



CITY OF  
**TOPEKA**

**A G E N D A**

## **TOPEKA PLANNING COMMISSION**

MONDAY, DECEMBER 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  
Wiley Kannarr  
Jim Kaup  
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  
Taylor Ricketts, Planner I  
Bryson Risley, Planner I  
Kris Wagers, Administrative Officer

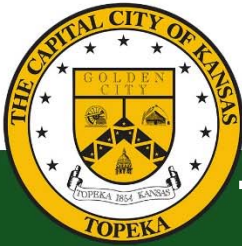


CITY OF  
**TOPEKA**

## **TOPEKA PLANNING COMMISSION**

**Agenda for Monday, December 16, 2019**

- A. Roll call**
- B. Approval of minutes – November 18, 2019**
- C. Declaration of conflict of interest/ex parte communications by members of the commission or staff**
- D. Public Hearings**
  - 1. Shorey Automotive by: Luellen, Michael Dean**
    - a. Z19/09 by Shorey Automotive by: Luellen, Michael Dean** requesting to amend the district zoning classification on property located at 1422 NW Eugene Street from “R-2” Single Family Dwelling District to “X-1” Mixed Use District.
    - b. CU19/08 by Shorey Automotive by: Luellen, Michael Dean** requesting a Conditional Use Permit on property located at 1422 NW Eugene Street, in conjunction with the zoning change to “X-1” Mixed Use District, to allow for a surface parking lot in association with the automobile repair shop to the north at 1432 NW Eugene Street.
- E. Communications to the Commission**
- F. Adjournment**



CITY OF  
**TOPEKA**

**MINUTES**

## **TOPEKA PLANNING COMMISSION**

**Monday, November 18, 2019**

**6:00PM – Municipal Building, 214 SE 8<sup>th</sup> Street, 2<sup>nd</sup> floor Council Chambers**

**Members present:** Katrina Ringler (Chair), Brian Armstrong, Corey Dehn, Marc Fried, Wiley Kannarr, Jim Kaup, Corliss Lawson, Ariane Messina, Matt Werner (9)

**Members Absent:**

**Staff Present:** Bill Fiander, Planning & Development Director; Dan Warner, Comprehensive Planning Manager; Mike Hall, Current Planning Manager; Annie Driver, Planner; Kris Wagers, Administrative Officer; Mary Feighny, Deputy City Attorney

**Roll Call** – Chairperson Katrina Ringler called the meeting to order with 9 members present for a quorum. Ms. Ringler welcomed Jim Kaup to the commission.

### **Approval of Minutes from September 16, 2019**

Motion by Ms. Messina to approve; **second** by Mr. Dehn. **APPROVED** (5/0/4 – abstaining were Armstrong, Fried, Kaup & Werner)

### **Declaration of conflict of interest/ex parte communications by members of the commission or staff –**

none

**Public Hearing of Z19/08 by: Shamrock Valley Ventures, LLC** requesting to amend the district zoning map on property located at 921 SW 10th Avenue from O&I-2 Office and Institutional District to M-2 Multiple Family Dwelling District to provide for use of the property for one or more residential dwellings, including either a duplex or triplex.

Ms. Driver presented the staff report and staff recommendation for approval.

Referring to the Neighborhood Information Meeting (NIM) notes, Mr. Armstrong asked Ms. Driver if staff considered a zoning designation of R-2. Ms. Driver explained that the applicant applied for M-2 and that's what staff is recommending for approval, adding that a single family residence could be built on property zoned M-2.

Referring to the staff report, Mr. Kaup asked if there is adequate room on the property to allow for a triplex. Mr. Hall explained that even though technically it's allowed in M-2 zoning, a triplex would not be allowed on this lot due to dimensional standards and the restrictions they impose. The City's zoning code would need to be changed in order for a triplex to be allowed.

With no further questions from commissioners, Ms. Ringler **opened the floor for public comment.**

Casey McLenon, one of the owners of Shamrock Valley Ventures, LLC came forward to speak, noting that Kevin Stultz, co-owner of Shamrock Valley Ventures, LLC, was also present and available for questions. Mr. McLenon explained that the question about zoning had come up as mentioned; his company intends to

**DRAFT FOR APPROVAL**

apply for a building permit to build a duplex. Mr. McLenon stated that the property is currently in disrepair and their goal is to make improvements.

Mr. Kaup noted that even though the applicant intends to build a duplex, the M-2 zoning would allow for someone in the future to tear that building down and build a triplex if the dimensional requirements could be met.

Mr. Hall stated that R-2 is a single family residential district and doesn't allow for duplexes. An M-1 zoning would allow for a duplex. The property next to the one in question has a zoning of M-3 and staff supports an M-2 zoning in order to accommodate development consistent with other properties on the block.

Hearing no further questions for the applicant, Mr. McLenon took his seat.

**Jennifer Anderson of 1025 SW Fillmore came forward in opposition to the re-zoning.** She stated that while she appreciates the owners wanting to improve the property, she has density concerns for her neighborhood. She would be okay with a 2-family home but doesn't want to set a precedence for other properties in the Holliday Park neighborhood and allow potential up-zoning in other areas of the neighborhood. Her request would be that the commission deny the request for a zoning of M-2 and allow either an R-1 or M-1, stating clearly that it can only be a single or two-family dwelling.

**Patrick DeLap came forward to speak in opposition to the re-zoning,** stating that he too lives in the neighborhood. He expressed concern that the photos provided are almost 4 years old; he doesn't like the color the house has been painted and stated that there are current code compliance issues with the property. He said there are inconsistencies in the report, and expressed concern that the property would "be rented out to anybody and everybody who has money for the week." He noted that no architectural plans have been submitted with the re-zoning request and asked that the commission deny the request for re-zoning.

**Chris Meinhardt came forward to speak in opposition to the re-zoning,** stating that he is a resident and property owner located within the official notice area. Mr. Meinhardt stated that the zoning change would increase the density of the allowable dwelling units on the lot above what the current lot size allows. He stated that only one property adjacent to this one is zoned M-3 and a change in zoning could affect real estate taxes. Mr. Meinhardt asked that the application be referred back to staff for additional consideration.

Mr. Kaup asked Mr. Meinhardt what his preferred outcome would be; Mr. Meinhardt ultimately expressed concern that the zoning would allow for a triplex. Mr. Kaup asked if Mr. Meinhardt has a preference for the property being used for either residential or non-residential use and Mr. Meinhardt replied he does not.

**Nels Anderson of 1025 SW Fillmore came forward to speak in opposition to M-2 zoning.** Mr. Anderson complimented the current owners on having done a great job of making improvements thus far, noting that regardless of color preference, at least the house has been painted. Mr. Anderson stated he feels like the zoning should be M-1; he supports a single family home or duplex and expressed concern that at a later date a triplex might be built.

With nobody else coming forward to speak, Ms. Ringler declared the **public comment period closed.**

Mr. Armstrong stated that even if the lot is zoned M-2, the lot limits it to a duplex. Mr. Hall explained that staff took into account the zoning of the other lots on 10<sup>th</sup> Street and based their recommendation largely on that. He further explained that M-3 zoning allows for a higher density.

Mr. Ringler asked what would happen if in the future someone wanted to (for instance) build a 3-story apartment building. Mr. Hall confirmed that without a change to the density standards, it would not be allowed on that lot.

Ms. Ringler noted that it's typical to see a buffer zone between residential and institutional uses.

Mr. Kaup asked Mr. Fiander if R-2 zoning would be consistent with the Holliday Park neighborhood plan. Following discussion and information provide by Mr. Fiander, it was noted that what neighbors at the NIM meeting were asking about was M-1 rather than M-2 zoning, and the dimensional standards of the of the lot will not allow for a triplex.

**Motion** by Mr. Dehn to recommend to the Governing Body approval of the re-classification of the property from O&I-2 Office and Institutional District to M-2 Multiple Family Dwelling District; **Second** by Ms. Messina.

**APPROVAL** (9-0-0)

## **Presentations**

### **Land Use and Growth Management (LUGMP) 2040 Review**

Mr. Fiander introduced and Mr. Warner presented a review of the LUGMP2040.

### **Development & Growth Management (DGM) Report**

Mr. Fiander gave a brief overview of the DGM report that is published monthly by the Topeka Planning & Development Department.

## **Communications to the Commission**

None

**With no further agenda items, meeting was adjourned at 7:17 PM**

**Public Hearings  
Z19/09 & CU19/08  
by Shorey Automotive**

**STAFF REPORT – ZONING CASE**  
**TOPEKA PLANNING DEPARTMENT**

**PLANNING COMMISSION DATE: Monday, December 16, 2019**

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<b>APPLICATION CASE:</b>	Z19/9 by: Shorey Automotive
<b>REQUESTED ACTION:</b>	Zoning change from “R-2” Single Family Dwelling District with a Special Use Permit for a Mobile Home Park ALL TO “X-1” Mixed Use District
<b>APPLICANT / PROPERTY OWNERS:</b>	Michael LuEllen, Shorey Automotive
<b>APPLICANT REPRESENTATIVE:</b>	Kevin Holland, PE, Cook, Flatt, and Strobel Engineering
<b>PROPERTY LOCATION / PARCEL ID:</b>	1422 NW Eugene Street / PID: 1041904007003000
<b>PARCEL SIZE:</b>	0.31 acres
<b>CASE PLANNER:</b>	Annie Driver, AICP - Planner
<b>STAFF RECOMMENDATION:</b>	Approval
<b>RECOMMENDED MOTION:</b>	Based on the findings and analysis in the staff report I move to recommend to the Governing Body approval of the reclassification of the property to “X-1” Mixed Use District.

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**PROJECT AND SITE INFORMATION**

<b>PROPOSED USE / SUMMARY:</b>	Use subject property for parking of vehicles that are waiting repair associated with the automobile repair shop at 1432 NW Eugene (corner of Paramore and Eugene). The repair shop at 1432 NW Eugene is a legal non-conforming use under the “X-1” zoning since it was downzoned in 2000 from its prior “C-4” zoning.
<b>DEVELOPMENT / CASE HISTORY:</b>	The site has contained a mobile home park with four mobile homes since 1972 (#SP72/10). The current owner (Michael LuEllen) removed the mobile homes in 2016 with the intention of using the property for parking.
<b>ZONING AND USE OF SURROUNDING PROPERTIES:</b>	North: “X-1” Mixed Use District / self-storage facility and vehicle repair (applicant’s properties)  South: “R-2” Single Family Dwelling District / single family residence  West: “R-2” Single Family Dwelling District / single family residences and duplex



PHOTO:

View from NW Eugene



## DEVELOPMENT STANDARDS AND POLICIES

PURPOSE, USE STANDARDS:

*"X-1" Mixed Use District: This district facilitates a compatible mixed use activity center within a traditional residential neighborhood and, to a limited extent, in areas envisioned for mixed use development by the comprehensive plan. 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-1" zoning allows residential (single, two, three and four family dwelling buildings) and neighborhood scaled retail uses to be intermixed within the neighborhood. This district also permits Automobile Service Stations Type I (convenience stores with gas pumps). New Automobile Service Stations Type II (repair garages) requires a Conditional Use Permit in "X-1" zoning. Automobile Tow Lots that allow long term storage of wrecked vehicles are only permitted in the "C-4", "I-1" and "I-2" zoning districts. "Warehousing and storage" and "unenclosed warehousing and storage" is not permitted in "X-1" zoning.

The small size of the property (0.31 acres) and narrow frontage (50') would make it difficult to satisfy all "X-1" dimensional requirements as well as landscaping and parking requirements that would facilitate the construction of a new building on the site. The owner purchased the property with the intention of expanding his parking area.

DIMENSIONAL STANDARDS:

Building Setbacks:

- Front: 0 - 15 ft.
- Side: 0 - 8 ft.
- Rear: 0 - 25 ft.

No new structures are proposed as part of the subject CUP. The site plan demonstrates a 16.6' landscaped setback from Eugene, which aligns with the front of the adjoining house.

**OFF-STREET PARKING:**

The "X" districts establish performance standards for certain uses allowed by a CUP. Some of these standards apply to parking lots. TMC 18.185.070 indicates parking lots should not dominate a street frontage and requires transition yards and landscaping adjacent to residential uses. Open storage should be screened to reduce visual impact by fencing, landscaping or other appropriate means.

Surfacing: The applicant proposes compact gravel to support the loads of vehicles parked on lot, which is allowed by the City of Topeka Parking Surfacing Standards if the lot is used infrequently and not open to the public.

**COMPREHENSIVE PLANS:**

North Topeka West Neighborhood Plan: *Residential Low Density*

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**OTHER FACTORS**

**SUBDIVISION PLAT:**

Lots 22, 24 Park's Addition

**FLOOD HAZARDS, STREAM  
BUFFERS:**

Designated "Zone X" (area with reduced risk due to levee)

**UTILITIES:**

The existing sewer and water service line connections will need to be capped if they are unnecessary.

**TRAFFIC:**

No concerns

**HISTORIC PROPERTIES:**

There are not listed properties or districts within proximity to the site.

**NEIGHBORHOOD MEETING:**

The applicant conducted a neighborhood information meeting on Tuesday, November 19, 2019 at 5:30 pm located at 2011 NW Topeka Blvd, CF& S Geotech offices. The attendees expressed concerns with rezoning residential to all commercial uses, allowing compacted gravel surfacing, and how the proposed zoning will lead the site to becoming a storage lot for "junked" vehicles.

The property is located within the North Topeka West Neighborhood Improvement Association (NIA). The NIA has expressed opposition to the zone change.

## **REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES**

<b>PUBLIC WORKS/ENGINEERING:</b>	The project will require stormwater drainage review at the time of submittal for a Parking Lot Permit demonstrating compliance to design criteria. Treatment of water before it leaves the property is not required since there will be less than 1 acre of disturbed area.
<b>FIRE:</b>	No issues expressed with rezoning.
<b>DEVELOPMENT SERVICES:</b>	A Parking Lot Permit will be required. The project requires stormwater drainage review and approval at such time.

## **KEY DATES**

<b>SUBMITTAL:</b>	November 1, 2019
<b>NEIGHBORHOOD INFORMATION MEETING:</b>	November 19, 2019
<b>LEGAL NOTICE PUBLICATION:</b>	November 20, 2019
<b>PROPERTY OWNER NOTICE:</b>	November 22, 2019

## **STAFF ANALYSIS**

As a zoning case Planning staff have reviewed the case relative to the required findings and conclusions in Topeka Municipal Code Section 18.245 (Findings and conclusions reflect the "golden factors" per Donald Golden v. City of Overland Park, 1978 Kansas Supreme Court).

**CHARACTER OF NEIGHBORHOOD:** The surrounding area contains a mix of commercial business, parking lots and detached single family homes or duplexes. Industrial uses, including storage lots are located at the west end of NW Paramore. The commercial district lies primarily along NW Paramore to the north and includes small scale retail and automobile repair shops. The neighborhood to the south of the subject property is primarily comprised of single family detached residences.

**THE ZONING AND USE OF PROPERTIES NEARBY:** The zoning of the surrounding properties to the north is "X-1" Mixed Use District. This zoning district was intended to accommodate the mix of uses along Paramore and surrounding areas at the time of the downzoning with the neighborhood plan in 2000. The intention of this zoning district is to allow neighborhood scale commercial and residential uses alongside each other. These areas were formerly zoned for industrial, heavy commercial and multiple family residential uses. The neighborhood adjacent to the south is zoned "R-2" Single Family Dwelling District and was included in the downzoning in 2000 from the "M-2" Multiple Family Dwelling District. Although, the "X-1" zoning district is intended to allow a mix of residential and commercial uses alongside one another, the small site has a narrow frontage, which will make it difficult for this property owner or a different property owner to develop the property for a new commercial building.

**LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION:** The subject property has been zoned "R-2" Single Family Dwelling District since 2000 when the property was downzoned from "M-2" Multiple Family Dwelling District as part of implementation of the Historic North Topeka Neighborhood Plan (adopted 2000). The mobile home park has existed on the property since 1972 and

was removed by the current owner in 2016 with the intention of developing the site for additional parking for his adjacent business.

**CONFORMANCE TO COMPREHENSIVE PLAN:** The subject property is in the North Topeka West Neighborhood Plan and designated as "Residential Low Density". The area along Paramore, including the applicant's properties to the north, are designated "Mixed Use - Low Intensity" (This plan was adopted in 2015 and was an update to the Historic North Topeka Revitalization Plan that was adopted in 2000.) The "Residential Low Density" designation is intended for those interior areas that primarily front on to local low volume streets. New development in this area should be compatible with single family and duplex housing, but could include other uses such as churches, small daycares, and institutional uses. Much of the area was formerly zoned for multiple family residential and heavy commercial in 2000 before the adoption and implementation of the Historic North Topeka Neighborhood Plan (HNTNP). The "X-1" Mixed Use zoning was intended to allow and accommodate the mix of commercial and residential uses that existed prior to the rezoning.

Although, the "X-1" zoning is not entirely in conformance with the "Residential Low Intensity" designation in the neighborhood plan, the zoning change is linked with a CUP application to allow a parking lot in association with the principal use of the automobile repair. The CUP site plan mitigates any potential negative impacts by screening with landscaping along the frontage of Eugene. A 6 ft. privacy fence is provided along the south line that will screen parked vehicles from the neighborhood. The site plan shows a 4 ft. black, aluminum fence in the front yard, which is in keeping with "X-1" fence standards. The expansion of additional uses, such as automobile repair on this site or long term storage of dismantled vehicles is not permitted by the CUP since those are only permitted in more intensive zoning districts than "X-1".

The proposed zoning change is a minimal change to the "Mixed Use – Low Intensity" on the Future Land Use Map since this property is fairly small and only 50 ft. wide and plan amendment is not deemed necessary to accommodate this zoning change.

**THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES OF WHICH IT HAS BEEN RESTRICTED:** The subject property may still be quite suitable as restricted for a single family residence since it fronts a single family residence across NW Eugene and is adjacent to a residence on the south. However, the proximity of the property to the light industrial self-storage use might make it less likely the property will develop for a single family residence. Generally, it is more ideal to have a transitional uses abutting residential. A parking lot such as one that is screened and landscaped could be considered a suitable transition between the light industrial self-storage use on the north side and residential on the south side.

**THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES:** Rezoning the property to "X-1" allows for commercial uses which could potentially have adverse impacts on the residential neighborhood. However, the "X-1" zoning does not automatically allow the expansion of the automobile repair shop itself and will only allow parking of vehicles under the concurrent CUP that is heard in conjunction with this application. Expansion of the repair shop to this site will require a separate CUP since the existing repair shop is a legal non-conforming use. Indoor warehousing and storage and unclosed storage of products and equipment is not a permitted or conditional use in "X-1" nor are long-term automobile tow lots. Moreover, "X-1" is a performance-based zoning classification in which development is subject to standards, including landscaping and fencing standards, to help ensure compatibility of development with its context.

The impacts of the X-1 zoning should be fairly minor since the CUP requires landscaping, setbacks and fencing for the proposed parking lot. The CUP limits vehicles to 7 days for those vehicles waiting for repairs or pick-up to ensure this does not become a tow lot for wrecked vehicles. Long term storage of dismantled or wrecked vehicles is only allowed in "C-4" Commercial or "I-1" Light Industrial and therefore, will not be permitted on the site under "X-1" zoning. The subject property is relatively small which makes it less likely a new commercial building will be developed on this particular site.

**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 an apparent gain to the public health, safety and welfare by approval of the zoning change as this site has historically contained a mobile home park, which the owner removed with the intention of improving the lot to expand parking for his business. Removal of mobile homes in North Topeka was a goal of the neighborhood plan. The hardship on the landowner is he specifically purchased the property with the intention of adding parking.

**AVAILABILITY OF PUBLIC SERVICES:** Utilities are available and already serve the property. If developed as a parking lot, the existing utility service line connections (sewer, water) will need to be removed and capped unless they are planned to be used.

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### **STAFF RECOMMENDATION:**

**RECOMMENDATION:** Based on the above findings and analysis Planning Staff recommends approval of the zoning reclassification from "R-2" Single Family Dwelling District TO "X-1" Mixed Use District in conjunction with approval Conditional Use Permit case #CU19/08 for Shorey Automotive.

**RECOMMENDED MOTION:** Based on the findings and analysis in the staff report I move to recommend to the Governing Body approval of the reclassification of the property to "X-1" Mixed Use District in conjunction with approval Conditional Use Permit case #CU19/08 for Shorey Automotive.

**Exhibits:**

Aerial map

Zoning map

Future land use map

Neighborhood Meeting notes & Attendance

North Topeka West NIA letter in opposition





**Z19/9 AND CU19/8 BY: SHOREY AUTOMOTIVE MICHAEL  
LUELLEN**







# Z19/9 AND CU19/8 BY: SHOREY AUTOMOTIVE - ZONING MAP







Memorandum

To: Annie Driver

From: Kevin Holland

Date: November 20, 2019

Re: Shorey Automotive CUP Public Meeting

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A public meeting was held Monday, November 19, 2019 at CFS Geotech office in north Topeka. Six members of the local NIA came to the meeting. None of the neighbors within the Public Meeting Notice area attended the meeting. The main concern of all six people attending was the zoning of the property away from residential. The NIA voted to oppose this and any other projects within the NIA that would modify any existing residential zoning to allow any other use. The members of the NIA were fully against rocks being used as surfacing as well. The members weren't in favor of the project, but if it happened, asphalt would make the project more acceptable to the neighborhood. The members indicated they were going to try to be present at the Planning Commission meeting as well.

# ATTENDANCE SIGN-IN SHEET

CUP- Shorey Automotive

	Name	Address	Phone	Email
1	Teresa Miller	1820 NW Polk	234-0846	teresa-miller@att.net
2	Johnny Jackson	1880 NW Polk	234-6845	
3	Bonita Speckman	1723 NW Polk	783-7449	
4	MIKE HALL	C.O.T. PLANNING	368-3807	mghall@topoka.org
5	Paulette English	1218 NW Fillmore	941-962-3213	Paulette.English@yahoo.com
6	Carolee Peters	821 NW Morse	(866)3571649	none
7	Doracylene Wheeler	908 NW Taylor St	(785) 783-3236	none
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November 29, 2019

Teresa Miller  
1820 N.W. Polk St  
Topeka, Kansas 66608  
785-234-0840

**Annie Driver**, Case Planner for

**Planning Division Case Numbers:** Z19/09 and CU19/08

**Location of Property:** 1422 N.W. Eugene St (1432/1428)

**Present Zoning Classification:** R-2 Single Family Dwelling District

**Proposed Zoning Classification:** X-1 Mixed Use District

You are receiving this letter from the members of the North Topeka West NIA, because in our neighborhood plan, we decided to make sure that all residential properties stay residential and not change the zoning in the residential area. At our meeting held on November 4, 2019, we discussed this zoning issue with the members and voted to keep with our neighborhood plan and not grant this zone change from R-1 to X-1 Mixed Use zoning. Also members of our NIA went to the open meeting that was held on November 19<sup>th</sup>, at 5:30 p.m., located at 2011 N.W. Topeka Blvd, CF & S Testing & Geotech Office. During that meeting, members of our NIA told Mike Hall, Keith and the other gentleman that we do not want our residential properties zoning changed. That we have put in our neighborhood plan not to change any residential property zoning.

In the past Kansas Fence had purchased property to move their business from Lower Silver Lake Rd to N.W. Morse. They also purchased a residential home and wanted to change the zoning from R-1 to another type of zoning. We also voted Kansas Fence down.

Our NIA does not want to change any property from Residential to any other zoning. It does not benefit our neighborhood. It brings the value of our homes down and sometimes makes it harder to sell our homes.

Please honor our wishes to keep our residential properties residential.

As past and soon to be future President of North Topeka West NIA, I hope you can understand why this is so important to our neighborhood. We are trying to put pride back into our neighborhoods. And this is only one of the steps we are taking to keep our neighborhoods together.

Sincerely,

Teresa Miller

P.S.

I will try to make it to the Planning Commission Meeting on December 16, 2019. But I'm having completed left knee surgery on December 3, 2019. So I hope this letter is good enough to stop the zoning change.

**STAFF REPORT – CONDITIONAL USE PERMIT**  
**TOPEKA PLANNING DEPARTMENT**

**PLANNING COMMISSION DATE: Monday, December 16, 2019**

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<b>APPLICATION CASE NUMBER / NAME:</b>	CU19/8 by: Shorey Automotive
<b>REQUESTED ACTION / CURRENT ZONING:</b>	A Conditional Use Permit (CUP) for a "Surface Parking Lot" on property currently zoned "R-2" Single Family Dwelling District and proposed to be rezoned to "X-1" Mixed Use District by case #Z19/9 heard in conjunction with this request.
<b>APPLICANT / PROPERTY OWNER :</b>	Michael LuEllen, Shorey Automotive
<b>APPLICANT REPRESENTATIVE:</b>	Kevin Holland, Cook, Flatt and Strobel Engineering LLC
<b>PROPERTY LOCATION / PARCEL ID:</b>	1422 NW Eugene Street / PID: 1041904007003000
<b>PARCEL SIZE:</b>	0.31 Acres
<b>CASE PLANNER:</b>	Annie Driver, AICP - Planner
<b>RECOMMENDATION:</b>	Based upon the findings and analysis in the staff report, Planning staff recommend APPROVAL as indicated on pg. 6.
<b>RECOMMENDED MOTION:</b>	Based on the findings and analysis in the staff report I move to recommend APPROVAL as indicated on pg. 6.
<b>PROPOSED USE / SUMMARY:</b>	Use subject property for parking of vehicles that are waiting repair associated with the automobile repair shop at 1432 NW Eugene (corner of Paramore and Eugene). The repair shop at 1432 NW Eugene is a legal non-conforming use under the "X-1" zoning.
<b>DEVELOPMENT / CASE HISTORY:</b>	The site has contained a mobile home park with four mobile homes since 1972 (#SP72/10). The current owner removed the mobile homes in 2016.
<b>ZONING OF SURROUNDING PROPERTIES:</b>	North: "X-1" Mixed Use District / self-storage facility and vehicle repair  South: "R-2" Single Family Dwelling District / single family residence  West: "R-2" Single Family Dwelling District / single family residence  East: "R-2" Single Family Dwelling District / vacant

## PHOTOS:



## COMPLIANCE WITH DEVELOPMENT STANDARDS AND GUIDELINES

### BUILDING SETBACKS:

Under "X-1" zoning, the minimum required setbacks allow for a range, generally based on the average setback on the block. The required setbacks are determined based on the context and neighborhood character.

#### Building Setbacks:

- Front: 0 - 15 ft.
- Side: 0 – 8 ft.
- Rear: 0 – 25 ft.

### DENSITY & DIMENSIONAL STANDARDS:

No new structures are proposed as part of the subject CUP. The site plan demonstrates a 16.6' landscaped parking lot setback from Eugene, which lines up with the front porch of the adjoining house on the south side.

### OFF-STREET PARKING:

The "X" districts establish performance standards for certain uses allowed by a CUP. Some of these standards apply to parking lots. TMC 18.185.070 indicates parking lots should not dominate a street frontage and requires transition yards and landscaping adjacent to residential uses. Open storage should be screened to reduce visual impact by fencing, landscaping or other appropriate means.

Surfacing: The applicant proposes compact gravel to support the loads of vehicles parked on lot, which is addressed by the City of Topeka Parking Surfacing Standards if the lot is used infrequently and not open to the public.

### LANDSCAPING:

The proposed activities will require landscaping and buffer yards in conformance with TMC 18.235 Landscape Requirements. A landscape plan has been submitted that provides landscaping, including trees within a 16.6' setback area along Eugene.

A 6 ft. privacy fence is provided along the south property line. A 4 ft. black, aluminum fence is provided along the front with a setback for landscaping and extends up to the front face of the house on the adjoining lot on the south side.

**OUTDOOR LIGHTING:**

There is one light pole at the southwest corner of the property that is to remain. All lighting shall adhere to requirements that the intensity of illumination not exceed 3 foot-candles as measured at the property line and directed away from residential properties and public streets so as not to create a nuisance.

**SIGNAGE:**

No new signage is proposed. Ground and wall signs must adhere to requirements within residential districts pursuant to TMC 18.20.020 or as amended. Per TMC 18.20.020(h) any additional signs may require an amendment to the CUP.

**COMPREHENSIVE PLAN:**

North Topeka West Neighborhood Plan: *Residential Low Density*

**TRANSPORTATION/ AND ACCESS:**

NW Eugene is a local street.

**OPERATING CHARACTERISTICS:**

The parking is gated and proposed for vehicles waiting repair only and is not open to the general public. The applicant indicated this is not proposed for long term storage. The CUP limits vehicles waiting pick-up to 7 days.

## **OTHER FACTORS**

**SUBDIVISION PLAT:**

The subject property is platted as Lots 22, 24, Park's Addition

**FLOOD HAZARDS, STREAM  
BUFFERS:**

Designated "Zone X" (area with reduced risk due to levee)

**UTILITIES:**

The existing sewer and water service line connections will need to be capped if they are unnecessary

**TRANSPORTATION/TRAFFIC:**

No issues identified. Compliance with applicable City street design criteria for entrances is required.

**HISTORIC PROPERTIES:**

There are not listed properties or districts within proximity to the site.

**NEIGHBORHOOD INFORMATION  
MEETING:**

The applicant conducted a neighborhood information meeting on Tuesday, November 19, 2019 at 5:30 pm located at 2011 NW Topeka Blvd, CF& S Geotech offices. The attendees expressed concerns with rezoning residential to all commercial uses, allowing compacted gravel surfacing, and how the proposed zoning will lead the site to becoming a storage lot for "junked" vehicles.

The property is located within the North Topeka West Neighborhood Improvement Association (NIA). The NIA has expressed opposition to the zone change.

<b>PUBLIC WORKS/ENGINEERING:</b>	The project will require stormwater drainage review at the time of submittal for a Parking Lot Permit demonstrating compliance to design criteria for quantity. Treatment of water before it leaves the property (Quality) is not required since there will be less than 1 acre of disturbed area.
<b>WATER POLLUTION CONTROL:</b>	No issues identified.
<b>FIRE:</b>	No issues identified.
<b>DEVELOPMENT SERVICES:</b>	A Parking Lot Permit will be required. The project requires stormwater drainage review and approval at such time.

## **KEY DATES**

<b>APPLICATION SUBMITTAL:</b>	November 1, 2019
<b>NEIGHBORHOOD INFORMATION MEETING:</b>	November 19, 2019
<b>LEGAL NOTICE PUBLICATION:</b>	November 20, 2019
<b>ADJOINING PROPERTY OWNER NOTICES MAILED:</b>	November 22, 2019

## **STAFF ANALYSIS**

**EVALUATION CRITERIA:** In considering an application for a Conditional Use Permit, the Planning Commission and Governing Body will review the request following standards in Topeka Municipal Code Section 18.245(4)(ix) in order to protect the integrity and character of the zoning district in which the proposed use is located and to minimize adverse effects on surrounding properties and neighborhood. In addition, all Conditional Use Permit applications are evaluated in accordance with the standards established in the Section 18.215.030 for land use compatibility, site development, operating characteristics, and consistency with the Comprehensive Plan.

1. **The conformance of the proposed use to the Comprehensive Plan and other adopted planning policies:**  
The subject property is in the North Topeka West Neighborhood Plan and designated as "Residential Low Density". The area along Paramore, including the applicant's properties to the north, are designated "Mixed Use - Low Intensity" (This plan was adopted in 2015 and was an update to the Historic North Topeka Revitalization Plan that was adopted in 2000.) The "Residential Low Density" designation is intended for those interior areas that primarily front on to local low volume streets. New development in this area should be compatible with single family and duplex housing, but could include other uses such as, churches, small daycares, and institutional uses. Much of the area was formerly zoned for multiple family residential and heavy commercial in 2000 before the adoption and implementation of the Historic North Topeka Neighborhood Plan (HNTNP). The "X-1" Mixed Use zoning was intended to allow and accommodate the mix of commercial and residential uses that existed prior to the rezoning.

Although, the "X-1" zoning is not entirely in conformance with the "Residential Low Intensity" designation in the neighborhood plan, the zoning change is linked with a CUP application to allow a parking lot in association with the principal use of the automobile repair. The CUP site plan mitigates any potential negative impacts by screening with landscaping along the frontage of Eugene. A 6 ft. privacy fence is provided along the south line that will screen parked vehicles from the neighborhood. The site plan shows a 4 ft. black, aluminum fence in the front yard, which is in keeping with "X-1" fence standards. The expansion of additional uses, such as automobile repair on this site or long term storage of dismantled vehicles is not permitted by the CUP since



those are only permitted in more intensive zoning districts than "X-1". The proposed CUP requirements are intended to ensure will develop in a compatible manner with the neighborhood plan.

2. **The character of the neighborhood including but not limited to: land use, zoning, density, architectural style, building materials, height, structural mass, sitting, open space and floor-to area ratio:** With appropriate fencing and landscaping, the proposed parking lot will not alter the existing character of the neighborhood. The surrounding area contains a mix of commercial business, parking lots and residential. Industrial uses are located at the west end of NW Paramore, such as storage lots. The commercial district lies primarily along NW Paramore to the north, which includes small scale retail and automobile repair. The neighborhood to the south contains single-family residences with the exception of a utility substation in the block to the west of the subject property. The properties immediately to the south and west have 18' and 25' building setbacks, respectively. The property to the west has 75' frontage and the property to the south has 50' frontage. The proposed parking lot will have a 16.6' landscaped setback along Eugene, which is comparable to the surrounding setbacks of residential homes on this block.
3. **The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning and uses:** The zoning of the surrounding properties to the north is "X-1" Mixed Use District. This district was intended to accommodate the mix of uses along Paramore and surrounding areas at the time of the downzoning with the neighborhood plan in 2000. These areas were formerly zoned for industrial, heavy commercial and multiple family residential uses. The area adjacent to the property to the south is zoned "R-2" Single Family Dwelling District and was included in the downzoning in 2000 from the "M-2" Multiple Family Dwelling District. This small expansion of "X-1" zoning along with the proposed CUP will be consistent with the zoning of properties nearby. The subject property has 50' frontage. The proposed CUP allows a minimal encroachment into the adjacent neighborhood to the south.
4. **The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations:** The subject property may still be quite suitable as restricted for a single family residence since it fronts a single family residence across NW Eugene and is adjacent with a residence on the south. However, the proximity of the property to the light industrial self-storage use makes it less likely the property will develop for a single family residence. Generally, it is more ideal to have a transitional uses abutting residential. A parking lot such as one that is screened and landscaped could be considered a suitable transition between the light industrial self-storage use on the north side and residential on the south side.
5. **The length of time the property has remained vacant as zoned:** The subject property has been zoned "R-2" Single Family Dwelling District since 2000 when the property was downzoned from "M-2" Multiple Family Dwelling District as part of implementation of the Historic North Topeka Neighborhood Plan (adopted 2000). The mobile home park remained on the property since 1972 and was removed by the current owner in 2016.
6. **The extent to which the approval of the application would detrimentally affect nearby properties:** Rezoning the property to "X-1" allows for commercial uses which could potentially have adverse impacts on the residential neighborhood. However, the "X-1" zoning does not automatically allow the expansion of the automobile repair shop itself and will only allow parking of vehicles under the concurrent CUP that is heard in conjunction with this application. Expansion of the repair shop to this site will require a separate CUP since the existing repair shop is a legal non-conforming use. Indoor warehousing and storage and unclosed storage of products and equipment is not a permitted or conditional use in "X-1" nor are long-term automobile tow lots. Moreover, "X-1" is a performance-based zoning classification in which development is subject to standards, including landscaping and fencing standards, to help ensure compatibility of development with its context.

The impacts of the X-1 zoning should be fairly minor since the CUP requires landscaping, setbacks and fencing for the proposed parking lot. The CUP limits vehicles to 7 days for those vehicles waiting for repairs or pick-up to ensure this does not become a tow lot for wrecked vehicles. Long term storage of dismantled or wrecked vehicles is only allowed in "C-4" Commercial or "I-1" Light Industrial and therefore, will not be permitted on the

site under "X-1" zoning. The subject property is relatively small which makes it less likely a new commercial building will be developed on this particular site.

7. **The extent to which the proposed use would substantially harm the value of nearby properties:** A gravel parking lot is typically associated with "long-term tow lots" and "storage yards", which are not desirable near residential and may have some impact on the value of nearby residential properties. However, the proposed gravel surface of this parking lot will be nearly invisible because of landscaping and a landscape setback on the west side and privacy fencing along the south side. Paving with concrete or asphalt is required for the front 20 ft. of the parking area along the street frontage.
8. **The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property:** The existing road network is sufficient to accommodate the proposed parking lot expansion for an adjacent business.
9. **The extent to which the proposed use would create excessive air pollution, water pollution, noise pollution or other environmental harm:** The applicant will only use the parking lot for parking for his automobile repair business and long term storage of wrecked vehicles is not permitted. Therefore, noise and spilled fuel is not anticipated. With submittal of the Parking Lot Permit Application, the owner is required to address stormwater drainage so that runoff will not have a negative impact upon adjacent properties. The plan for stormwater drainage will need to describe how and where stormwater is controlled and directed,.
10. **The economic impact of the proposed use on the community:** The new parking lot supports the existing established automobile repair business and allows it to expand, which in turn is likely to have a positive economic impact on the neighborhood and community.
11. **The gain, if any, to the public health, safety and welfare due to denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application:** There is an apparent gain to the public health, safety and welfare by approval of the CUP as this site has historically contained a mobile home park, which the owner removed with the intention of improving the lot to expand parking for his business. Removal of mobile homes in North Topeka was a goal of the neighborhood plan. The parking lot allows the owner to expand his business by taking on additional customers. Denial of the application limits the owner's ability to expand a long time business that has had positive impacts on the neighborhood and community. Finding a suitable and economically feasible alternative use for the property will likely be difficult given its size and proximity to the owner's existing business.

**RECOMMENDATION:** Based on the above findings and analysis Planning Staff recommends approval of the Conditional Use Permit for a "Surface Parking Lot" in conjunction with approval of the zone change to "X-1" Mixed Use District (Case #Z19/9) **subject to conditions stated below.** Due to concerns from the NIA and neighbors, staff gave consideration to requiring the parking lot to be paved (concrete/asphalt) as it may improve the **long-term** appearance of the parking lot. **Ultimately, staff did not recommend that condition based on our above analysis but feel** the Planning Commission may choose **to consider that as an option upon hearing of testimony.**

**RECOMMENDED MOTION:** Based on the findings and analysis in the staff report I move to recommend to the Governing Body approval of the Conditional Use Permit for a "Surface Parking Lot" in conjunction with approval of the zone change to "X-1" Mixed Use District (Case #Z19/9) **subject to conditions stated below.**

1. *Use and development of the site in accordance with the approved Conditional Use Permit plans titled "Conditional Use Permit Shorey Automotive".*
2. *Add Note: "A Parking Lot Permit is required from City of Topeka Development Services Division with Stormwater Management requirements being reviewed and approved at such time."*
3. *Add Note: "A Fence Permit is required from City of Topeka Development Services Division prior to installation."*

4. *Indicate the 4 ft. off-set between the gravel edge of the parking and property line on south side is "turf or grass" or otherwise pervious area with a groundcover (i.e. not crushed rock/gravel).*

**Exhibits:**

Aerial Map

Zoning Map

Future Land Use Map (North Topeka West)

CUP Site Plan & Landscape Plan

Neighborhood Meeting notes & Attendance

North Topeka West letter of opposition

O: 785.272.4706 F: 785.272.4736

CFSE  
cfse.com

ES No. 19-5118

Shorey Automotive  
1432 NE Eugene St.  
Topeka, KS

## CONVENTIONAL SOLUTIONS FOR SHOREY AUTOMOTIVE

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REVISIONS:	
D. DATE	DESCRIPTION


SHEET NUMBER:

CUP

ORIGINAL CONTRACT  
DOCUMENT

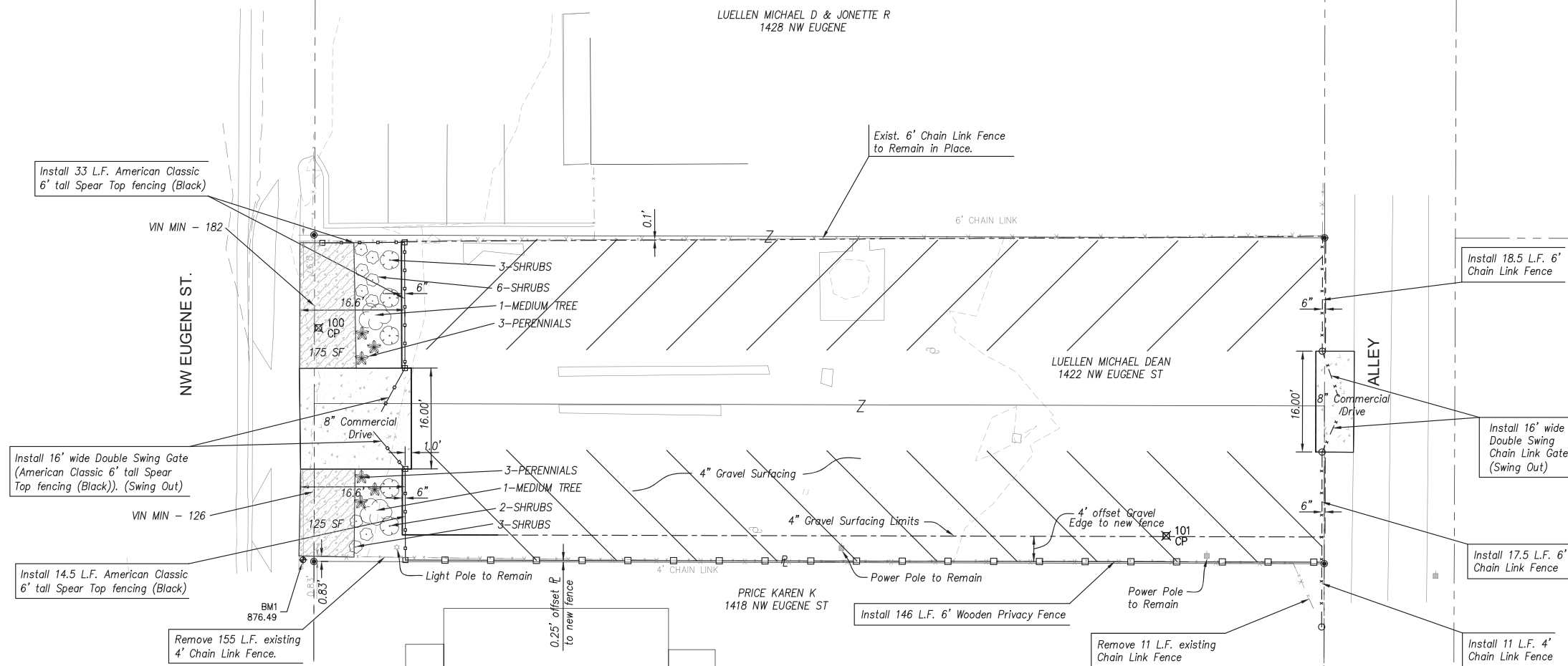
Real Property Description (Instrument No. 2018R19678)  
Lot 22 and Lot 24, in Block E, on Eugene Street, formerly  
Topeka Avenue, in Parks Addition to the City of Topeka,  
Shawnee County, Kansas.

NOTE: Parking Stalls shown are approximate and shall not be striped due to gravel surfacing.

– 20 Total Stalls –

GENERAL NOTES:

1. Vehicle Surface Parking in association with automobile service station, type II at 1432/1428 NW Eugene Street. Vehicle parking to be used for employees or vehicle repair pick-up. There shall be no parking/storage of vehicles waiting pick-up longer than 7 days. The parking lot is not intended for long term storage of vehicles.
2. Exterior lighting shall be contained to the property.



SCALE IN FEET

10 0 10 20

City of Topeka Planning  
Department Case CU19/08

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