SOUTH 16 DEGREES 22 MINUTES 11 SECONDS WEST A DISTANCE OF 210.46 FEET TO THE POINT OF BEGINNING. CONTAINS 23.00 ACRES MORE OR LESS.

PERFORMANCE OBJECTIVE

PROVIDE FOR A RANGE OF USES THAT CAN BEST UTILIZE THE EXISTING BUILDINGS, AND DEVELOPED AND UNDEVELOPED LAND, WHILE ENSURING COMPATIBILITY OF USE AND DEVELOPMENT WITH ADJACENT RESIDENTIAL AND INSTITUTIONAL USES, AND OPEN SPACE. FUTURE IMPROVEMENTS FOR THE EXISTING BUILDINGS SHALL FIT INTO CERTAIN INDUSTRIAL USES.

GENERAL NOTES

- THE BASE ZONING AND STANDARDS OF EACH TRACT SHALL APPLY UNLESS STATED OTHERWISE HEREIN.
- NO BUILDING PERMITS SHALL BE ISSUED UNTIL SITE PLAN REVIEW APPLICATIONS PURSUANT TO TMC 18.190.060(C), FOR DEVELOPMENT MEETING THE APPLICABILITY CRITERIA IN TMC 18.260.030 HAVE BEEN REVIEWED AND APPROVED BY THE PLANNING AND DEVELOPMENT DIRECTOR AND OTHER CITY DEPARTMENTS PRIOR TO SUBMITTAL FOR BUILDING PERMITS. THESE SITE PLANS SHALL ADDRESS EACH BUILDING SITE LOCATION, OFF-STREET PARKING AND CIRCULATION, FIRE HYDRANTS, LANDSCAPING, PEDESTRIAN CONNECTIVITY, EXTERNAL LIGHTING, BUILDING ARCHITECTURAL ELEVATIONS, STORMWATER, RELATIONSHIP TO ADJACENT LOTS, UTILITIES, BUS STOPS, ETC."
- NO BUILDING PERMITS SHALL BE ISSUED UNTIL STORMWATER MANAGEMENT PLANS ARE MET AND APPROVED, INCLUDING GRANTING OF ANY NECESSARY STORMWATER MANAGEMENT EASEMENTS.
- PURSUANT TO TMC 18.190, THE APPLICANT MUST RECORD THE MASTER PUD PLAN WITH THE SHAWNEE COUNTY REGISTER OF DEEDS WITHIN SIXTY (60) DAYS UPON APPROVAL OF THE GOVERNING BODY. FAILURE BY THE APPLICANT TO RECORD THE PLAN WITHIN THE PRESCRIBED TIME PERIOD AND PROVIDE THE PLANNING DEPARTMENT WITH THE REQUIRED NUMBER OF COPIES OF THE RECORDED PLAN WITHIN NINETY (90) DAYS OF THE DATE OF ACTION BY THE GOVERNING BODY SHALL RENDER THE ZONING PETITION NULL AND VOID.
- NO BUILDING PERMITS SHALL BE ISSUED UNTIL THE PROPERTY IS RE-PLATTED IN A MANNER THAT INCLUDES ALL OF THE CONTIGUOUS PARCEL IF THERE IS A SALE/CHANGE OF OWNERSHIP."
- ALL REGULATIONS OF TITLE 18, TOPEKA MUNICIPAL CODE APPLY UNLESS STATED OTHERWISE HEREIN.

UTILITY NOTES

- WATER AND SEWER WILL BE PROVIDED BY CITY OF TOPEKA.
- THE FIRE DEPARTMENT SHALL REVIEW AND APPROVE FUTURE PLANS SHOWING FIRE HYDRANT LOCATIONS AND FIRE ACCESS PRIOR TO THE START OF CONSTRUCTION.
- LIGHTING SHALL BE FULL CUT OFF, SHIELDED & RECESSED WITH CUT-OFF ANGLES TO PREVENT THE CAST OF LIGHTING BEYOND THE PROPERTY & NOT EXCEED 3 FOOT CANDLES AS MEASURED AT THE PROPERTY LINE.
- ALL UTILITIES SHALL BE PLACED UNDERGROUND PURSUANT TO THE CITY'S RIGHT-OF-WAY MANAGEMENT STANDARDS.

CIRCULATION, PARKING & TRAFFIC NOTES

- A 40 FT. SIGHT TRIANGLE, MEASURED FROM THE FACE OF CURB EXTENDED, SHALL BE MAINTAINED AT ALL ENTRANCES; NO OBSTRUCTIONS GREATER THAN (30) INCHES ABOVE GRADE OF ANY ADJACENT STREET OR ENTRANCE MAY BE PLACED WITHIN THIS AREA.
- ALL NEW DRIVES, STREETS, PARKING AREAS, APPROACHES AND WALKS SHALL BE CONSTRUCTED TO CITY OF TOPEKA STANDARDS.
- ALL DRIVES, LANES & PRIVATELY OWNED ACCESS WAYS PROVIDING ACCESSIBILITY TO STRUCTURES, BUILDINGS AND USES WITHIN THE PLANNED UNIT DEVELOPMENT SHALL BE CONSIDERED AND SERVE AS MUTUAL RIGHTS OF ACCESS TO OWNERS, TENANTS, INVITED GUESTS, CLIENTS, EMPLOYEES, CUSTOMERS, SUPPORT AND UTILITY PERSONNEL AND EMERGENCY SERVICE PROVIDERS, INCLUDING LAW ENFORCEMENT, FIRE PROTECTION AND AMBULANCE SERVICES. ALL ACCESS WAYS PROVIDING GENERAL ACCESSIBILITY TO, AND CIRCULATION AMONG, THE USES WITHIN THE PLANNED UNIT DEVELOPMENT SHALL BE MAINTAINED AT ALL TIMES IN GOOD SERVICEABLE CONDITION WITH THE MAINTENANCE OF SAID ACCESS WAYS BEING THE RESPONSIBILITY OF THE OWNER(S).
- ACCESS OPENINGS ALONG SW BURLINGAME ROAD ARE EXISTING. ANY NEW ACCESS OPENINGS FOR NEW CONSTRUCTION OR A SUBSTANTIAL CHANGE OF USE SHALL BE APPROVED BY THE CITY OF TOPEKA TRAFFIC ENGINEER AT THE TIME OF SITE PLAN REVIEW OR BUILDING PERMIT REVIEW FOR CONSISTENCY WITH THE CITY OF TOPEKA STREET DESIGN SPECIFICATIONS.
- CROSS ACCESS SHALL BE PROVIDED WITH PROPERTY TO THE WEST AND NORTH AS ESTABLISHED BY SEPARATE MUTUAL CROSS ACCESS AGREEMENTS WITH ADJOINING PROPERTY OWNERS.

SIGNAGE NOTES

- SIGNS SHALL BE APPROVED BY SEPARATE SIGN PERMIT APPLICATION.
- TMC 18, DIVISION 2 SIGNS SHALL GOVERN ALL OTHER SIGNS UNLESS SPECIFICALLY STATED HEREIN.
- SIGNAGE ELEVATIONS TO BE APPROVED AT THE TIME OF SIGN PERMIT APPLICATION OR AS PART OF A MASTER SIGN PLAN.

LANDSCAPING NOTES

- LANDSCAPING SHALL BE PROVIDED CONSISTENT WITH TMC 18.235 LANDSCAPE REGULATIONS. THE SPECIFIC POINTS, TYPES AND QUANTITIES SHALL BE APPROVED BASED ON THE LANDSCAPE PLAN SUBMITTED AT THE SITE DEVELOPMENT PLAN REVIEW STAGE. "AN ATTRACTIVE MIX OF EVERGREEN TREES, SHRUBS, AND DECIDUOUS 'LARGE' TREES SHALL BE PROVIDED ALONG THE PROPERTY'S STREET FRONTS WITHIN THE 20 FT. LANDSCAPE SETBACK AND WHERE THE BUILDING AND/OR DEVELOPED AREA IS IMMEDIATELY ADJACENT TO RESIDENTIAL PROPERTIES. A 6 FT. WIDE LANDSCAPE BUFFER SHALL BE PROVIDED ALONG THE EAST BOUNDARY LINE OF TRACT A AND B AND ALONG THE NORTH BOUNDARY LINE OF TRACT A AND PLANTED WITH A MIX OF EVERGREENS TO CREATE A VISUALLY PLEASING BUFFER IF NEW DEVELOPMENT IS PROPOSED OR THERE IS A SUBSTANTIAL CHANGE OF USE ON TRACT A OR TRACT B AS DESCRIBED ON THE PUD MASTER PLAN.
- THE CARE, MAINTENANCE, AND OWNERSHIP OF COMMON OPEN SPACE, PARKING AREAS, UTILITIES, PRIVATE STREETS, ACCESS WAYS, STORMWATER MANAGEMENT EASEMENTS, FENCING, AND LANDSCAPING SHALL BE THE RESPONSIBILITY OF THE OWNERS. ALL LANDSCAPING SHALL BE INSTALLED PURSUANT TO PHASING SCHEDULE AND PROPERLY MAINTAINED. IF ANY PORTION OF THE LANDSCAPED MATERIAL DIES, IT SHALL BE REPLACED BY THE NEXT PLANTING SEASON.

BUILDING NOTES

- BUILDING ELEVATIONS FOR NEW CONSTRUCTION OR BUILDING AND PARKING ADDITIONS GREATER THAN 50 PERCENT SHALL BE REVIEWED FOR CONSISTENCY WITH THE STANDARD FOR EACH USE GROUP AS INDICATED IN TMC 18.275 NON-RESIDENTIAL DESIGN STANDARDS AT THE TIME OF SITE PLAN REVIEW. TYPE C DESIGN STANDARD SHALL APPLY FOR TRACTS A, B & C.
- THE LOCATION OF TRASH AND RECYCLING RECEPTACLES SHALL BE DETERMINED AT THE SITE DEVELOPMENT STAGE TO ENSURE TRASH AREAS ARE NOT OVERLY CONCENTRATED, ARE EFFECTIVELY SCREENED FROM PUBLIC AREAS, AND PROVIDE ADEQUATE CIRCULATION WITHIN THE OVERALL DEVELOPMENT. ALL SAID RECEPTACLES SHALL HAVE ENCLOSURES THAT SCREEN THE RECEPTACLES FROM VIEW AND ARE CONSTRUCTED WITH MATERIALS COMPATIBLE WITH THE ARCHITECTURAL FEATURES OF THE PRINCIPLE BUILDING.

BOOK
DATE

PAGE
TIME

RECORDED WITH THE SHAWNEE COUNTY REGISTER OF DEEDS

REBECCA J. NIOCE, REGISTER OF DEEDS

CERTIFICATION OF MASTER PUD PLAN APPROVAL

THIS PLANNED UNIT DEVELOPMENT (PUD) MASTER PLAN HAS BEEN REVIEWED AND APPROVED IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 18.190 OF THE COMPREHENSIVE ZONING REGULATIONS OF THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS AND MAY BE AMENDED ONLY AS PRESCRIBED IN TMC 18.190.070 OF AND AS SET FORTH ON THIS DOCUMENT OR AS MAY SUBSEQUENTLY BE APPROVED AND RECORDED. THIS APPROVED AND RECORDED MASTER PUD PLAN FOR SPORTS ZONE REPLACES THE SPECIAL USE PERMITS (HSP65/18 AND SPH89/13) COVERING THIS PORTION OF THE PROPERTY.

BILL FIANDER, PLANNING DIRECTOR

DATE

OWNER'S CERTIFICATE

T & J LAND COMPANY, LLC, OWNER, AGREES TO COMPLY WITH THE CONDITIONS AND RESTRICTIONS AS SET FORTH ON THE MASTER PUD PLAN.

IN TESTIMONY WHEREOF, THE OWNERS OF THE ABOVE DESCRIBED PROPERTY, T & J LAND COMPANY, LLC, HAS SIGNED THESE PRESENTS THIS _____ DAY OF _____, 2019.

JOHN OSTROWSKI, MANAGING MEMBER
T & J LAND COMPANY, LLC

STATE OF KANSAS) ss
COUNTY OF SHAWNEE) ss
BE IT REMEMBERED THAT ON THIS _____ DAY OF _____, 2019, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, CAME JOHN OSTROWSKI, MANAGING MEMBER, T & J LAND COMPANY, LLC, WHO IS PERSONALLY KNOWN TO BE THE SAME PERSON WHO EXECUTED THE WITHIN INSTRUMENT OF WRITING, AND SUCH PERSON DULY ACKNOWLEDGED THE EXECUTION OF THE SAME.

IN WITNESS WHEREOF, I HEREBY SET MY HAND AND AFFIX MY SEAL ON THE DAY AND YEAR LAST WRITTEN ABOVE.

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

PROJECT INFORMATION

CURRENT ZONING: R-1,

TRACT A: (I.E. NORTH PORTION WITH "DRIVER'S LICENSING" OFFICE)

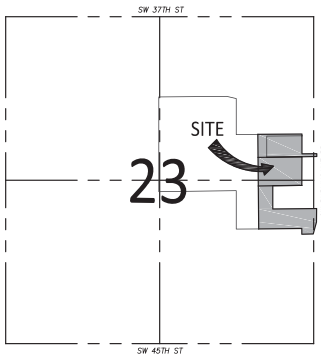
- USE GROUP: INDOOR RECREATION, TYPE I AS WELL AS ACCESS TO THE OUTSIDE RECREATIONAL USES ON THE ADJACENT PROPERTY; AND "O&I-2" OFFICE AND INSTITUTIONAL DISTRICT USES PLUS ENCLOSED WAREHOUSING AND STORAGE FACILITY; IN ADDITION TO ANY OTHER ALLOWED USES UNDER THE EXISTING CONDITIONAL USE PERMIT #CU97/7.
- MAXIMUM BUILDING HEIGHT: 42 FT.
- MAXIMUM BUILDING SIZE: 30,000 SF
- FRONT BUILDING SETBACK: 30' AS MEASURED FROM ADJOINING PROPERTY TO THE EAST.
- OTHER: "O&I-2" DIMENSIONAL STANDARDS AND SETBACKS UNLESS STATED OTHERWISE.

TRACT B: (I.E. MIDDLE PORTION WITH SPORTS ZONE)

- USE GROUP: INDOOR RECREATION TYPE I AS ALLOWED UNDER THE EXISTING CONDITIONAL USE PERMIT CU97/7; "O&I-2" OFFICE AND INSTITUTIONAL DISTRICT PLUS:
 - ENCLOSED WAREHOUSING AND STORAGE FACILITY
 - AGRICULTURAL PRODUCT SALES AND STORAGE
 - CONTRACTOR YARDS
 - MACHINERY EQUIPMENT REPAIR AND RESTORATION
 - SELF-STORAGE TYPE I AND II
 - TRUCK FREIGHT TERMINAL
 - WAREHOUSE, STORAGE, DISTRIBUTION FACILITIES
 - WELDING, TINSMITING & MACHINE
 - LIGHT MANUFACTURING/PROCESSING TYPE I
- MAXIMUM HEIGHT: 60 FT.
- MAXIMUM BUILDING SIZE: 50,000 SF
- FRONT BUILDING SETBACK: 30' AS MEASURED FROM ADJOINING PROPERTY TO THE EAST.
- OTHER: "O&I-2" DIMENSIONAL STANDARDS AND SETBACKS UNLESS STATED OTHERWISE.

TRACT C: (I.E. SOUTH PORTION)

- USE GROUP: "I-1" LIGHT INDUSTRIAL DISTRICT
- DIMENSIONAL STANDARDS, HEIGHT, AND BUILDING SETBACKS OF "I-1" LIGHT INDUSTRIAL IN TMC 18.60 APPLY



VICINITY MAP
NO SCALE

PUD ____ / ____

Memorandum

To: Annie Driver

From: Kevin Holland

Date: September 3, 2019

Re: Sportszone Complex Public Meeting

A public meeting was held Monday, August 26, 2019 at the Sportszone complex. Five people came to the meeting. One of the neighbors owns the filling station on the south side, a neighbor directly to the east, and three individuals from the church across Burlingame. All five people were interested in what was being planned for the property. Since no actual plans were in the mix, no immediate concerns were made about the planned PUD.

ATTENDANCE SIGN-IN SHEET

Sportszone PUD

	Name	Address	Phone	Email
1	Gary Souder	1942 SW 8th	231-3909	G.Souder@586global.net
2	Marshall Maslin	3701 SW Burlingame	266-8658	ljmasil@cox.net
3				
4	MARVIN STEES	911 SE ADAMS	233-8008	MARVINS@CAPITALCITYOIL.COM
5	Rex Allen	8414 SE Stanley Rd	836-3090	allenrf55@gmail.com
6	Barbara Allen	8414 SE Stanley Rd	836-3090	
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RECEIVED

SEP 05 2019

TOPEKA PLANNING
DEPARTMENT

Annie Driver

From: Matt Masilionis <matt@rmta.biz>
Sent: Thursday, September 5, 2019 9:31 AM
To: Annie Driver
Cc: Margaret; Bob & Julie Masilionis (bmasilionis@cox.net)
Subject: PUD #19/2 - 3907 & 3909 Burlingame Road
Attachments: 20190905 Margaret Masilionis Letter Requesting Rejection of Rezoning Application PUD19-2.pdf

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Annie

My mother, with my assistance, has completed her letter requesting denial of the application for PUD #19/2 this morning which the final draft is attached to allow you to begin to digest her notes prior to her hand delivering the executed document over to you this afternoon for your review and inclusion into your staff summary for submittal to the Commissioners in the coming days.

Mom has noted in the letter that I have assisted her in evaluating the city & applicant information and helping provide detailed analysis included with her letter. She also notes her request to incorporate my assistance in any dialog to review the information, if needed. She indicates that I will be unable to attend the Planning Commission hearing on Monday September 16th as I will be out of the country (leaving mid-tomorrow morning). She indicating during her closing summary that the document should be used as her reference for her denial at the Planning Commission Meeting.

My brother Robert (or Bob) is also copied on the letter and this note as he is assisting her today in this effort (and will be also attending the Planning Commission meeting in his role as the board chairman of the Foster Cemetery).

If you have any questions relating to the details prior to my departure Friday morning, please call me on my mobile (816-210-5709)

Thank you for your help and assistance in this matter.

Matt Masilionis AIA / NCARB

RMTA
2000 SHAWNEE MISSION PARKWAY, SUITE 100
MISSION WOODS, KANSAS 66205

www.rmta.biz

DATE 5 September 2019

TO Ms. Annie Driver, Planner
City of Topeka Planning Department
620 SE Madison Street, 3rd Floor, Unit 11
Topeka, Kansas 66607
adriver@topeka.org
785-368-3728

RE: OPPOSITION TO REZONING OF 3907 & 3909 SW BURLINGAME ROAD, TOPEKA, KANSAS
FROM "R1" TO "PUD" PLANNED USE DEVELOPMENT ("I-1" LIGHT INDUSTRIAL USES) - #PUD 19/2

Dear Ms. Driver,

My name is Margaret Masilionis and I reside at 3901 Burlingame Road in addition to also owning the adjacent home located at 3903 Burlingame Road (and lease the residence to my niece and her husband). I am writing to you request a denial of the above referenced rezoning request from R1 to PUD by T&J Land Company. I have worked diligently to compose all pertinent information into my notes and details below but have attached supporting city documentation to this note for additional reference and use for supporting my request for denial of this application.

1. NEIGHBORHOOD MEETING SUMMARY (and invalidation of such) – (refer to Attachment "A" & "B")

I was in attendance at the neighborhood meeting which occurred on August 26th, 2019 at 3909 Burlingame Road at which time the basic materials which were delivered in my notice (and attached herein) was generally reviewed. At this meeting, no additional documentation or detail was provided beyond what I had receive in the Notice of Neighborhood Information Meeting. During the meeting, I specifically requested details as to why a change of zoning was requested and what the plan of the parcel was going to be changed to, to which the applicants engineer, Mr. Kevin Holland, noted "they did not know what the plan will be" as well as "we don't have any idea as to what changes will occur"; which provided very serious concerns as the neighborhood meeting was specifically for the reason to "give the applicant a chance to answer questions and resolve concerns from residents prior to the Planning Commission public hearing (as clearly articulated in the attached planning document "A Guide to Neighborhood Information Meetings for Applicants and Citizens"). Further, as detailed in the "City of Topeka Citizen Participation Process" the meeting of owners within 200 is to "To ensure all property owners, residents, businesses, and organizations potentially affected by a proposed land development have the opportunity to comment on and understand development proposals before the public hearing".

More specifically, since no detail or reasoning's of the change in use can be provided by the applicant to the neighbors, why did the meeting occur and how am I to analyze or respond to their request with anything but to request a denial of their application since there is no real plan nor detail to provide? The neighborhood meeting was not a meeting as required and articulated by the rules noted by the City of Topeka as part of the Planning process and was a complete waste of everyone's time since nothing was shared nor any questions could be answered by the applicant. The neighborhood meeting was clearly just providing "lip service" to the neighbors so they can continue to check their boxes with the City of Topeka, however, I would like to note from my attendance at the neighborhood meeting and the lack of care by the applicant to addressing the simple questions of "why" and "what" the rezoning change is requested by them that this meeting emphasizes the Applicant did not abide by the rules and requirements set forth by the City for the meeting and, as such, this meeting should be considered null and void and must be completed again when the applicant can abide by the rules and procedures of the city and properly provide details as to "why" and "what" the rezoning request is for at the Neighborhood Meeting.

2. GENERAL SITE HISTORY (and current Zoning issue)

My ancestors were the original homesteaders (the Foster's) of the entire parcel of land in the early 1800's.

In mid-1800's the family parceled a portion of the land to create the Foster Cemetery (located at 3949 SW Burlingame Road) which my family has been overseeing and helping manage as a board member since its creation (my oldest son, Robert, currently chairs the board).

My father, Francis Foster, created several parcels for our family homes, which my Sister and her husband (Rosemary and John Palma) were the first to build and occupy at 3905 Burlingame Road in 1958, followed by my Father and Mother (Francis and Blanche Foster) at 3903 Burlingame in 1960 and finally by my husband, Lenonard, and I at 3901 Burlingame Road in 1962.

My father, who, was a long-time Knights of Columbus member and saw the opportunity to help this organization build a home in the Topeka area to build their faith based organization and offered to sell them a majority of the homestead at a valued costs so that they could build their fellowship and sports venues in the city. During this time, my father supported the conditional uses needed in the R1 zoning to allow for the protection of our family homes environment while providing for the Knights of Columbus fellowship and recreational sport's needs. Of note, each of our families all actively participated in helping the Knights during our children's adolescent and young years in supporting and working their activities and sporting venues.

The Knights outsourced their food services in the late 1970's for efficiency purposes but within several years found themselves with a vendor who created a severe tax burden by their practices to which the Knights became responsible for their actions requiring the Knights to find a suitable buyer to help relieve their sudden debt.

Margaret Masilionis
3901 Burlingame Road, Topeka KS 66609

My father and mother both passed away in the 1980s however, my remaining sister and her husband, Mercedes and John Croughwell acquired the property from the family and moved in immediately following my mother's death and in the past three years moved to an elderly care home (with John passing away 2 years ago followed by my loving husband a few weeks later) allowing me to purchase the home from my sister which provided me the opportunity to lease the home to my niece and her new husband (Kayla and Matt Munger); thus, allowing all three homes to remain "in the family".

As it relates to the current history of the site and concerns of care and violations of their Zoning use I will note that the Sports Zone has continued the sport uses allowed under the conditional permits for a portion of their facility and site operations, however they have extended their tenancies to three other non-approved zoning uses in the facility, which are of great concern to me as they do not appear to be allowed (Minimasters Learning Academy Day care center; Center State Dance World dance school; and White Line CDL Training Driving School). Of greatest concern is the Commercial Truck training school which has added dangerous heavy truck traffic to our entry/exit drive to Burlingame Road and has caused near accidents. Further, the semi-trucks remain on site and in clear view at all times (even during non-business hours) which is a violation of the zoning and special conditions in place.

Historically speaking, the lack of care the applicant has shown by NOT abiding by the current approved zoning (including special and conditional uses) is not legal provides strong support for denial of their application.

4. **GENERAL ZONING EVALUATION USE & CONFLICTS (Refer to Attachment "C")**

The existing Zoning all the properties is R1 with the 3907 & 3909 SW Burlingame Road Properties having conditional use permits for "Outdoor Recreation Fields, Retail Sales and Food Service" as well as a special use permit for "Private Membership Club with Golf Courses" (which were established in late 1960's for the Knights of Columbus). To assist in empathizing with my concerns related to the **applicant's lack of information, clarity, detail and or any direction as to why and what the applicant desires to change from an R1 to a PUD with an I1 use**, I have attached the appropriate zoning regulations as it relates to this case but have identified the information, details and conflicting issues that arise with a R1 Use and a PUD zoning and I1 use. Please denote the areas of issues and zoning conflicts with as it relates to the zoning change (and/or our continued R1 Zoning adjacent the applicants R1 site area is highlighted/underlined).

- R-1 SINGLE FAMILY DWELLING DISTRICT is defined as "This district is established to provide for the use of detached single-family dwellings together with specified accessory uses and other uses as may be approved. ***It is intended that the character and use of this district be for housing and living purposes free from the encroachment of incompatible uses.***"
- The Topeka Municipal Code details a PUD PLANNED UNIT DEVELOPMENT DISTRICT under Chapter 18.190 as follows:
18.190.010 Purpose – Intent: *This district is established to permit greater flexibility and more creative, innovative and imaginative design for the development of areas that are generally not possible under the strict application of the regulations of the other districts. It is further intended to promote more economical and efficient use of the land while providing for a pleasing and harmonious development and environment, including opportunities to provide for a high level of urban amenities, and the preservation of open spaces. The regulations of this district are intended to encourage the use of this district in order to integrate multiple uses into the development; to adapt the proposed use(s) to meet the conditions of the site; and to affect certain economics in public facilities. Due to the nature and implications of a district zone which provides for such a broad spectrum of land use and a more challenging responsibility of the delivery of public services, considerations and quasi-judicial deliberations relating to the compatibility of the district to a particular site shall permit greater discretionary review and broad latitude in applying conditions and limitations for a permitted development. The compliance with all standards set forth in this division and the submittal of all specified documents and data shall not entitle an applicant to this district classification.*
18.190.020 Regulations generally specifies *"The regulations set forth in this chapter or set forth elsewhere in this title when referred to in this chapter are the district regulations for the PUD planned unit development district. A development plan shall not be inconsistent with the following general standards for use of land, and the use, type, bulk, design and location of buildings, the density or intensity of use, the common open space, the public facilities and the development by geographic division of the site as well as with the surrounding or adjacent properties.*
- Within the PUD Application, the applicant is noting that an "I-1" Light Industrial use district is part of the PUD. An "I-1 LIGHT INDUSTRIAL DISTRICT" is defined as: *"This district is established to provide for a wide range of uses except specified uses which are obnoxious or offensive by reason of odor, dust, smoke, gas or noise. The extent and range of uses are highly intensive. Residential dwellings are not permitted in this district except for on-site caretakers or watchmen or correctional placement residence or facility, limited or general."*
 Further detail is described under **Section 18.190.040:** *"Requirements and development standards for the planned unit development district. The following performance criteria shall be required of all planned unit developments and shall be addressed by the master plan: (e) Access. (3) The site will be accessible from public streets which are adequate to carry the traffic that will be imposed upon them by the proposed development. Streets and driveways on the site of the proposed development will be adequate to serve the residents, occupants, or users of the proposed development. Traffic control signals will be provided without expense to the city when such signals are required to prevent traffic hazards or congestion in adjacent streets."*

Section 18.190.050 details the information for "Procedure for securing approval of a planned development and the establishment of a planned development district" as follows *"Prior to any use or development within the planned unit development district, the district shall be established in accordance with the provisions of this division, including the approval of all plans set forth in the procedure. (a) Application to Amend to the District. Except as set forth by this division, a petition to reclassify property to the planned unit development district shall be as established in Chapter 18.245 TMC, Amendments, and include like contents. Additionally, the application shall include the specified number of copies of the planned unit development master plan which shall consist of the following documents, information and graphics unless determined to be unnecessary by the planning director."*
(3) The site plan shall identify the name of the planned unit development in large, bold letters centered across the top of all plan sheets; the general location and arrangement of all existing structures; the proposed traffic circulation pattern within the development; the approximate location of proposed and existing major streets and major pedestrian and bicycle routes, including major points of access; the areas to be developed for parking; the points of ingress and egress including access streets where required; the relationship of abutting land uses and

zoning districts; proposed types of signage; proposed lots and blocks, if any; proposed public or common open space, if any, including parks, playgrounds, school sites, and recreational facilities.

(4) The site plan of the development shall be at a minimum scale of one inch equals 50 feet, composed of one or more sheets with an outer dimension of 24 inches by 36 inches. A single-line border shall be provided around all plan sheets measuring exactly one inch from the edge of the sheet except along the left side of the sheet which line shall measure exactly two inches from the edge. The scale, north point and most recent date of preparation shall be so indicated on the plan.

(5) Graphically reflect the geographic location and designation of each use group category proposed.

(6) The anticipated density, number, maximum height and type of residential units; and floor area, maximum height and types of business, commercial and industrial use presented in tabular form in comparison to minimum applicable standards.

(7) Existing topographical character of the land at a contour appropriate with the scale of the project; all watercourses, floodplains, unique natural features, including wildlife areas and vegetative cover, and recognized historical sites and structures. Further, all existing streets, alleys, easements, utility lines, and existing land use shall be included on the plan.

(8) Total land area, approximate location, and amount of open space included in the residential, business, commercial, and industrial areas.

(9) When a planned development includes provisions for common open space, streets, utilities, drainageways or recreational facilities, a statement describing the provision that is to be made for the care and maintenance of such open space, streets, utilities, drainageways, or recreational facilities.

(10) A preliminary plat of subdivision pursuant to the applicable ordinances, rules and regulations relating to subdivision approval; or a copy of the existing recorded plat which is appropriate for the intended plan.

(11) Area shown on the site plan shall extend beyond the property lines of the proposal to include a survey of the area within 150 feet of the proposal, exclusive of public right-of-way, at the same scale as the proposal and include the following:

(i) Land uses, location of principal structures, and major existing landscape features.

(ii) Traffic circulation system.

(iii) General topographical mapping at same scale as master plan.

- As it relates to the violation of the current R1 Zoning uses by the applicant, I refer to the Topeka Municipal Code / Chapter 18.210 ACCESSORY USES 18.210.020 Permitted uses. The accessory uses, buildings and other structures permitted in each zone may include the following:

(b) In the R-1, R-2, R-3, R-4, M-1 and M-1a districts: in addition to the accessory uses included in subsections (a)(6) through (a)(19) of this section, the following shall be permitted:

(1) Storage buildings and garages for the storage of wood, lumber, lawn or gardening equipment and other materials and equipment, exclusively for the personal use of the residents of the premises, **but not including storage for commercial purposes. Truck bodies and cargo containers are not allowed as accessory uses.** However, cargo containers may be used on a temporary basis as regulated by TMC 18.210.050.

(2) (i) No farming equipment or farming machinery shall be parked or stored on a lot or tract of land unless within an enclosed lawful structure, or screened from view from any abutting property or street. **No truck, excluding a pickup truck, trailer, boat, bus, tractor, or similar vehicle, machinery, or equipment with a curb weight (unloaded vehicle weight) or manufacturer's gross vehicle weight rating exceeding six tons shall be parked or stored any place on a lot or tract of land within an R, M-1 or M-1a district.**

(ii) No commercial vehicles or commercial equipment, machinery or materials of any kind shall be stored any place on a lot or tract of land, except if such vehicles, equipment, machinery or materials are in temporary usage to actively accomplish permitted temporary activities on the premises such as construction, repair, moving, and other similar activities. In such case they shall be removed from the lot or tract of land within 48 hours of completion of said activity.

The current R1 Zoning has been in existence since the parcels were zoned, and it is clear that the R1 use is for housing and living purposes free from the encroachment of incompatible uses, which the applicants requested change of use to a PUD/I-1 will clearly create adjacent to my property. The applicant's failure to provide this "why" and "what" to their requested change without providing any design or detail documentation denoted in the PUD application creates an undue burden and unjust situation for me and my family. Finally, the lack of care the applicant has shown by not providing any details for "why" the use change is requested, along with "what" the change in use will be adjacent our property as well as the clear violation of the current Zoning use and creating a dangerous situation by allowing truck traffic and use changes with additional traffic issues (without obtaining proper documentation and city approvals), should provide a clear path to denial of this application.

5. TOPEKA FUTURE LAND USE MAP (refer to Attachment "D")

Reviewing the current Topeka Future Land Use Map (herein attached and articulated/noted, the properties of the three residences (3901, 3903 and 3905 Burlingame Road), Foster Cemetery (3949 SW Burlingame Road) in addition to everything to the west of these properties (the Sportzone and associated land/building in this area) is clearly designated as "Parks, Open Space and Recreation". The only properties that have been indicated to be Industrial in the Future Land Use Map is the area clearly south of the cemetery (where the CCO filling station and Budweiser distributor) are located. As such, the areas which must maintain the least development uses of R1 (current) or "Parks, Open Space and Recreation (future) is the area denoted of 3901 & 3903 Burlingame Road in addition 3905 Burlingame Road, Foster Cemetery Board and the adjacent parcels west of these areas. As such this application must reject the change in use Zoning requested by the applicant which includes zoning densities that are current or future planned by the City of Topeka.

SUMMARY

Based on the detail and information I have composed herein, I formally request the City of Topeka and Planning Commission to reject the Applicants request for a change in zoning which is based on:

1. The land under review has always been zoned as its current use since its original incorporation into the City of Topeka (and was original homestead land of my ancestors, the Foster family, since early 1800's)
2. Applicants Lack of Compliance with the Neighborhood Meeting Requirements and providing necessary and proper information required for a change in use (no details to provide "what" is planned and no reason "why" they are requesting a change in use and "how" it can properly include current zoning uses).
3. Applicants Lack of Compliance has shown violating the current approved zoning (including special and conditional uses) of their property by incorporating non-conforming uses which are a clear violation of city laws and compliance of as well as placing me and my family in harm's way.
4. Applicant creating an encroachment of an incompatible use of our R1 Zoning which is meant for housing and living purposes free from the encroachment of incompatible uses.
5. Applicant proposing a new PUD Zoning that clearly does not include the existing R1 use, which is the existing zoning and is to remain for my land (along with my families land and the Foster Cemetery land) which would create a serious conflict of uses without any reason or cause by approval of this Application. Further, the Applicants desire to include I-1 Zoning in the PUD application extends this conflict further as this I-1 Coning exuberates the Zoning conflict with the current R1 zoning, which will remain for the same parcels indicated above and where I reside.
6. Applicant's non-compliance with the Cities Future Land Use Plan.

My son, Matthew Masilionis (10801 West 167th Street, Overland Park, Kansas 66221), who is an Architect and owner of an Architectural design firm which provides national design services has assisted me to complete this document and assisted in providing proper analysis and documentation of the issue. He can provide supplemental information and dialog regarding this matter on my behalf, however, he is out of the country and not able to attend the upcoming Planning Commission meeting; so my desire is that the staff and Commission provide me the opportunity to utilize this document as my reference during the upcoming Planning Commission Meeting.

In reviewing all the documentation from the city in addition to the "lack of documentation" from the applicant for the requested rezoning, it is inconceivable to me how the Applicant can proceed forward as they have provided no clarity or details to the Application in addition to providing "no reason or cause" for a change. This Zoning change request violates numerous items within the current and future zoning and creates severe conflict to the City Planning Use on so many fronts (including the Cities Future Land Use Plan). Further, the Applicants lack of care in abiding by the Zoning uses allowed currently on their property is causing legal violations to the City Zoning Code as well as placing me and my family in harm's way by placing non-compliant uses into their facilities (and which should cease immediately so as to return the parcel back to conformance with the City approved Zoning uses).

I respectfully request the city staff and the planning commission to reject the Applicants Rezoning request #PUD 19/2 for 3907 & 3909 SW Burlingame Road.

Sincerely,

Margaret Masilionis
785-266-8658 H

Cc: Matt Masilionis, matt@rmta.biz
Robert Masilionis, rmasilionis@cox.net

ATTACHMENT "A"

NOTICE OF NEIGHBORHOOD MEETING INFORMATION

NOTICE OF NEIGHBORHOOD INFORMATION MEETING

Based upon the action requested below, the City of Topeka is requiring the listed property owner to hold a neighborhood information meeting prior to the Planning Commission public hearing:

Monday, August 26, 2019 at 6:00 pm
Building to the north side of Sports Zone
(formerly Driver's License Bureau/currently Center Stage Dance)
3909 SW Burlingame Road
(see attached map)

You have been identified as an owner of record within **500'** of the project boundary. The public is invited to attend this meeting to find out more details from the developer and have an opportunity to ask questions about their proposed development as described below.

Project Information

Action Requested: Rezoning to "PUD" Planned Unit Development ("I-1" Light Industrial Uses) (#PUD19/2)

Name of Owner: T & J Land Company LLC

Name of Applicant's representative: Kevin K. Holland, Cook, Flatt, and Strobel Engineers
(kholland@cfse.com)

Location of Development: 3909 and 3907 SW Burlingame Road

Existing Zoning: "R-1" Single Family Dwelling District with an existing Conditional Use Permit for "Outdoor Recreation Fields, Retail Sales, and Food Service" and existing Special Use Permits for "Private Membership Club and Golf Course" and "Community Building with Alcohol Sales"

Comprehensive Plan Designation: "Industrial" and "Open Space, Parks, and Recreation"

Scope of Project: Speculative plan for land sale. There is no pending use for the future of the property at the present time.

Council District: Council District #5 - Mike Padilla

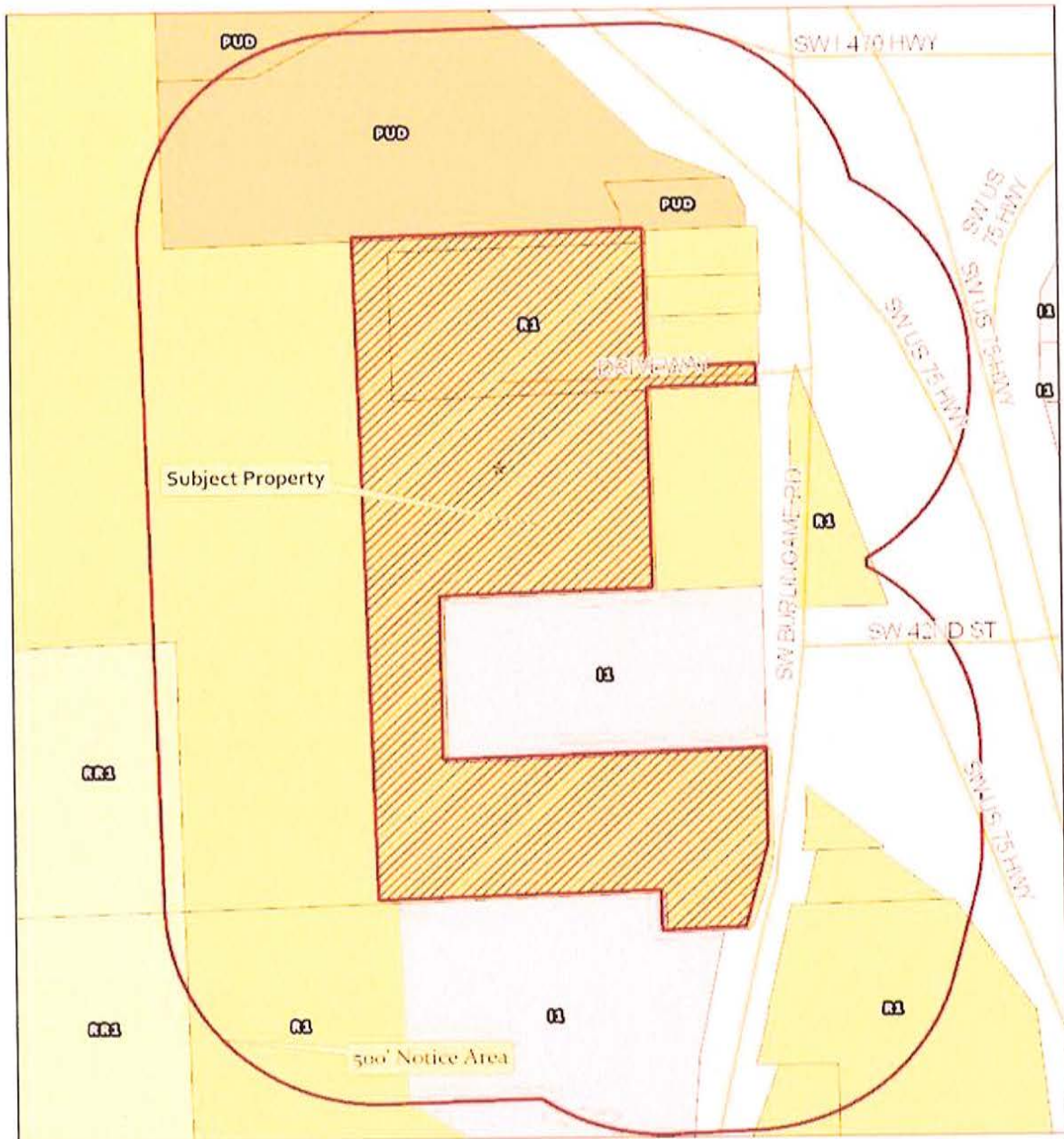
Planning Commission Public Hearing: Tentative - Monday, September 16, 2019 at 6:00 pm City Council Chambers

If unable to attend, questions may be submitted prior to the meeting to be included in the developer's report to the City. Questions or comments should be sent to:

City of Topeka Planning Department
ATTN: Annie Driver, Planner
620 SE Madison, 3rd Floor Unit 11, Topeka, KS 66607
(785)368-3728 or adriver@topeka.org

Notice Mailed: August 6, 2019

PUD19/2 Sports Zone PUD By: T&L Land Co.



* Meeting Location:
Sports Zone
3909 SW Burlingame Road

Notice Mailed: August 6, 2019

ATTACHMENT "B"

Topeka Neighborhood Meeting Requirements Process

City of Topeka

Citizen Participation Process

This process is in addition to any State-mandated public notification procedures for Planning Commission and Governing Body public hearings. For example, all zonings require notifying property owners within 200' of the subject property, at least 20 days before the public hearing.

GOALS:

- To ensure all property owners, residents, businesses, and organizations potentially affected by a proposed land development have the opportunity to comment on and understand development proposals before the public hearing.
- To allow for ongoing communication between the developer and potentially affected citizens during the early stages of a land development process, and provide the developer with an opportunity to answer questions, gather comments, consider input, and resolve concerns before the Planning Commission or Governing Body public hearing.
- To provide guidelines and expectations to applicants and developers for gathering citizen input on their proposals.

Types of projects required to comply with these procedures: All land development applications requiring approval by the Governing Body; including re-zonings, Conditional Use Permits, Planned Unit Development Plans, major amendments to Planned Unit Development Plans, vacations, and major subdivision plats. Affordable housing tax credit projects that require re-zoning, are on land exempt from zoning, build additional units, or convert existing market-rate units are also required a NIM.

➤ *Minimum notification criteria for projects:*

- Properties < 3 acres should notify land owners within 300' and neighborhood organizations within ½ mile of the subject property. A neighborhood information meeting (NIM) is required.
- Properties 3 acres or > should notify land owners within 500' and neighborhood organizations within ½ mile of the subject property. A neighborhood information meeting (NIM) is required.

**The notification area for properties contiguous to the city limits should extend 1000'. These notification areas may be adjusted for certain actions (e.g. vacations) as determined at the discretion of the Planning Director.*

A neighborhood information meeting may be required, but is not intended for actions of a technical or administrative nature (e.g. minor re-zonings, minor PUD amendments, minor plats, site development plans, etc.) not deemed to impact land owners within or beyond the required notification area, as determined by the Planning Director.

Steps in the Citizen Participation Process:

1. Pre-Application Meeting: Planning Department staff informs the applicant of the citizen participation process requirements for the requested action and provides direction. The NIM may be held, and in some cases is encouraged, prior to the application submittal.

2. Citizen Notices: Applicants may submit information for notices before or at the time of application, but always after a pre-application meeting. The City will create the notice for the applicant prior to, or at the time of, application submittal. The applicant is responsible for mailing meeting notices to those identified, with a copy sent to the Planning Department and City Council representative.

A. Notice shall include:

- The requested action
- Neighborhood meeting time, date and place
- Contact information for owner or developer
- Subject property location and acreage
- Existing zoning
- City Comprehensive Plan designation
- Brief scope of the project
- City Council representative and district
- Date of Planning Commission hearing
- Information for citizens seeking to submit questions in advance, if unable to attend the meeting
- City staff planner contact information

B. Notice should be sent to all property owners in the identified notification area (300' or 500' radius). Planning Department staff will provide the applicant with a list of property owner mailing labels and the notice with a map of the notification area.

C. Notify City-registered neighborhood organizations and City Council representative within ½ mile of the subject property.

D. The applicant is not required to but may publish the notice in the newspaper or other media outlets. The Planning Dept will publish the notice on the City website.

3. Neighborhood Information Meeting:

A. The neighborhood information meeting may be held before or after submitting an application, but always after a pre-application meeting with planning staff. The

neighborhood information meeting date, location, and time should be confirmed with the Planning Department at the time of the application submittal. An ADA accessible location is required.

- B. Meetings should be held within the neighborhood, desirably, no more than one mile from the property and at a public location accessible to all affected residents (e.g., schools, community centers, churches, public businesses, etc.). The meeting may be held on-site if it is practical and convenient for the public to do so. The applicant is responsible for scheduling the meeting location provided the location meets the above requirements. Staff will provide assistance in selecting a location at the pre-application meeting.
 - C. Meetings should be scheduled during early evening hours on weekdays (excluding Friday), and should not conflict with City Council or Planning Commission meetings.
 - D. The applicant should mail notices at least 15 days before the meeting.
 - E. The neighborhood meeting should be scheduled no fewer than 20 days before the Planning Commission or Governing Body public hearing, to give the applicant time to address concerns raised at the meeting.
 - F. The applicant/developer will facilitate the meeting, set-up the facility (i.e. information providing, information gathering/feedback; Q&A, etc.) and will provide all materials and equipment for meeting. The applicant is responsible for taking notes and attendance at the meeting. The applicant should be prepared to adjust their meeting format depending on the number of attendees.
 - G. City Planning staff will attend the meeting. The City planner will introduce the action requested, explain the process including the ways in which stakeholders may provide input, and will then turn the meeting over to the applicant for a short presentation and to respond to questions. The City planner will be available to answer direct code related questions. The City planner will not address questions concerning the staff recommendation.
4. **Citizen Participation Report:** This is the developer's report to the City. It must be submitted to City staff prior to the date the Planning Department mails out its recommendation to the Planning Commission. Staff will review this report and include it with the staff report that is mailed to the Planning Commission.
- A. Report must shall include:
- Summary of neighborhood information meetings held, including date, location, meeting notices, sign-in sheets, number of attendees, and results of the meeting.
 - Summary of citizen questions, concerns, input, issues, and problems expressed, and how these have been addressed, including any changes to the project. Include concerns the applicant is unable or unwilling to address.
 - Copies of all comment letters, petitions, and other pertinent information received from residents and other parties.

- B.** Summary report must be signed and dated by applicant or their designated representative

TYPES OF PROJECTS REQUIRING A MEETING:

(The process is in addition to any State-mandated public notification requirements.)

- * Projects that need Governing Body approval, specifically:
 - ⇒ Rezoning/Conditional Use Permits
 - ⇒ Planned Unit Development plans
 - ⇒ Major subdivision plats
 - ⇒ Affordable Housing Tax Credit Projects
 - ⇒ Vacations of streets, alleys, easements

Minimum Notification Area:

(may be adjusted for some projects):

- ⇒ Properties less than 3 acres require notification of landowners within 300 ft.
- ⇒ Properties 3 acres or greater require notification of landowners within 500 ft.
- ⇒ Neighborhood organizations in 1/2 mile

For further information on the Citizen Participation Process and the complete procedures, visit the Planning Department webpage at: <http://www.topeka.org/Planning/nim.shtml>

GOALS:

For the Applicant:

- ◆ To allow open communication between the developers and neighborhood residents during the early stages of a land development proposal and to give the applicant a chance to answer questions and resolve concerns from residents prior to the Planning Commission public hearing.

For the Neighborhood:

- ◆ To give affected property owners, business owners, and organizations an early opportunity to ask questions and provide input on development proposals. No one knows a neighborhood better than its residents and with continued collaboration there is greater chance of the proposal being welcomed into the area.

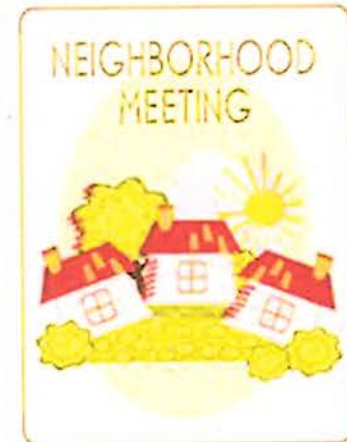
For the City:

- ◆ City staff attend the meeting as observers, take notes, and answer land development code questions. Planning staff will ultimately evaluate the proposal based upon accepted land use planning principles, compliance with the City Comprehensive Zoning Regulations and conformance to the City's Comprehensive Plan. Staff makes a recommendation on the proposal to the City's Planning Commission.

CITY OF TOPEKA'S

Citizen Participation Process:

A Guide to Neighborhood Information Meetings for Applicants and Citizens



Contact:

Topeka Planning Department
Annie Driver, AICP, Planner II
Off: 785.368.3010
Email: adriver@topeka.org

Step 1: Set the meeting

1. Set date and time after completing a pre-application meeting on the project with the Planning Department.
2. Generally, the date should allow at least 15 days notification of the meeting and be scheduled 20 days prior to the Planning Commission hearing. Meetings should be held on weekdays and early evenings, excluding Tuesdays/Fridays.
3. City staff will create notice and provide mailing labels after confirming meeting date, location, and time.
4. The applicant mails notices to all property owners within the designated radius and to all City-registered neighborhood organizations within 1/2 mile.
5. The applicant may publish the notice in media outlets. City staff will post the notice on Planning Department's webpage.

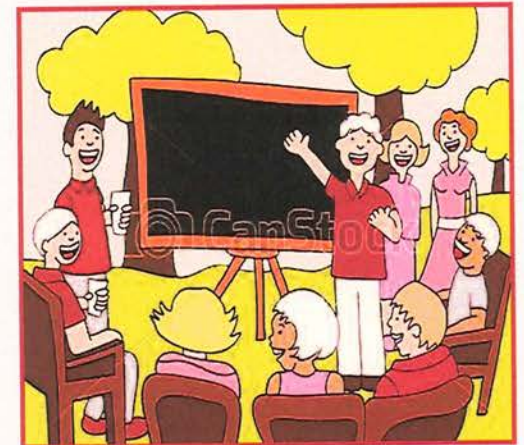


Step 2: Prepare the Meeting

- The meeting is set-up and facilitated by the developer. The meeting should allow for a brief presentation on the project by the applicant and a question/answer period.
- City staff attends the meeting to initially to describe the development process and answer any city code related questions.
- Typical neighborhood meetings are 30 minutes to 1 hour, but may be longer depending on the complexity of the specific project. The meeting should continue as long as there are questions to be addressed, but should be no longer than 2 hours.
- The applicant answers questions, keeps attendance and is the primary record taker at the meeting. Meeting notes are intended to capture key questions and ideas, but are not a verbatim record of minutes.
- The applicant and City staff may wrap up the meeting by reviewing meeting notes, and addressing next steps and meeting dates.

Step 3: Report of Meeting

- Address information and issues gathered from the meeting.
- Compile meeting notes and prepare a summary of the meeting to include: citizen questions, concerns, input, problems, issues, and ideas.
- Submit summary report to the City staff at least 15 days before the Planning Commission hearing.
- Meeting summary report to include copies of letters or petitions received from residents.



ATTACHMENT "C"

Topeka Municipal Code Applicable Documentation

Municipal Code Purpose Statements of Zoning Districts - City of Topeka, Kansas

RESIDENTIAL

**MOST
RESTRICTIVE
ZONING**



OS-1 OPEN SPACE DISTRICT:

The open space district is intended to preserve and protect existing and potential public park land, open land, greenways, recreational space, floodways, trails and lands that have other physical, aesthetic or cultural characteristics which preclude their inclusion in other less restrictive districts. It is intended that these areas provide opportunities for passive and active outdoor recreation, preserve scenic views, and protect sensitive or fragile environmental areas. It is further the intent of this district to protect these areas from urban, non-open space or incompatible development.

RA-1 RURAL AGRICULTURE DISTRICT:

Repealed by Ord. 19602

RR-1 RESIDENTIAL RESERVE DISTRICT:

This district is established to provide for a transitional area between urbanized development with intensive activity areas, and the rural-agricultural areas; and which is expected to become urbanized in subsequent planning periods. The limitations of this district are intended to allow for the gradual development of urban uses and activities, therefore providing for the coexistence with agricultural farmland activities based upon the availability and extension of municipal facilities and services. Such urban development will be permitted at appropriate intensity-density levels to assure that public improvement expenditures are appropriately planned for in advance of the conversion to urban uses.

R-1 SINGLE FAMILY DWELLING DISTRICT:

This district is established to provide for the use of detached single-family dwellings together with specified accessory uses and other uses as may be approved. It is intended that the character and use of this district be for housing and living purposes free from the encroachment of incompatible uses.

R-2 SINGLE FAMILY DWELLING DISTRICT:

This district is established to provide for the use of detached single-family dwellings together with specified accessory uses and other uses as may be approved. It is intended that the character and use of this district be for housing and living purposes free from the encroachment of incompatible uses.

R-3 SINGLE FAMILY DWELLING DISTRICT:

This district is established to provide for the use of detached single-family dwellings together with specified accessory uses and to provide for an increased density that will promote compact housing development at affordable levels through reduced site area requirements, lot size and optional public improvement design standards. This district shall be established in conjunction with an approved subdivision which provides for the minimum standards set forth in these regulations.

R-4 SINGLE FAMILY DWELLING DISTRICT:

The primary purpose for the establishment of this district is to provide for the location and use of detached single-family dwellings and manufactured homes as defined, together with specified accessory and supportive uses; and to provide for housing development at affordable levels in a subdivision setting. This district may be established in conjunction with an approved plat of subdivision for development in accordance with the provisions of the dimensional requirements and general lot requirements established in TMC [18.230.020](#).

M-1 TWO FAMILY DWELLING DISTRICT:

This district is established to provide for the use of two-family and attached single-family dwellings together with specified accessory uses. The purpose of this district is intended to provide for a housing type and arrangement that is distinguished from the single-family detached dwellings and multifamily dwellings provided for elsewhere in these regulations. The location of this district is

Municipal Code Purpose Statements of Zoning Districts - City of Topeka, Kansas

further intended to provide a transitional use between the single-family detached dwelling districts and other districts which are more intensive.

M-1a LIMITED MULTIPLE FAMILY DWELLING DISTRICT:

This district is established to provide for the use of two-family dwellings, single-family attached dwellings, and multiple-family dwellings, containing not more than four dwelling units, together with specified accessory uses. This district is intended to provide a transitional use buffer in locations between the single- and two-family dwelling districts and other districts which are more intensive.

M-2 MULTIPLE FAMILY DWELLING DISTRICT:

This district is established to provide for the use of attached dwelling units containing three or more dwelling units, designed and intended for individual dwellings, group or community living facilities, congregate living facilities, and including townhouse, condominium or cooperative division of ownership. The location of this district is further intended to provide a transitional use between the districts of lesser and greater intensity.

M-3 MULTIPLE FAMILY DWELLING DISTRICT:

It is the purpose of this district to provide for multiple-family dwelling structures which are in the moderate to high density range and at heights which allow for a high intensity of use and development. The location of this district is intended to complement high activity centers such as the central business district, employment centers or other similar locations. Since this district will have high levels of pedestrian activity, special attention must be directed to providing a pleasant, safe and efficient pedestrian environment.

OFFICE, COMMERCIAL, INDUSTRIAL

O & I - 1 OFFICE AND INSTITUTIONAL:

This district is established to provide for a limited range of nonresidential and noncommercial uses such as general purpose office, professional, or administrative operations. The district shall not permit those uses and activities pertaining to retail product display, installation, service, repair, or maintenance unless specifically provided for within the chapter. Among others, an objective of this district is to provide for a transitional buffer between the districts of lesser and greater intensity; and to restrict the intensity of use to a low to moderate range and to encourage a compatible design with the adjacent use and development.

O & I - 2 OFFICE AND INSTITUTIONAL:

This district is established to provide for a limited range of nonresidential and noncommercial uses such as general purpose office, professional, or administrative operations. The district shall not permit those uses and activities pertaining to retail product display, installation, service, repair, or maintenance unless specifically provided for within the chapter. Among others, an objective of this district is to provide for a transitional buffer between the districts of lesser and greater intensity; and to restrict the intensity of use to a low to moderate range and to encourage a compatible design with the adjacent use and development.

O & I - 3 OFFICE AND INSTITUTIONAL:

This district is established to provide for a wide range of nonresidential and noncommercial uses such as general purpose office, professional and service, or administrative operations, research, testing and development. Among others, an objective of this district is to provide for a high intensity of use of considerable magnitude and located on a sufficient land area to accommodate the factors of employment, transportation and other land use considerations. The district shall permit uses and activities pertaining to product showrooms for the display, demonstration, training, selection and sale of goods not for delivery on the premises. Product installation, service, repair and maintenance is not permitted in the district.

Municipal Code Purpose Statements of Zoning Districts - City of Topeka, Kansas

C-1 COMMERCIAL DISTRICT:

This district is established to provide for limited commercial facilities which are to serve as convenient services to a residential neighborhood or limited geographic area of the community. Shops in this district should be useful to the majority of the neighborhood residents, should be economically supportable by nearby population, and should not draw community-wide patronage. The location of this district will be determined based upon the compatibility and design considerations of the limited geographic area affected.

C-2 COMMERCIAL DISTRICT:

This district is established to provide for those commercial activities which serve a major segment of the total community population. In addition to a variety of retail goods and services, these centers may typically feature a number of large traffic generators that require access from major thoroughfares. The extent and range of activities permitted are in the moderate to medium intensity range with a ground floor area limitation.

C-3 COMMERCIAL DISTRICT:

This district is established to provide for those commercial activities which serve a major segment of the total community population. In addition to a variety of retail goods and services, these centers may typically feature a number of large traffic generators that require access from major thoroughfares. The extent and range of activities permitted are in the moderate to medium intensity range.

C-4 COMMERCIAL DISTRICT:

This district is established to provide for commercial uses and activities which are intended to serve as community or regional service areas. Uses and activities permitted are typically characterized by outdoor display, storage and/or sale of merchandise, by repair of motor vehicles, by outdoor commercial amusement and recreational activities, or by activities or operations conducted in buildings and structures not completely enclosed. The extent and range of activities permitted are highly intensive and therefore special attention must be directed toward buffering the negative aspects of these uses upon any residential use.

C-5 COMMERCIAL DISTRICT:

Converted to D-1 downtown district. Ordinance 20062

I-1 LIGHT INDUSTRIAL DISTRICT:

This district is established to provide for a wide range of uses except specified uses which are obnoxious or offensive by reason of odor, dust, smoke, gas or noise. The extent and range of uses are highly intensive. Residential dwellings are not permitted in this district except for on-site caretakers or watchmen or correctional placement residence or facility, limited or general.

I-2 HEAVY INDUSTRIAL DISTRICT:

This district is established to provide for the use and location of all other uses excluded in other districts except for residential dwellings. The intensity and use of land as permitted by this district is intended to facilitate the total range of industrial uses.



LEAST
RESTRICTIVE
ZONING

Municipal Code Purpose Statements of Zoning Districts - City of Topeka, Kansas

OTHER

DOWNTOWN MIXED USE DISTRICT:

The downtown districts are unique to the downtown Topeka area and are provided to encourage a compatible mixed use activity. The D downtown districts serve to implement the downtown Topeka redevelopment plan, which is part of the city of Topeka's comprehensive metropolitan plan.

D-1 DOWNTOWN MIXED USE DISTRICT:

The purpose of this district is to facilitate a compatible mixed use activity center within the core area of downtown Topeka. The district is predominately composed of state offices, as well as local and federal facilities, commercial and retail uses. The district includes compatible residential, office, civic, and commercial retail/service uses which complement and support a high density of activity and facilitate pedestrian usage.

D-2 DOWNTOWN MIXED USE DISTRICT:

The purpose of this district is to integrate a compatible mixed use activity with urban residential neighborhoods. The district includes a balance of compatible residential, office, cultural, and neighborhood commercial retail/service uses of low to moderate intensity that complement and support neighborhood residential areas and pedestrian usage.

D-3 DOWNTOWN MIXED USE DISTRICT:

The purpose of this district is to reestablish the linkage between downtown and the Kansas River through intensive redevelopment of the area north of Crane Street to the Kansas River. The district includes housing, commercial and office uses that emphasize the relationship between downtown and the river, as well as expand cultural opportunities in the general downtown area.

HL HISTORIC LANDMARK OVERLAY DISTRICT:

This district provides for the designation of individual local historic landmarks. The overlay-zoning district does not change the base zoning classification of the subject property, but, attaches preservation responsibilities that are only applicable to the property.

"Overlay zoning" means any zoning that functions in addition to the existing land use zoning, as in the case of local historic landmark or local historic district zoning.

HD HISTORIC OVERLAY DISTRICT:

This district provides for the designation of multiple properties as a historic district. Historic district designation does not change the base zoning of underlying properties, but requires submission and compliance of district preservation design guidelines.

"Overlay zoning" means any zoning that functions in addition to the existing land use zoning, as in the case of local historic landmark or local historic district zoning.

PUD PLANNED UNIT DEVELOPMENT DISTRICT:

This district is established to permit greater flexibility and more creative, innovative and imaginative design for the development of areas that are generally possible under the strict application of the regulations of the other districts. It is further intended to promote more economical and efficient use of the land while providing for a pleasing and harmonious development and environment, including opportunities to provide for a high level of urban amenities, and the preservation of open spaces. The regulations of this district are intended to encourage the use of this district in order to integrate multiple uses into the development; to adapt the proposed use(s) to meet the conditions of the site; and to affect certain economics in public facilities. The requirements contained herein are set forth to provide for such development on other than a lot-by-lot basis.

Due to the nature and implications of a district zone which provides for such a broad spectrum of land use and a more challenging responsibility of the delivery of public services, considerations and quasijudicial deliberations relating to the compatibility of the district to a particular site shall permit greater discretionary review and broad latitude in applying conditions and limitations for a permitted development. The compliance with all standards set forth in this division and the submittal of all specified documents and data shall not entitle an applicant to this district classification.

Municipal Code Purpose Statements of Zoning Districts - City of Topeka, Kansas

MS-1 MEDICAL SERVICE DISTRICT:

This district is established to provide for the location and use of a regional medical center together with related medical facilities and supporting ancillary-service uses, including residential dwellings. It is not the purpose nor the intention of this zoning district to preclude the similar use of land or buildings as provided herein from other districts as may be permitted by this division.

U-1 UNIVERSITY DISTRICT:

This district is established to provide for the use of a college or university as a special zoning district. All development, redevelopment or enlargements shall be in accordance with an approved master development plan.

MIXED USE DISTRICT:

The mixed use districts are unique to traditional neighborhood settings and are provided to encourage a compatible mixed use environment, utilizing the historic character or future character of the area. The X mixed use districts serve to implement land use plans of the Comprehensive Plan.

X-1 MIXED USE DISTRICT:

This district facilitates a compatible mixed use activity center within a traditional residential neighborhood. The district includes a balance of compatible residential, office, civic, and neighborhood commercial retail/service uses of low to moderate intensity that complement and support dense neighborhood residential areas and pedestrian usage with quality urban design.

X-2 MIXED USE DISTRICT:

This district facilitates a mixed use area that transitions from a higher intensity industrial use area to lower intensity neighborhood-scale residential areas and includes a balance of compatible residential, office, commercial service, and light industrial uses.

X-3 MIXED USE DISTRICT:

This district facilitates a destination-oriented mixed use district in the area known as the North Crossings area of North Topeka that serves as the northern entertainment/cultural anchor of downtown. The objectives of the district include:

- (1) Improving the area as a 24-hour destination for urban, cultural, entertainment, community, and residential experiences; and
- (2) Retention and attraction of businesses, workplaces and residences through adaptive reuse and rehabilitation of existing buildings as a preference; and
- (3) Redeveloping vacant and under-utilized properties through appropriately scaled in-fill development; and
- (4) High quality development and urban design standards that maintain a sense of history, human scale, and pedestrian-orientation.

Chapter 18.70

R-1 SINGLE-FAMILY DWELLING DISTRICT

Sections:

- 18.70.010 Purpose – Intent.
- 18.70.020 *Repealed.*
- 18.70.030 Principal, special, and conditional uses.
- 18.70.040 Density and dimensional requirements.
- 18.70.050 Other regulations.
- 18.70.060 *Repealed.*

18.70.010 Purpose – Intent.

This district is established to provide for the use of detached single-family dwellings together with specified accessory uses and other uses as may be approved. It is intended that the character and use of this district be for housing and living purposes free from the encroachment of incompatible uses. (Code 1995 § 48-4.00.)

18.70.020 Regulations generally.

Repealed by Ord. 19921. (Code 1995 § 48-4.01.)

18.70.030 Principal, special, and conditional uses.

- (a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.
- (b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.
- (c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 21, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.70.040 Density and dimensional requirements.

All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 19921 § 22, 9-23-14.)

18.70.050 Other regulations.

All principal and accessory uses permitted within this zone are subject to the following requirements:

- (a) Permitted Accessory Uses and Requirements. See Chapter 18.210 TMC.
- (b) Off-Street Parking Requirements. See Chapter 18.240 TMC.
- (c) Sign Regulations. See Chapter 18.20 TMC.
- (d) Dimensional Requirements. See Chapter 18.230 TMC.
- (e) Nonconforming Uses. See Chapter 18.220 TMC.
- (f) Site Plan Regulations. See Chapter 18.260 TMC.
- (g) Landscaping Requirements. See Chapter 18.235 TMC.
- (h) Subdivision Regulations. See Chapters 18.30 through 18.45 TMC. (Ord. 19921 § 23, 9-23-14.)

18.70.060 Development alternatives.

Repealed by Ord. 19921. (Code 1995 § 48-4.05.)

Chapter 18.190

PUD PLANNED UNIT DEVELOPMENT DISTRICT

Sections:

- 18.190.010 Purpose – Intent.
- 18.190.020 Regulations generally.
- 18.190.030 Use regulations.
- 18.190.040 Requirements and development standards for the planned unit development district.
- 18.190.050 Procedure for securing approval of a planned development and the establishment of a planned development district.
- 18.190.060 Planned unit development approval by the governing body.
- 18.190.070 Amendments to planned unit development plans.
- 18.190.080 Planned unit development plan variance procedures.

18.190.010 Purpose – Intent.

This district is established to permit greater flexibility and more creative, innovative and imaginative design for the development of areas that are generally not possible under the strict application of the regulations of the other districts. It is further intended to promote more economical and efficient use of the land while providing for a pleasing and harmonious development and environment, including opportunities to provide for a high level of urban amenities, and the preservation of open spaces. The regulations of this district are intended to encourage the use of this district in order to integrate multiple uses into the development; to adapt the proposed use(s) to meet the conditions of the site; and to affect certain economics in public facilities.

Due to the nature and implications of a district zone which provides for such a broad spectrum of land use and a more challenging responsibility of the delivery of public services, considerations and quasijudicial deliberations relating to the compatibility of the district to a particular site shall permit greater discretionary review and broad latitude in applying conditions and limitations for a permitted development. The compliance with all standards set forth in this division and the submittal of all specified documents and data shall not entitle an applicant to this district classification. (Ord. 19997 § 1, 5-3-16.)

18.190.020 Regulations generally.

The regulations set forth in this chapter or set forth elsewhere in this title when referred to in this chapter are the district regulations for the PUD planned unit development district. A development plan shall not be inconsistent with the following general standards for use of land, and the use, type, bulk, design and location of buildings, the density or intensity of use, the common open space, the public facilities and the development by geographic division of the site as well as with the surrounding or adjacent properties.

One or more use groups, referring to one or more of the zoning districts, shall be established on the master plan. The use regulations, dimensional requirements, off-street parking regulations and sign regulations for each of the use groups shall be as set forth in each of the corresponding zoning districts contained in this code, unless other requirements are specifically set forth on the master plan or the site plan. (Ord. 19218 § 1, 2-3-09. Code 1995 § 48-24.01.)

18.190.030 Use regulations.

(a) Permitted Uses. A planned unit development district may provide for any use or combination of uses that are listed in the use regulations of the various districts contained in this division, subject to applicable limitations, provisions or conditions specified therein and in accordance with the following regulations:

(1) All approved permitted uses of this district shall be geographically designated and grouped by category on all plans in like manner as other districts contained in this division, either by individual group or in combination therewith.

(2) Permitted use categories and any approved conditional uses provided by the individual categories shall be specifically designated on all approved plans and shall be set forth in the adopting ordinance or resolution.

(3) Provided, that all applicable limitations, provisions and conditions specified by use and set forth in this district are complied with, there may be use changes or relocations within each group category; provided, that the approved plan is not modified except as otherwise provided for by the procedures of this district.

(b) Setback and Height Regulations. The height and front, side and rear yard setbacks for individual structures within the planned unit development shall be determined in conjunction with the final approval of the planned unit development plan.

(c) Off-Street Parking Regulations. The provisions of Chapter 18.240 TMC, Off-Street Parking Requirements, shall apply to the planned unit development district in all respects except for the specified standards establishing the required number of spaces. Off-street parking regulations shall be based on the applicable requirements for each proposed use as set forth in this code. The planning director can provide a downward variance from this requirement based on factors provided by the applicant, including, but not limited to, the use of shared parking, nearby public parking or other factors that justify a lesser parking requirement.

(d) Signs. The number, location, size, area, height and type of signs shall be determined in conjunction with the approval process. (Ord. 19218 § 2, 2-3-09. Code 1995 § 48-24.02.)

Cross References: Planning department, TMC 2.30.090.

18.190.040 Requirements and development standards for the planned unit development district.

The following performance criteria shall be required of all planned unit developments and shall be addressed by the master plan:

(a) Size of Parcel.

(1) One Acre. Except as provided in subsection (a)(2) of this section, the minimum site size for a planned unit development district shall be one acre.

(2) Less Than One Acre.

(i) Less Than One Acre – Transition Area. Parcels containing less than one acre may be reclassified to a planned unit development district where the planning director determines the proposed PUD to be a “transition area,” defined as an area that separates a nonresidential use group classification (O&I, C, or I districts alone or within a PUD) from another nonresidential use group classification or a residential use group classification (R or M districts alone or within a PUD). The determination of the planning director may be appealed to the planning commission.

(ii) Less Than One Acre – Reuse of Building – Zoning Change. Parcels containing less than one acre may be reclassified to a planned unit development district where the plan includes a reuse of an existing building and the proposed use would require a zoning change to a less restrictive classification. Conditional uses may be allowed as indicated in TMC 18.190.030(a)(2).

(b) Additional Standards and Requirements for Projects on Less Than One Acre.

(1) The use group category assignment of the planned unit development will be compatible with surrounding properties in the neighborhood. Restrictions may be imposed to ensure the proposed use is compatible with surrounding properties or uses.

(2) The density and design of the planned unit development shall be compatible in use, size and type of structure, relative amount of open space, traffic circulation and general layout with adjoining land use, and shall be integrated into the neighborhood.

(3) The development shall not have any greater impact on existing streets and utilities than that anticipated for a conventional development of the site.

(4) The development shall not adversely affect views, light and air, and use and enjoyment of neighboring properties any more than would a conventional development.

(5) The master planned unit development plan shall also include building elevations for all structures and details of materials to be used for external construction, when determined necessary by the planning director. The determination of the planning director may be appealed to the planning commission.

(c) Property Owners' Association. Areas within the planned unit development which are designated as private streets, private utility services, common areas, recreation areas, or other open space set aside for the benefit of tenants and property owners, shall be maintained by the property owners' association or, in the alternative, property owners within the planned unit development. In the event the property owners' association or property owners within the planned unit development fail to maintain such areas, the governing body may proceed under applicable ordinances and/or resolutions to maintain such areas. All costs incurred by the governing body in maintaining such areas shall be assessed against the lots within the planned unit development as provided for by law. Nothing contained herein shall be construed as creating a duty on behalf of the governing body to enforce any of the duties, obligations, or responsibilities of the property owners' association or, in the alternative, individual property owners.

(d) Platting. Building or zoning permits shall not be issued nor any development initiated on any property designated as planned unit development until such time that the property has been platted as a subdivision; or replatted as a subdivision when determined by the planning director that conditions and circumstances relating to utility extension and service, street or alley right-of-way, topographic and drainage factors, easements, or vehicular access warrant said replat.

(e) Access.

(1) All drives, lanes, streets, culs-de-sac, and other accessways within the planned unit development shall be owned and maintained by the property owners' association or owners within the planned unit development unless it is determined by the planning commission that there is a public need for local streets and/or major trafficways to transverse the district. In such instances, the transversing streets and/or trafficway right-of-way shall be dedicated by the developer in accordance with the plat subdivision regulations.

(2) All drives, lanes, streets, culs-de-sac and other privately owned accessways providing accessibility to individual structures, buildings, and uses within the planned unit development shall, by the nature and intent of the district, be considered and serve as mutual rights of access for owners, tenants, invited guests, clients, customers, support and utility service personnel and emergency service providers, including law enforcement, fire protection and ambulance services. No gates, structures or other barriers shall be constructed across said accessways which may impede, limit, or restrict the above rights of access.

(3) The site will be accessible from public streets which are adequate to carry the traffic that will be imposed upon them by the proposed development. Streets and driveways on the site of the proposed development will be adequate to serve the residents, occupants, or users of the proposed development. Traffic control signals will be provided without expense to the city when such signals are required to prevent traffic hazards or congestion in adjacent streets.

(4) All drives, lanes, streets, culs-de-sac, accessways, and parking lots shall comply with all applicable provisions of Chapter 18.240 TMC in respect to surfacing, design, screening, lighting, and drainage.

(f) Other Standards. Other developmental standards, requirements, and provisions of applicable jurisdictional units including but not limited to those of public works, fire and water district, law enforcement, utilities, and parks and recreation, and which may not be specifically set forth in this division, shall apply and the master and final planned unit development plans should account for such and reflect a development design accordingly; provided, that variances and waivers are not granted by the appropriate authority. (Ord. 19997 § 2, 5-3-16.)

Cross References: City council – mayor, Chapter 2.15 TMC; fire department, TMC 2.30.030; planning department, TMC 2.30.090; police department, TMC 2.30.100; public works department, TMC 2.30.110; planning commission, Chapter 2.65 TMC.

18.190.050 Procedure for securing approval of a planned development and the establishment of a planned development district.

Prior to any use or development within the planned unit development district, the district shall be established in accordance with the provisions of this division, including the approval of all plans set forth in the procedure.

(a) Application to Amend to the District. Except as set forth by this division, a petition to reclassify property to the planned unit development district shall be as established in Chapter 18.245 TMC, Amendments, and include like contents. Additionally, the application shall include the specified number of copies of the planned unit development master plan which shall consist of the following documents, information and graphics unless determined to be unnecessary by the planning director. The planning director may waive the submittal of the master plan in circumstances where the conditions of approval, restrictions, and limitations of the planned unit development can be addressed in the ordinance reclassifying the property.

(1) Legal description of the proposed district in its entirety, total acreage, and planned unit development name/designation.

(2) Legal description of each proposed use group category with corresponding acreage.

(3) The site plan shall identify the name of the planned unit development in large, bold letters centered across the top of all plan sheets; the general location and arrangement of all existing structures; the proposed traffic circulation pattern within the development; the approximate location of proposed and existing major streets and major pedestrian and bicycle routes, including major points of access; the areas to be developed for parking; the points of ingress and egress including access streets where required; the relationship of abutting land uses and zoning districts; proposed types of signage; proposed lots and blocks, if any; proposed public or common open space, if any, including parks, playgrounds, school sites, and recreational facilities.

(4) The site plan of the development shall be at a minimum scale of one inch equals 50 feet, composed of one or more sheets with an outer dimension of 24 inches by 36 inches. A single-line border shall be provided around all plan sheets measuring exactly one inch from the edge of the sheet except along the left side of the sheet which line shall measure exactly two inches from the edge. The scale, north point and most recent date of preparation shall be so indicated on the plan.

(5) Graphically reflect the geographic location and designation of each use group category proposed.

(6) The anticipated density, number, maximum height and type of residential units; and floor area, maximum height and types of business, commercial and industrial use presented in tabular form in comparison to minimum applicable standards.

(7) Existing topographical character of the land at a contour appropriate with the scale of the project; all watercourses, floodplains, unique natural features, including wildlife areas and vegetative cover, and recognized historical sites and structures. Further, all existing streets, alleys, easements, utility lines, and existing land use shall be included on the plan.

(8) Total land area, approximate location, and amount of open space included in the residential, business, commercial, and industrial areas.

(9) When a planned development includes provisions for common open space, streets, utilities, drainageways or recreational facilities, a statement describing the provision that is to be made for the care and maintenance of such open space, streets, utilities, drainageways, or recreational facilities.

(10) A preliminary plat of subdivision pursuant to the applicable ordinances, rules and regulations relating to subdivision approval; or a copy of the existing recorded plat which is appropriate for the intended plan.

(11) Area shown on the site plan shall extend beyond the property lines of the proposal to include a survey of the area within 150 feet of the proposal, exclusive of public right-of-way, at the same scale as the proposal and include the following:

(i) Land uses, location of principal structures, and major existing landscape features.

(ii) Traffic circulation system.

(iii) General topographical mapping at same scale as master plan.

(12) Traffic impact analysis as defined by this division; provided, however, if in the opinion of the public works director, upon determination at preapplication conference that the intensity and scope of the requested planned unit development is of such nature that said impact analysis is not warranted, the director may waive said requirement.

(13) A development phasing schedule including the sequence for each phase, approximate size in areas of each phase, and proposed phasing of construction of public improvements, recreation, and common open space areas.

(14) One 11-by-17-inch reproducible electronic and paper copy of master plan.

(15) Indicate "Book," "Page," "Date," and "Time" in upper right-hand corner of all plan sheets.

(16) Immediately below the "Book," "Page," "Date" and "Time" entries, provide the following signature block:

Recorded With The Shawnee County Register of Deeds:
(Registrar's Name) – Register of Deeds

(17) Include the following statement on the plan sheet:

This Planned Unit Development (PUD) Master Plan has been reviewed and approved in accordance with the provisions of Chapter 18.190 of the Comprehensive Zoning Regulations of the City of Topeka and Shawnee County, Kansas, and may be amended only as prescribed in TMC 18.190.070 and as set forth on this document or as may subsequently be approved and recorded.

(18) Notarized owner's certification of acceptance of conditions and restrictions set forth on the master plan as follows:

OWNER'S CERTIFICATE: (Type Name) agrees to comply with the conditions and restrictions as set forth on the master PUD plan.

In Testimony Whereof:

The Owner(s) of the above described property, (Type Name), have signed these presents this _____ day of _____, (Year) _____.

(Type Name and Title) (Type Name and Title)

Be it remembered that on this _____ date of _____, A.D. _____ (Year) before me, a notary public in and for said County and State come _____, Owner(s) of the above described property.

I hereby set my hand and affix my notarial seal the day and year last written above.

Notary Public

My Commission Expires: _____

(19) Notarized certification of master PUD plan approval by the secretary to the planning commission as follows:

Certification of Master PUD Plan Approval:

(Planning Director's Name) (Date)

Secretary to Planning Commission

Be it remembered that on this _____ date of _____, A.D. _____ (Year), before me, the undersigned, a notary public in and for said County and State came (Planning Director's Name) who is personally known to me to be the same person who executed the within instrument of writing, and such person duly acknowledged the execution of the same.

In Witness Whereof, I hereby set my hand and affix my notarial seal the day and year last written above.

Notary Public

My Commission Expires: _____

(b) Action on the Petition and Master Plan of the Planned Unit Development Plan by the Planning Commission and Governing Body. Upon filing of a petition to amend a district to the planned unit development district as set forth in Chapter 18.245 TMC, Amendments, and as further provided by this division, the planning commission shall review, consider, and act on the petition in a like manner and procedure as provided in Chapter 18.245 TMC. The appropriate governing body shall consider such proposal upon report and recommendation by the planning commission also in a like procedure as provided in Chapter 18.245 TMC. (Ord. 19997 § 3, 5-3-16.)

Cross References: City council – mayor, Chapter 2.15 TMC; planning department, TMC 2.30.090; public works department, TMC 2.30.110; planning commission, Chapter 2.65 TMC.

18.190.060 Planned unit development approval by the governing body.

(a) Form of Ordinance. An ordinance approving a planned unit development and establishing a planned unit development district shall specify the restrictions that will, pursuant to the development plan, apply in the planned development district and shall describe the boundaries of such district or set such boundaries out on a map that is incorporated and published as a part of such document. Such document shall also specify the conditions and restrictions that have been imposed by the governing body on the planned development and shall designate geographic areas by use group category. Prior to consideration of an ordinance by the city council, the applicant shall submit the plan on a permanent-type drafting film material on sheets 24 inches by 36 inches suitable for recording.

(b) Recording. For those proposals which are approved to be reclassified to the planned unit development district, the master plan, and site plan (if concurrent approval is requested by the applicant) as approved by the governing body with all conditions, revisions, and restrictions as set forth or imposed by said action of the governing body shall be recorded within 60 days of the action date of the city council by the applicant with the register of deeds. Failure by the applicant to record the plan within the prescribed time period or provide the planning department 15 copies of the recorded plan within 90 days of the action by the governing body shall deem the zoning petition as null and void. The planning director upon written request of the applicant and for good cause shown may extend this time period an additional 30 days. Upon recordation, any changes, revisions, or modifications to the plan shall be in accordance with this division and again recorded in a similar manner; provided, however, if the cause of the delay was one of circumstances beyond the control of the applicant, the planning director may grant an additional extension of 90 days.

(c) Site Development Plan Review. If the site plan was not submitted and approved concurrently with the master plan, the following procedure shall apply: following the recording of the master planned unit development plan and prior to application for any building development on the site, the applicant shall be required to submit a site development plan in accordance with the procedures set forth as follows:

(1) Submission of Site Development Plan. A site development plan shall be submitted for the entire area as per the approved master planned unit development plan or for a subarea (single use group area) within the planned development, provided: (i) the plan of the subarea meets all the requirements of the master planned unit development plan; (ii) the dwelling unit density for residential development or total floor area for nonresidential development does not exceed the dimensional standards established by the master plan unit development plan; (iii) the subarea can function as an independent development unit with adequate access,

services, utilities, open space; etc.; and (iv) the subarea is more than two acres in size. The applicant shall submit 15 copies of the site development plan which shall contain the following information:

- (i) The title of the project, centered across the top of the plan sheet, and the names of the engineer or surveyor and names of the developer; and a signature panel for the planning director's approval.
- (ii) A north point, scale, date and vicinity map.
- (iii) Existing zoning and improvement of immediately adjacent properties.
- (iv) The boundaries of the entire planned unit development or the specific land use area for which development is sought; all existing property lines; setback lines; the right-of-way and pavement dimension of existing streets; the location, dimension, height and square feet of all existing buildings and identification of those to be retained or removed; location, alignment and area of watercourses, waterways or lakes; and other physical features in or adjoining the proposed development.
- (v) The right-of-way and pavement dimension of all proposed streets, loading and parking areas; location, height, type of fixture, and intensity of illumination of all exterior lighting; location and dimension of storm drainage facilities and all curb cuts and access points.
- (vi) The location, dimension, height, and square footage of all proposed buildings, main and accessory, including dwelling type and number of dwelling units per building.
- (vii) The location of trash receptacles, including the type and height of trash enclosures.
- (viii) The location and dimension of proposed recreation areas, open spaces, and other amenities and improvements.
- (ix) The location, character, size, height, and orientation of existing and proposed signs.
- (x) The location, type, height, and materials of all fences and walls.
- (xi) The location and type of all existing trees with a caliper of eight inches or greater. The plan shall indicate which of the trees are to be retained and which are to be removed.
- (xii) A landscape plan in compliance with the requirements of the provisions of Chapter 18.235 TMC, Landscape Requirements.
- (xiii) A tabulation of the total number of acres in the project, total number of acres in the land use area for which site plan approval is sought, the percentage and acreage thereof proposed to be allocated to residential use, nonresidential uses, off-street parking, common open space, parks, schools, and other reservations.
- (xiv) A tabulation of the total number of dwelling units in a residential area and the overall project density in dwelling units per gross acre. Tabulation of floor area by use in a nonresidential area.
- (xv) The type, location, and size of all existing and proposed utilities and utility easements extending through or adjacent to the site.
- (xvi) A topographic survey showing the elevation of streets, buildings, structures, watercourses, and their names. The topography shall be shown by adequate spot elevations.

(2) Review and Approval of Site Development Plan. Site plans shall be approved administratively by the planning director after first circulating the plan and all attachments to all applicable reviewing departments and agencies for written comment. This provision, however, shall not prohibit the planning director from requesting a recommendation from the planning commission. The site development plan shall be reviewed for conformity with the provisions of the master planning unit plan and other applicable codes and regulations of the appropriate jurisdiction. The planning director may approve the site development plan as submitted, approve

with modifications, remand back to the applicant for modifications, or deny. If the plan is approved, the director shall certify thereon his approval and state the conditions of approval, if any. If the plan is disapproved, he shall indicate his disapproval and the reasons therefor in writing to the applicant. Appeals of any decision of the planning director shall be submitted to the planning commission for review and determination. Appeals of any decision of the planning commission shall be submitted to the city council for final action.

(3) Amendments or modifications to approved site development plans must be submitted to the planning department for review and determination. Such modifications shall be submitted to all applicable reviewing agencies and departments for review and comment. The planning director shall approve, modify, or deny the proposed amendment in the same manner as the submission of the original site development plan. The planning director again may submit the proposed amendment to the planning commission for recommendation.

(4) A stop work order shall be put on a project if any improvements required on the approved site development plan are not adhered to during the development of the site. (Ord. 19218 § 5, 2-3-09. Code 1995 § 48-24.05.)

Cross References: City council – mayor, Chapter 2.15 TMC; planning department, TMC 2.30.090; planning commission, Chapter 2.65 TMC.

18.190.070 Amendments to planned unit development plans.

Each applicant petitioning for a planned unit development district shall, as part of the application, designate a prescribed manner as to who may initiate amendment(s) to the approved planned unit development master plan. In addition to the planning commission or city council, the owner may solely initiate amendments to the plan. The terms and provisions of the plan shall extend to and be binding upon the heirs, executors, administrators, trustees, and assignees of the owner. Should more than one entity hold title, then all such affected owners of all such title as determined by the planning director shall be required to execute any such amendment. In lieu of all owners individually executing such document, the planning director may approve a homeowners' or property owners' association to execute any such amendment if they present evidence their organization has the authority to represent all owners within the PUD.

(a) Minor Amendments to Master Plan. Minor changes to a planned unit development master plan may be approved administratively, if at all, by the planning director. Such changes may be authorized without additional public hearings, at the discretion of the planning director. This provision shall not prohibit the planning director from requesting a recommendation from the planning commission.

(1) Minor Amendment Criteria. Amendments shall be deemed as minor if the cumulative revisions to the most recent approved master plan of record which was considered at a public hearing do not include:

- (i) A change to the use and character of the development.
- (ii) The possible creation of obstacles, barriers and service problems to traffic circulation, fire protection, public safety, and public utility services due to the revision(s).
- (iii) A reduction by greater than 10 percent of the designated open space.
- (iv) An increase by greater than 10 percent in the approved number of residential dwelling units.
- (v) Increase the floor area proposed for nonresidential use by more than 10 percent.
- (vi) Increase by greater than 20 percent the approved signage including, but not limited to, height or sign face area.

(2) Submittal of Revised Master Plan with Minor Amendments. The proposed revised master plan shall be submitted to the planning director for consideration of approval. Said plan shall be presented on reproducible tracing material in like manner, and substance as reflected on the most recent approved plan. All other data, conditions, and information other than that proposed for amendment shall be identical to the most recently approved plan. Space for acknowledgement of approval by the planning director with date space shall be reflected on said plan. A letter of transmittal from the designated applicant setting forth in detail all proposed amendments shall accompany the submittal. Upon approval of any revised plan, the applicant shall furnish 16

copies of such plan with the planning agency for distribution to public agencies and utilities. The original tracing will remain on file in the planning agency and the revised master plan shall be rerecorded with the register of deeds in like manner as established with the original filing.

(b) Major Amendments to Master Plan. Major changes shall include any modifications that do not meet all the minor amendment criteria set forth above. A major amendment is processed and approved in the same manner as the original application. Amendments that add a permitted use group and/or change the location of a use group by legal description are subject to protest as provided for under state law for any other rezoning. (Ord. 19218 § 6, 2-3-09. Code 1995 § 48-24.06.)

Cross References: City council – mayor, Chapter 2.15 TMC; planning department, TMC 2.30.090; planning commission, Chapter 2.65 TMC.

18.190.080 Planned unit development plan variance procedures.

The planning commission is solely empowered to grant variances to the provisions of this chapter and only under the following circumstances:

(a) The applicant demonstrates that the plan as submitted more effectively accomplishes the goals and objectives of the comprehensive plan than such plan incorporating the provision for which a variance is requested; or

(b) The strict application of any provision would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property; provided, that the variance may be granted without substantial detriment to the public good and without substantially impairing the purpose of this chapter. (Ord. 19218 § 7, 2-3-09. Code 1995 § 48-24.07.)

Cross References: Planning commission, Chapter 2.65 TMC.

Chapter 18.165

I-1 LIGHT INDUSTRIAL DISTRICT

Sections:

- 18.165.010 Purpose – Intent.
- 18.165.020 *Repealed.*
- 18.165.030 Principal, special, and conditional uses.
- 18.165.040 Density and dimensional requirements.
- 18.165.050 Other regulations.
- 18.165.060 *Repealed.*

18.165.010 Purpose – Intent.

This district is established to provide for a wide range of uses except specified uses which are obnoxious or offensive by reason of odor, dust, smoke, gas or noise. The extent and range of uses are highly intensive. Residential dwellings are not permitted in this district except for on-site caretakers or watchmen or correctional placement residence or facility, limited or general. (Ord. 18237 § 22, 6-15-04. Code 1995 § 48-20.00.)

18.165.020 Regulations generally.

Repealed by Ord. 19921. (Code 1995 § 48-20.01.)

18.165.030 Principal, special, and conditional uses.

- (a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.
- (b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.
- (c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 112, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.165.040 Density and dimensional requirements.

All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 19921 § 113, 9-23-14.)

18.165.050 Other regulations.

All principal and accessory uses permitted within this zone are subject to the following requirements:

- (a) Permitted Accessory Uses and Requirements. See Chapter 18.210 TMC.
- (b) Off-Street Parking Requirements. See Chapter 18.240 TMC.
- (c) Sign Regulations. See Chapter 18.20 TMC.
- (d) Dimensional Requirements. See Chapter 18.230 TMC.
- (e) Nonconforming Uses. See Chapter 18.220 TMC.
- (f) Site Plan Regulations. See Chapter 18.260 TMC.
- (g) Landscaping Requirements. See Chapter 18.235 TMC.
- (h) Subdivision Regulations. See Chapters 18.30 through 18.45 TMC. (Ord. 19921 § 114, 9-23-14.)

18.165.060 Development alternatives.

Repealed by Ord. 19921. (Code 1995 § 48-20.05.)

Chapter 18.210

ACCESSORY USES

Sections:

- 18.210.010 Accessory uses.
- 18.210.020 Permitted uses.
- 18.210.030 *Repealed.*
- 18.210.035 Home occupations.
- 18.210.040 Fences.
- 18.210.050 Cargo containers.

18.210.010 Accessory uses.

Accessory uses, buildings and land customarily associated with, and clearly incidental to, a permitted use, special use requirement or conditional use permit shall be permitted provided they are:

- (a) Located on the same lot or parcel as a principal use and commonly associated with a principal building or use.
- (b) Subordinate in area, extent and purpose to the principal building. The cumulative footprint of all accessory buildings shall not exceed 90 percent of the principal building's footprint and as restricted by Chapter 18.60 TMC density/dimensional standards.
- (c) Operated and maintained under the same ownership and are contributory to the comfort, convenience or necessity of the occupants, business or industry in the principal building or use served.
- (d) Time of Construction. No accessory building shall be constructed or established more than 120 days prior to the time of completion of the construction or establishment of the principal building or use to which it is an accessory. (Ord. 20062 § 31, 4-18-17.)

18.210.020 Permitted uses.

The accessory uses, buildings and other structures permitted in each zone may include the following:

- (a) In the RR-1 district:
 - (1) Open or enclosed storage of farm materials and equipment.
 - (2) Farm buildings, including barns, stables, sheds, toolrooms, shops, tanks, bins and silos.
 - (3) Fuel storage tanks and dispensing equipment for fuels used solely for farming operations. No wholesale/retail sales of such fuels shall be allowed as an accessory use.
 - (4) Wholesale and retail sales of agricultural products grown or raised upon the premises.
 - (5) Roadside stands for the sale of produce grown on the premises; provided, that such a stand shall not contain more than 600 square feet of floor area, the stand is located no closer than 20 feet from the right-of-way, and access to the stand is from an entrance to the farm or residence.
 - (6) Private, noncommercial antenna and supporting structure when used for amateur radio service; citizens band radio; a telecommunication device that receives only a radio frequency signal; a sole-source emitter with more than one kilowatt average output; and satellite receiving devices, provided they shall not be located in the area between the street and principal building nor within the required side yard.
 - (7) Fences as regulated by TMC 18.210.040.
 - (8) Gazebos, enclosed patios and similar buildings for passive recreational use.
 - (9) Home occupations as regulated by TMC 18.210.035.

(10) Private garages and carports.

(11) Private greenhouses or conservatories.

(12) Private recreational uses and facilities including but not limited to swimming pools and tennis courts, if the use of such facilities is restricted to occupants of the principal use and guests for whom no admission or membership fees are charged.

(13) Private or public utility transmission, distribution and/or collection systems; and not, however, including substations and distribution substations, pump stations, reservoirs, towers, transmission equipment buildings and similar facilitating structures.

(14) Residential accessory storage buildings for the storage of wood, lumber, lawn or gardening equipment and other materials and equipment, exclusively for the personal use of the residents of the premises, but not including a storage building for commercial purposes.

(15) Signs as regulated by Chapter 18.20 TMC.

(16) Statuary, arbors, trellises, flagpoles, and barbecue stoves.

(17) Structures for the shelter of household pets except kennels.

(18) Temporary construction buildings for on-site construction purposes, including cargo containers, for a period not to exceed the duration of the construction project.

(19) Little free libraries associated with residential uses are limited to a height of six feet, a width of two feet, and volume of six cubic feet, and to a height of six feet, width of four feet, and volume of 10 cubic feet when associated with nonresidential uses.

(b) In the R-1, R-2, R-3, R-4, M-1 and M-1a districts: in addition to the accessory uses included in subsections (a)(6) through (a)(19) of this section, the following shall be permitted:

(1) Storage buildings and garages for the storage of wood, lumber, lawn or gardening equipment and other materials and equipment, exclusively for the personal use of the residents of the premises, but not including storage for commercial purposes. Truck bodies and cargo containers are not allowed as accessory uses. However, cargo containers may be used on a temporary basis as regulated by TMC 18.210.050.

(2)(i) No farming equipment or farming machinery shall be parked or stored on a lot or tract of land unless within an enclosed lawful structure, or screened from view from any abutting property or street. No truck, excluding a pickup truck, trailer, boat, bus, tractor, or similar vehicle, machinery, or equipment with a curb weight (unloaded vehicle weight) or manufacturer's gross vehicle weight rating exceeding six tons shall be parked or stored any place on a lot or tract of land within an R, M-1 or M-1a district.

(ii) No commercial vehicles or commercial equipment, machinery or materials of any kind shall be stored any place on a lot or tract of land, except if such vehicles, equipment, machinery or materials are in temporary usage to actively accomplish permitted temporary activities on the premises such as construction, repair, moving, and other similar activities. In such case they shall be removed from the lot or tract of land within 48 hours of completion of said activity.

(3) Off-street parking as regulated by Chapter 18.240 TMC.

(4) A child's playhouse.

(c) In the M-2 and M-3 districts: in addition to the accessory uses included in subsection (b) of this section, the following shall be permitted:

(1) A maintenance storage building incidental to a permitted use, provided no such structure shall exceed 160 square feet in gross floor area, and shall be in keeping with the principal structure.

(2) A facility for leasing, managing and/or maintenance of a multiple-family dwelling or planned unit development, provided such facility is of such size and scale which is in keeping with, and is accessory in nature to, said multiple-family dwelling or planned unit development, all as determined by the planning director.

(d) In the O&I-1, O&I-2 and O&I-3 districts:

- (1) For residential uses, the accessory uses included in subsection (c) of this section shall be permitted.
- (2) Off-street parking as regulated by Chapter 18.240 TMC.
- (3) A storage building incidental to a permitted use, provided no such structure shall exceed 400 square feet in gross floor area, and shall be in keeping with the principal structure.
- (4) Employee restaurants and cafeterias, when located in a principal structure.
- (5) Signs as regulated by Chapter 18.20 TMC.
- (6) Fences as regulated by TMC 18.210.040.
- (7) Flagpoles and statuary.
- (8) Private garages and carports.

(e) In the C-1, C-2, C-3, C-4 and D districts: in addition to the accessory uses included in subsection (d) of this section, the following shall be permitted:

- (1) Restaurants, drugstores, gift shops, clubs, lounges, newsstands, and travel agencies when located in a permitted hotel or motel.
- (2) One independent, freestanding commercial structure of 400 square feet or less in the C-1 district and 600 square feet in the other districts shall be permitted on a zoning lot. Such accessory structure shall not be required to provide off-street parking, but shall be located as to not interfere with or reduce the amount of required parking for the principal use. The location of such accessory structure shall be reviewed and approved by the planning director at the time of building permit application, provided such location does not conflict or interfere with site access and interior vehicular circulation.

(f) In the I-1 and I-2 districts, the following shall be permitted:

- (1) Fences as regulated by TMC 18.210.040.
- (2) Off-street parking as regulated by Chapter 18.240 TMC.
- (3) Signs as regulated by Chapter 18.20 TMC.
- (4) Gatehouse.
- (5) Employee recreational facilities.
- (6) Flagpoles and statuary.
- (7) Employee restaurants and cafeterias when located in the principal building of the use served.
- (8) Employee child care facilities.
- (9) Storage and warehousing.
- (10) Caretaker's or night watchmen's quarters.

- (g) In the U-1 district: the accessory uses included in subsection (c) of this section.
- (h) In the MS-1 district: the accessory uses included in subsection (d) of this section.
- (i) In the X-1, X-2 and X-3 districts: the accessory uses included in subsections (b), (c), (d), (e) and (f) of this section shall be in compliance with any applicable performance standards of the X mixed use districts. (Ord. 20062 § 32, 4-18-17.)

Cross References: Planning department, TMC 2.30.090.

18.210.030 Accessory regulations.

Repealed by Ord. 19921. (Ord. 19628 § 1, 8-23-11.)

18.210.035 Home occupations.

Home occupations shall be permitted provided the same does not detract from the residential character of a neighborhood and will not cause excessive traffic, nuisance or hazards to safety; provided further, that each home occupation shall comply with the following standards and permit requirements:

- (a) Standards. The following shall apply to any home occupation:

- (1) The use or activity shall be carried on by a resident of the dwelling.
- (2) Not more than one employee not a resident of the dwelling is permitted at any one time.
- (3) The exterior of the dwelling shall not be changed or modified in any way, nor shall any exterior signs be erected that will indicate any accessory use of the property nor adversely affect the residential character of the neighborhood.
- (4) The sale of any commodity, goods or products on the premises is prohibited.
- (5) All equipment, materials, work in progress and work areas shall be confined to the principal dwelling and not extend into an attached or detached garage or storage building.
- (6) The projection of any obnoxious sound, odor, smoke, vibration, light or dust is prohibited.
- (7) The home occupation shall not occupy more than 25 percent of the total floor area (including a basement) of the dwelling, excluding any attached garage.
- (8) The home occupation shall not be available or open to the public except during the hours between 8:00 a.m. and 8:00 p.m.
- (9) The home occupation shall not create a need for off-street parking, pedestrian and vehicular traffic, sanitary sewer and storm sewer usage, public water usage as well as other municipal services in excess of the normal and usual levels for other residential dwellings.
- (10) Only one such accessory use or activity shall be carried on in a dwelling during the period authorized by a home occupation permit.

- (b) Permit Required. Prior to the establishment of any accessory use or activity as defined herein as a home occupation, the owner(s) of the subject property shall make an application to the planning department. At such time as the planning director has determined that the proposed accessory use or activity meets the standards as set forth herein, a home occupation permit shall be issued.

- (1) The planning director shall have the authority to specify conditions and requirements as deemed necessary to assure compliance with the standards as set forth herein.
- (2) The home occupation permit shall specify the conditions, requirements and duration of said permit. The permit shall be displayed within the interior of the dwelling and at the location of the proposed activity.

(3) A home occupation permit may be issued to a tenant or occupant of a dwelling who is to be engaged in the accessory use or activity, provided the owner(s) of record of the property have endorsed and/or certified the application.

(4) A home occupation permit shall not be transferable or assignable. Discontinuance or abandonment of the home occupation for a period of 60 days or more shall render the permit void.

(c) Enforcement. The enforcement and administration of this section shall rest with the planning director. Upon a finding that any of the foregoing provisions have not been complied with, the planning director shall direct the home occupation permit invalid and shall order the use therein to be vacated. The planning director shall have the right to inspect the premises at any reasonable time. Failure to allow periodic inspections by planning director at any reasonable time shall result in the immediate revocation of the home occupation permit. In the event of a revocation, one year shall elapse prior to an application by the same owner of the same residential dwelling structure for a new permit. (Ord. 19394 § 5, 3-16-10. Code 1995 § 48-29.025.)

Cross References: Planning department, TMC 2.30.090.

18.210.040 Fences.

(a) Location and Height. Fences and hedges shall be subject to the following location and height requirements:

(1) Except as provided in subsection (d) of this section, no portion of a fence shall exceed eight feet in height.

(2) Fences and hedges shall be located so no part thereof extends into public right-of-way nor is located closer than one foot from a public sidewalk.

(3) In R and M districts, fences beyond the front face of the principal structure shall not exceed four feet in height. On corner lots, but not including reversed corner lots, fences beyond the front face of the principal structure where the fence is located along an arterial street that runs perpendicular to the corner lots' established rear yard shall not exceed six feet in height. On reversed corner lots, fence heights shall be limited to four feet within all required front yards. On double frontage lots, fence heights shall be limited to four feet where such lots abut the established minimum front yard of any adjoining lot. The following diagram illustrates the setback requirements established in this section:

Diagram illustrating the maximum fence height for various lot types and street configurations.

Legend:

- Yellow: Maximum fence height of 4'
- Brick pattern: Maximum fence height of 6'
- White: Maximum fence height of 8'

Lot Types: F = Front, R = Rear, S = Side

Scenarios:

- Designated Arterial Street:** Shows a central intersection with a designated arterial street (dashed red line) and local streets. Lot types are labeled (F, R, S). Fence heights are indicated by color.
- Local Street:** Shows a street layout with a local street (dashed red line) and a local street (dashed red line). Lot types are labeled (F, R, S). Fence heights are indicated by color.

Notes:

- Edge of roadway (typically the curb)
- Edge of Right of Way (Property line)
- Unused Front Porch
- Corner Lots Abutting an Arterial Street
- Normal Corner Lots
- Normal Lots
- Revered Corner Lots

**For illustrative purposes only. Please contact the City of Topeka Planning Department at (785)368-3728 for help on your specific property and question.*

- Cross References:** Planning department, TMC 2.30.090; city engineer, TMC 2.30.110.

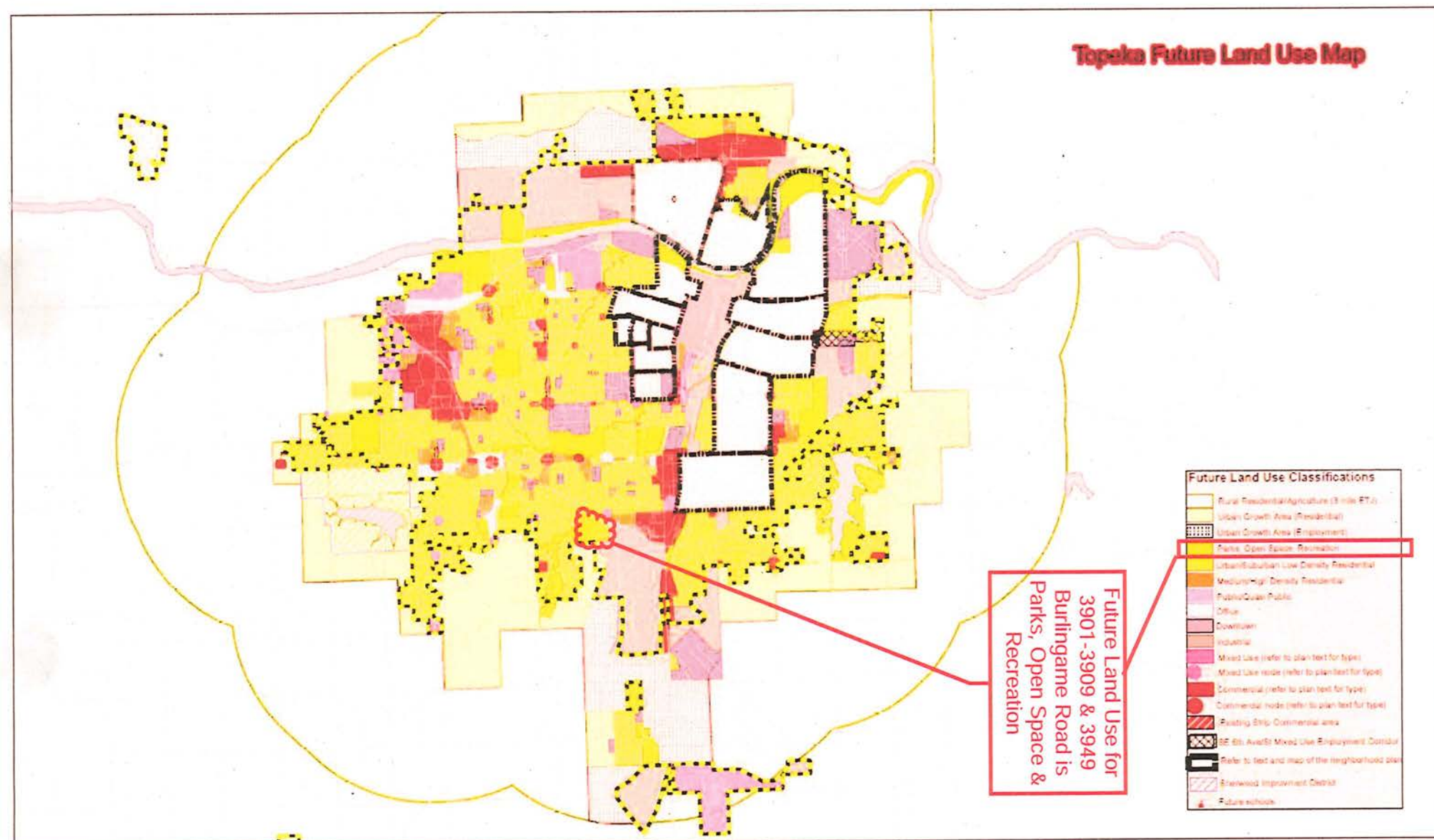
Cargo containers as an accessory use are permitted in the I-1 and I-2 districts. In all other districts cargo containers are permitted only in accordance with the following provisions and standards.

- (a) In a residential zoning district, one cargo container used as a moving pod no larger than 160 square feet and no more than nine feet tall may be used on a temporary basis for up to 30 days within a calendar year.
- (b) In a nonresidential or mixed use zoning district, cargo containers no larger than 320 square feet and no more than nine feet tall may be used on a temporary basis for up to 30 days within a calendar year.
- (c) In commercial zoning districts C-3, C-4, X-2 and where accessory to institutional uses in other zoning districts, cargo containers shall not be visible from a public street either by placement or opaque fence/landscape screening. Any cargo container only visible from the front of buildings on adjacent property shall be set against the primary building and color matched with the building, and shall be limited to one cargo container. In addition, cargo containers shall:
 - (1) Not displace or interfere with required parking, circulation, or emergency access;
 - (2) Not be used as a base, platform, or location for business identification signs;
 - (3) Not be located in any required front or side yard setback adjoining a street right-of-way; and
 - (4) Be located at grade level and not stacked.
- (d) Exceptions to the requirements in subsections (a) through (c) of this section include:
 - (1) Cargo containers used for allowed on-site construction purposes for a period not to exceed the duration of a construction project with a valid building permit and for no more than 180 days for construction projects not requiring a building permit.
 - (2) Cargo containers used where accessory to public or institutional athletic fields as the primary use.
- (e) Any legally existing cargo containers made nonconforming on the effective date of the ordinance codified in this section shall conform on or before September 1, 2017. (Ord. 20062 § 34, 4-18-17.)

ATTACHMENT “D”

Topeka Future Land Use Map

Map #3 – Topeka Future Land Use



Map Adopted by Topeka City Council - January 10, 2017

The Future Land Use Map only provides a broad initial approach and is not intended to be a site specific guide for each individual lot or parcel nor is it a zoning map. There may be other uses or uses suitable for uses other than what is depicted on the map. Site specific development proposals and rezoning requests should follow more specific area, corridor, and neighborhood plans, as well as the Golden criteria.

John & Rosemary Palma
3905 SW Burlingame Road
Topeka, KS 66609

September 5, 2019

City of Topeka
Planning & Development Department
620 SE Madison, Unit 11
Topeka, KS 66607

Dear Planning and Development Department:

This letter is in reference to Case # PUD 19/02. We strongly oppose any change in zoning.

Our home is right by the Sports Zones first and most used entrance off Burlingame Road. The city took our direct entrance to Burlingame and funneled us to the current layout where we have to battle traffic to get in and out from our property. When was the last traffic study done? With its current R1 zoning we probably have a lot more traffic than any other R1 within the city!

We have:

cars from the three houses

morning and afternoon drop offs plus evening pick ups for the daycare

all day long semi-tractor trailer truck traffic for commercial driver's school and licenses

dance school traffic

Foster Cemetery traffic

Apartment traffic and Church traffic that also uses this entrance as it all connects (even though they have their own)

Sports Zone endless lines of SUV's and cars all evenings, plus weekend games traffic

It is way too much traffic for the narrow, undersized entrance with its short little yield sign that the SUVs cannot even see and do not comply with. (We have called the city about this sign in the past and nothing was done.) With the layout of our only access to Burlingame Road, when we try to get out, we can look and see no car coming from the sport zone and be blindly broadsided by a car that has yet to turn in. This is very dangerous for all involved, especially considering the children coming and going. Surely, there is a better way. What can you guys do to insure the safety of all? Giving the 3 houses their own access to Burlingame would solve this danger. Making the entrances only one way would cut the traffic in half on the undersized entrance...with one entrance all arriving traffic and the other entrance all exiting traffic. The only sure thing here is changing the zoning is a very bad idea. No increase in traffic should be allowed. "Parks, Open Space and Recreation" is what the Topeka Future Land Use Map states this whole area was to be.

We have been good neighbors to the Sports Zone, even with the Neon Sign flashing all night within about 70 feet of our bedrooms. Would any of you like that by your bedroom windows? Is there another R1 in the city with a flashing neon light? Our grandson has played football and basketball at the Sports Zone and we want to cooperate with their business, but not at our expense or the safety of all involved.

Sincerely,

John and Rosemary Palma