



CITY OF
TOPEKA

A G E N D A

TOPEKA PLANNING COMMISSION

MONDAY, JUNE 17, 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, June 17, 2019

- A. Roll call**
- B. Approval of minutes – May 20, 2019**
- C. Declaration of conflict of interest/ex parte communications by members of the commission or staff**
- D. Public Hearings / Action Items**
 - 1. PUD19/01 Sherwood Crossing Master Planned Unit Development Plan by: 29th Street Partners & Binkley, Michael A. & Rick A. & Gregg A,** requesting to rezone 14 acres that were originally included in the 16 acre Master Planned Unit Development Plan for Villa West Shopping Center located at the northwest intersection of SW Wanamaker and SW 29th Street to accommodate the redevelopment of the existing shopping center and new commercial uses on the property. (Driver)
 - 2. Sherwood Crossing Project Plan, Finding of Consistency with the Land Use and Growth Management Plan 2040 –** In accordance with K.S.A. 12-1722, review the tax Increment finance district known as the Sherwood Crossing Project Plan for consistency with the Land Use and Growth Management Plan 2040. (Warner)
 - 3. Z19/04 by Tim's Auto Salez, LLC,** requesting to amend the District Zoning Map from C-4 Commercial District to I-1 Light Industrial District on property located at 660 NE US 24 Hwy to allow for use as a storage facility. (Hall)
 - 4. CU19/06 Cantilever Topeka, LLC, by: Giant Communications** requesting a Conditional Use Permit for installation and operation of a public utility facility including a small office on property zoned C-4 Commercial District located at 5031 SW 28th Street. (Neunuebel)
 - 5. CU19/07 by City of Topeka,** requesting a Conditional Use Permit for a water booster pump station on property zoned R-1 Single Family Dwelling District located at 2907 NW Topeka Blvd. (Neunuebel)
- E. Subdivisions**
 - 1. P19/11 Horseshoe Bend Subdivision #5 (Final Plat) by RT Builders, LLC,** comprising 10.79 acres and proposed as 32 single family residential lots, located at the west end of SE 43rd Terrace (to be extended) and more generally located north of SE 45th Street, south of the Kansas Turnpike and east of SW Topeka Blvd, all being within the City of Topeka, Shawnee County, Kansas. (Driver)
- F. Discussion Items**
 - 1. Small Cell Wireless Facilities**

Provide information on a potential amendment to the zoning regulations for communication towers (Chapter 18.250, Topeka Municipal Code) to accommodate small cell wireless facilities. (Hall)
- G. Communications to the Commission**
- H. Adjournment**



CITY OF
TOPEKA

MINUTES

TOPEKA PLANNING COMMISSION

Monday, May 20, 2019

6:00PM – Municipal Building, 214 SE 8th Street, 2nd floor Council Chambers

Members present: Brian Armstrong, Corey Dehn, Marc Fried, Carole Jordan, Wiley Kannarr, Corliss Lawson, Ariane Messina, Katrina Ringler, Matt Werner (9)

Members Absent: (0)

Staff Present: Bill Fiander, Planning & Development Director; Mike Hall, Current Planning Manager; Kris Wagers, Administrative Officer; Mary Feighny, Legal

Roll Call – Vice Chair Brian Armstrong called the meeting to order and Chairperson Katrina Ringler arrived just before roll call. At roll call there were 8 members present for a quorum. Mr. Werner arrived before the approval of the minutes.

Approval of Minutes from March 18, 2019

Mr. Kannarr asked for an amendment to the minutes. Motion by Mr. Kannarr to approve with amendment; **second** by Mr. Armstrong. **APPROVED** (6-0-3 with Jordan, Lawson and Werner abstaining)

Approval of Minutes from April 22, 2019

Motion by Mr. Armstrong to approve; **second** by Ms. Lawson. **APPROVED** (6-0-3 with Fried, Jordan, and Messina abstaining)

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

None

Public Hearings

Z19/03 by Charles T. & Margarita M. Lopez requesting to amend the District Zoning Classification from O&I-1 Office and Institutional District to M-1 Two Family Dwelling District on property located at 2715 SE Indiana Avenue.

Ms. Ringler called the case and Mr. Hall presented the staff report and staff recommendation for approval.

Ms. Ringler declared the **public hearing open**.

Marty Flanagan with Topeka Genealogical Society at 2717 SE Indiana came forward to express concern about the possible future impact the re-zoning might have on their property. Their property is zoned O&I1 and with this re-zoning it will be surrounded by R-1 and R-2 zoning. She also noted that there is a shared driveway between 2717 and 2715 SE Indiana so property lines and previous agreements will need to be researched.

Mr. Armstrong asked staff of the zoning change is likely to affect 2717 and Mr. Hall stated there is no direct or anticipated effect. Mr. Fiander noted that the neighborhood plan for Central Highland Park proposes mixed use land use for that part of the block which includes the genealogical society, so it is, in essence,

DRAFT FOR APPROVAL

protected. The only way they would lose their zoning would be if they (the owners) applied to re-zone. Mr. Fiander stated there is no intent to rezone 2717 as a result of the rezoning of 2715.

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

Staff confirmed for the commission that the driveway issue is a civil matter; it does not affect potential re-zoning and re-zoning would not affect the ownership of the driveway.

Motion by Mr. Dehn to recommend approval to the Governing Body of the reclassification of the property from O&I Office and Institutional District to M-1 Two Family Dwelling District. **Second** by Ms. Messina.

APPROVAL (9-0-0)

ACZR18/02 Visual Code Update III (Sign Standards)

Consider amending the Topeka Municipal Code (TMC) Title 18 (Comprehensive Plan-Signs-Subdivisions-Zoning) as follows:

Repeal and replace the entirety of Chapters 18.10, 18.15, 18.20, and 18.25 (Division 2.Signs) with Chapter 18.10 (Division 2.Signs) concerning the use of signs by businesses, institutions, and other entities for their identification.

Mr. Fiander introduced the case, noting that work on the update began in November 2017 and thanking those who have worked on it. Work on the update has included a visual appeal survey that received 960+ responses, 2 public meetings, a committee that met numerous times, multiple presentations and discussions at Planning Commission meetings, input on “best practices” from consultant Mark White of White & Smith, LLC, and more.

Mr. Fiander noted this is the first sign code update of its kind for Topeka in 50+ years. The major intent and impetus has been to improve the city’s visual/aesthetic appeal, which is in keeping with the Greater Topeka Partnership’s **Momentum 2022**. It is also a response to court decisions, especially US Supreme Court case Reed v. Town of Gilbert (Ariz.) which requires sign regulations to be content neutral; signs are to be regulated by time, place and manner rather than content.

Mr. Fiander gave an overview of “points of emphasis”: with the proposed sign code update, maximum sign sizes will generally be proportionate to property and building size, and the discrepancy between zoning districts will be softened. All new free-standing signs will be required to be monument signs; with a few exceptions, new pole signs will not be allowed. Temporary signs will be accommodated; portable message centers are proposed to be phased out.

Mr. Fiander explained that abandoned signs are not dealt with in the current code, but the proposed update does address them. Regarding signs made non-conforming by the proposed update; staff is not proposing a sunset but have provided an option for that. Mr. Fiander also noted that a change in size of existing signs would trigger full or partial compliance requirements.

Commissioners agreed that it would be best to start off reviewing options provided by staff. These options are a direct result of comments and requests made by commissioners at the March, 2019 Planning Commission meeting. The options are included in the agenda packet (“Sign Code Options” document).

Highway Sign Exceptions

Mr. Hall presented the options and answered questions. Mr. Fiander explained that increasing the radius to 800 feet (rather than 700 feet) is staff’s attempt to accommodate more properties without having to move from a nodal to a linear pattern.

Mr. Armstrong and Ms. Messina stated they have no problem with the 100’ increase (**Option B**) and

there **was consensus amongst the commissioners that Option B be adopted.**

Signs for Construction Projects

Mr. Hall reviewed the options and commissioners agreed they prefer **Option A** and asked staff to **more clearly define “construction”**.

Non-Conforming Signs

Mr. Hall presented the options and he and Mr. Fiander answered questions, especially clarifying what would trigger the requirement of an existing sign to come into conformance with the new code. It was noted that the table doesn't exactly match the wording in the draft code and staff will make the necessary corrections to the code draft.

Ms. Messina asked when we might expect to see a visible change if Option A is codified. Staff suggested that someone who works in the sign industry might have a better grasp on that. Mr. Armstrong pointed to the section of Option A that requires properties to bring their signage into compliance if they apply for or are approved for COT economic incentives. He noted that this would likely speed up the process of bringing non-conforming signs into compliance. Later Virginia Baumgartner of Luminous Neon, a member of the sign code committee, came forward and provided some insights. She noted that we see fewer “mom and pop” businesses; many are national chains who typically change their branding every 5-10 years. While some locally owned/non-franchise businesses (for example, The Pad) might not make changes to their sign for a number of years, she would anticipate seeing a substantial difference within 15-20 years.

Each of the options were discussed, and Mr. Fiander gave additional information about what constitutes a “change of use” in Option B.

Mr. Armstrong noted that in Option A, paragraphs 3 & 4, he is more comfortable with using “and” than or, so (paragraph 3) “shall at a minimum achieve partial compliance by reducing its corresponding sign area **and** height by at least 34%”; (paragraph 4) “shall at a minimum achieve partial compliance by reducing its corresponding sign area **and** height by at least 34%”. This will mean there is no risk of having a huge sign face on a relative short sign, or having a very small sign face on a quite tall pole. Following additional discussion there appeared to be consensus amongst commissioners that it should be “and” rather than “or”.

Mr. Kannarr asked if Option C could be changed to a 20 year amortization period rather than the 10 years given in the option. He suggested that in 20 years all signs should be required to be brought into compliance with the new regulations or, if there is a valid reason, given an exception (i.e. for historic purposes). Staff explained that the May 20 Mike Hall Memo (handout) proposes adding a section about “Historic Signs” so this would be possible. Ms. Feighny noted that from a legal standpoint, 20 years is a generous time allowance.

Following additional discussion, it was agreed that general consensus would be to adopt Option A, changing the “or” in paragraphs 3 & 4 to “and”, and adopting Option C, changing the 10 year amortization period to 20 years.

Abandoned Signs

Mr. Hall reviewed the options, noting that the current code does not require “abandoned” signs to be removed; it only requires that they be well maintained. Mr. Fiander and Mr. Hall spoke to and answered questions about examples in the draft handbook. Ms. Messina asked if, from a real estate perspective, it's better to leave a sign in place if it's in good repair. Mr. Fiander noted the “24 month” clause and noted that if a building is up for sale for more than 24 consecutive months, a perspective owner would understand that it will require investment and repairs will be more than simply installing a new sign. In

addition, prospective buyers would understand this requirement and be aware before buying. If the building is not up for sale, Mr. Fiander explained that the city would need to notify owners of the new regulations and may end up having to remove signs ourselves if the owners cannot.

There was discussion about what the term “covered” means (Option A, #1). Ms. Baumgartner returned to the podium and explained some of the options that might be used to accomplish this. She recommends replacing the word “covered” with “re-faced”.

Ms. Messina stated she would be okay with either Option A or B. Following additional discussion, there appeared be consensus that the preference would be Option A, but using #2 & #3 from Option B. The grace period would be #5 in Option A.

Portable Message Centers

Mr. Hall explained that since the Commission last discussed these in April, the owner has come into Planning & Development and applied for permits for his 50+ signs. During this process it was found that the existing signs do not meet our electrical code, so while a permit may be provided, the signs cannot be lit without first being brought up to code. Mr. Hall added that flashing lights are prohibited since they can appear to be a traffic control device and therefore confusing to drivers.

Ms. Messina noted that while she agrees the signs must be compliant with current codes and flashing lights can be dangerous and therefore prohibited, she likes these signs and thinks of them as being rather unique to Topeka, “a Topeka culture”.

Mr. Fried referenced the visual appearance survey and noted that more than 95% of those responding found them either somewhat or very unappealing. He stated that the recommendation to do away from them is based on that, with the intent of the sign code update being to make our city look better than it did yesterday. Visual appeal is tied to civic pride and local economic spending.

The various options (A, B, C) were reviewed. Ms. Lawson and Mr. Fried noted that enforcing Option B would be difficult with only one person to provide zoning code enforcement for the entire city.

Following additional discussion about the various options and the possibility of a grace period for 24 months rather than 12, it was agreed that the public should be heard on the matter.

Ms. Ringler declared the **Public Hearing open** and invited people in the audience to speak to any aspect of the proposed sign code update.

Patrick Barnes came forward to speak against disallowing portable message centers. He stated he is an attorney who has experience with the sign code. He expressed concern that the City is targeting Shawn Holthaus’s business, Rent A Sign, which rents portable message centers to the public. He stated that nobody had specifically asked Shawn or his customers what they think about portable message centers.

Mr. Barnes stated that he could speak to many “inaccuracies” he feels like he has heard in the discussion, but the biggest thing is that there is, he says, only one person in the community that is proposed to be eliminated - Mr. Holthaus’s company. He questioned whether that’s a fair use of government power and authority.

Ms. Ringler asked staff about how the survey that was taken was publicized, as well as other ways the public was notified and invited to be involved and provide feedback. Mr. Fiander noted that the public survey was the most successful survey we’ve had to date. There were two public meetings that were widely advertised; Planning staff identified businesses using the portable message centers along collectors and arterials (“major streets”) and sent notices directly to them. Planning also sent notices to schools and churches, which are heavy users of portable message centers. The proposed sign code update has been on the Planning Commission agenda multiple times, and these are open to the public.

Staff feels that they have provided many opportunities for people to talk to them about the proposal, and Mr. Hall stated that there has been direct communication between himself and Mr. Holthaus. It is staff's belief that they've provided overwhelming opportunity for stakeholder engagement.

Mr. Barnes returned to the podium and stated that there has been confusion about the permitting process and that's why Mr. Holthaus's signs have not been permitted; he was told at one point that permits are needed. The process has now been clarified and he has applied for the required permits.

Randy Wheat came forward to speak against disallowing portable message centers. He stated he has just begun acquiring signs and hopes to rent them out to the public. He anticipates being able to purchase and rent out around 50 portable message center signs fairly quickly. Mr. Wheat stated he feels the signs work well for small businesses and churches who can't afford larger, more expensive signs.

Chris Deister came forward to speak in support of the sign code update. He spoke to how we all want to strive for the elevation of our city and have it be attractive to both those who come in and those who are already here. Mr. Deister supports temporary signs if they are well-made, well-maintained, and in fact temporary. He spoke to the fact that if we make rules, we need to provide staff with the resources to enforce them.

Mr. Deister noted with the digital world comes cultural change. He stated that "phone booth manufacturers" are now out of business because we no longer need phone booths, and in fact with the advent of GPS on our phones, signage has largely been (and will be) rendered unnecessary for wayfinding.

Virginia Baumgartner of Luminous Neon came forward and suggested that permit applications should have a start and end date so that it is clear when they need to be removed.

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

Ms. Ringler asked staff if current sign permits have a start/end date. Mr. Fiander stated that currently there is not because they're 12 month permits that are renewable. If that changes, a more restrictive permit will be necessary.

Mr. Fried asked if portable message centers are a sub-set of temporary signs. Mr. Fiander explained they are not; they are in a category all to themselves. Currently, temporary signs are allowed "per event" rather for a certain number of days, which is hard to enforce or understand.

Mr. Fiander noted that there are additional changes proposed in a memo from Mike Hall and provided as a handout. The Commissioners approved Mr. Hall reviewing those proposed changes.

Mr. Hall explained that Ms. Baumgartner has read the proposed draft code in full and offered some recommendations about changes. Some are not substantive, so staff will work on those going forward.

Mr. Hall reviewed the items included in the memo, especially noting wording about historic signs and their being exempt from the dimensional standards in Section 18. Examples of signs that might be recognized as historic would be the Chief Drive-In sign, Gage Center, Bobo's, etc. Historic designation would ultimately be decided by the Topeka Landmarks Commission.

Mr. Hall also spoke very briefly about residential subdivision signs and off-premise signs or billboards.

Mr. Hall reported that staff has received feedback regarding the section on incidental signs and asked legal to review. The main change is that a non-illuminated incidental free-standing sign will not require a permit (e.g. real estate signs).

Mr. Fried expressed concern about frontage restrictions on temporary signs as they relate to political campaigns and whether we can restrict the number. Ms. Feighny stated that the proposed code states that state and federal law trumps the ordinance. Currently there is a state law prohibiting cities from regulating the number of political signs on private property so essentially political signs are exempt.

Mr. Fried asked if each of the proposed options in the memo needed to be voted on separately. Mr. Fiander suggested voting on those for which consensus may not have been absolutely clear. The first two (Highway Sign Exceptions and Signs for Construction Projects) appear to have clear consensus.

Ms. Ringler re-stated what she believed consensus to be for **Non-Conforming Signs** and Mr. Fried offered a **motion to adopt Option C, including Option A with changes to paragraphs 3 & 4, changing “or” to “and” and changing the 10 year time limit in Option C to a 20 year time limit. Second by Ms. Lawson. APPROVAL (9-0-0)**

Ms. Ringler re-stated what she believed consensus to be for **Abandoned Signs** and Ms. Lawson offered a **motion to adopt Option A, replacing #2 and 3 with #2 and 3 from Option B. Number 5 of Option A would be retained. Further, a more robust definition of the word “covered” as included in Option A, #1. Second by Mr. Dehn. APPROVAL (9-0-0)**

Regarding Portable Message Centers, there was additional discussion about how a compromise could be reached and it was ultimately suggested that Option C be adopted, adding a 24 month amortization period from the date of ordinance adoption. This would allow for the reasonable phasing out the signs.

Motion by Mr. Dehn regarding Portable Message Centers, to adopt Option B & Option C with a phase-out period of 24 months. Second by Ms. Lawson. APPROVAL (8-1-0 with Mr. Fried dissenting)

Ms. Ringler asked for further discussion or questions regarding the proposed amendments included in the May 20 memo from Mike Hall, and Ms. Jordan offered a **motion to accept the amendments in the May memo from Mike Hall regarding ACZR18/02 Visual Code Update III / Sign Code Update; second by Mr. Fried. APPROVAL (9-0-0)**

Ms. Ringler asked for further discussion or questions regarding the entirety of the code (ACZR18/02 Visual Code Update III) with the amendments just approved, and Mr. Armstrong offered a **motion to accept the ACZR18/02 Visual Code Update III / Sign Code Update with the already passed changes to Highway Sign Exceptions, Signs for Construction Projects, Non-Conforming Signs, Abandoned Signs, and Portable Message Centers, and the Mike Hall memo; second by Mr. Dehn. APPROVAL (9-0-0)**

Communications to the Commission

Mr. Fiander reported that the governing body approved CU19/03 by AT&T regarding the cell tower at 6th & Taylor.

Ms. Ringler asked when the sign code update might go to the governing body for consideration. Mr. Fiander explained that it will take some time to draft, so he expects it to be later this summer, perhaps mid to late summer.

With no further agenda items, meeting was adjourned at 8:50PM

PUD19/01

Sherwood Crossing Master Planned Unit Development Plan

STAFF REPORT – PLANNED UNIT DEVELOPMENT
TOPEKA PLANNING DEPARTMENT

PLANNING COMMISSION DATE: Monday, June 17, 2019

APPLICATION CASE NO

PUD19/01 Sherwood Crossing Master PUD Plan

REQUESTED ACTION /
CURRENT ZONING:

Rezone from Villa West Master Planned Unit Development (C-4/I-1 uses) ALL
TO Sherwood Crossing Master Planned Unit Development (C-4 uses)

**NOTE: The two parcels (Capital Federal and Kansas Land Tire) at the northwest corner of SW 29th and SW Wanamaker that are zoned under the existing Villa West PUD (Z79/10E) are not being included in this new PUD since they are not part of the tax incentive requests. The zoning of these two parcels will remain tied to the existing Villa West PUD Master Plan that is recorded with the Register of Deeds.*

APPLICANT / PROPERTY
OWNER:

29th Street Partners (Villa West Center) / Michael A., Rick A., & Gregg A. Binckley (Big O Tire)

APPLICANT
REPRESENTATIVE:

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

PROPERTY ADDRESS &
PARCEL ID:

6020 SW 29th Street/2735 SW Wanamaker and PIDs: 1430804008002000,
1430804008006000, 1430804008010020, 1430804008010010,
1430804008007000

PARCEL SIZE:

14 acres (69,000 sf of existing shopping center space; 6,800 sf automotive repair shop)

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. 8-9.

RECOMMENDED MOTION:

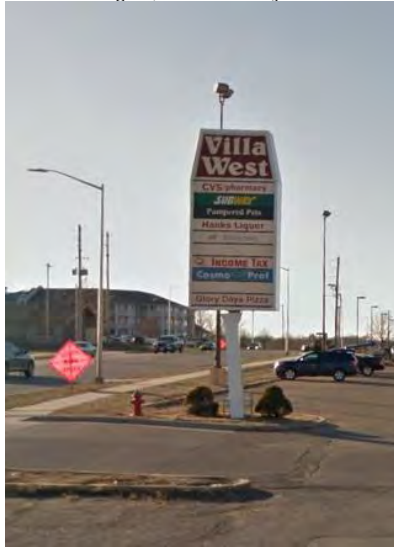
Based on the findings and analysis in the staff report, I move that the Topeka Planning Commission forward to the Governing Body a recommendation of APPROVAL of the proposed PUD Master Plan subject to conditions listed on Pgs. 8-9.

PHOTOS:

SW 29th side (southeast)



SW 29th sign (Blown away in storm and proposed to be re-modelled)



SW Wanamaker (east) – Big O and existing signage



PROJECT AND SITE INFORMATION

PROPOSED USE / SUMMARY:

The applicant proposes to redevelop and re-image the existing Villa West Shopping Center in two phases with the use of City sales and property tax financing incentives to be considered by the City Council:

- Phase 1 will consist of modifications to the existing buildings including removal of the Spanish-style facades and canopies, replacement of the canopies and front-covered walkways, addition of landscaped parking lot islands, and upgrades to the existing signs. Phase 1 will also consist of an expansion on the north end of the Big O Tire repair shop.
- Phase 2 will consist of approximately 30,000 sf of new commercial/retail (Building G and F) new buildings in the parking lot and on the north end of the property. The

current PUD for Villa West allows development of mini-warehousing on Building site F.

DEVELOPMENT / CASE HISTORY:

#Z79/10E – Villa West Shopping Center was developed as a shopping center with a Spanish-style theme in 1980 after being rezoned from residential to commercial and the PUD master plan has undergone several revisions since that time. A second building located on the north end was added in the late 1990s. The last amendment approved in 2009 entitled the use of this portion of the property shown on the PUD Master Plan as Building F for self-storage warehousing.

ZONING AND CHARACTER OF SURROUNDING AREA:

North: Zoning is PUD for multiple-family dwelling district uses and land use is apartments.

South: **Zoning is “C-4” Commercial District and land uses are Hy-Vee supermarket, retail services, restaurants; gas station and convenience store**

East: **Zoning is “C-4” Commercial District, “O&I-1” Office & Institutional District, and “R-1” Single Family Dwelling District;** Land uses are office, retail liquor store, and religious assembly.

West: Zoning is PUD for multiple-family dwelling district uses and land use is apartments.

PUD MASTER PLAN ELEMENTS (PROPOSED):

PARKING, CIRCULATION &

The PUD Master Plan proposes parking at 4.55 stalls per 1000 sq. ft. of net floor area as required for shopping centers, 1 stall per 150 sf for Building G (restaurant) in TMC 18.240 *Off-Street Parking Regulations*.

Required: 69,000 sf = 314 stalls

22,500 sf = 102 new stalls

8,500 sf restaurant = 57 new stalls

Total required: 473 stalls

Parking proposed: Buildings A-G= 572 stalls

LANDSCAPE:

PUD Note: The PUD plan indicates landscaping will be provided with Phase 1 (Remodeled buildings) development based on 50% of the points that are required according to 18.235 *Landscape Regulations*. The applicant is proposing new landscaped islands in the interior parking lot. The PUD plan indicates landscaping will be provided with Phase 2 (new construction) development as required in 18.235 *Landscape Regulations*, which also includes residential buffer yards along the length of the property lines abutting residential properties to the north and west.

BUILDING AND STRUCTURE:

PUD Note: Phase 1 (Remodeled buildings) – The PUD indicates the Type B standard in TMC 18.275 *Non-Residential Building Design Standards* shall apply. Phase 2 (new construction) – the PUD indicates the Type A standard shall apply. This application of **the Type A standard for Phase 2 is consistent with the City's** current practice for redevelopment projects receiving City incentives (CID or TIF). The exterior elevations will be reviewed for compliance at the time of site plan review for each phase.

A preliminary review based on information provided with the PUD application was completed and it was determined:

- The information provided is not detailed enough to determine compliance with building materials standards.
- The windows and other architectural details appear to comply for all except the south elevation and possibly the east elevation of Building G.
- The plans are not detailed enough to determine compliance with the standard for mechanical system screening.

SIGNAGE:

The following includes the requirements for freestanding signs per the proposed PUD master plan:

- Reface and modify the multi-tenant “center sign” on Wanamaker. Modified sign allowed to a height of 38 feet and 300 square feet (sf) per side of sign. Supporting structure of sign will be either a monument sign or consist of multiple columns, with each column having a minimum width or diameter of 2 feet.
- The existing multi-tenant sign on 29th street was blown over in a storm. It is to be replaced by a monument sign to a height of 25 feet and area 200 sf per side.
- Buildings F and G each allowed their own monument sign. The sign for Building F to be located on the Wanamaker frontage to a height of 15 feet and area of 60 sf per side. The sign for Building G is to be located within 50 feet of the building, and to a height of 7 feet and area of 30 sf per side.
- Existing Big-O Tires signs: If either sign is altered it shall not exceed a height of 25 feet and area of 120 sf per side. (The existing Big-O Tire signs substantially exceed 25 feet in height.)
- In addition to the above freestanding signs, incidental signs are allowed at a setback of less than 30 feet, with each not to exceed a height of 5 feet and are of 6 sf per sign. Up to six (6) incidental signs may be located at a setback of 30 feet or more from the Wanamaker and 29th Street rights-of-way, not to exceed an area of 8 sf per sign. An alternative plan for incidental signs may be approved with the site plan for individual phases.

This project is being considered for community improvement district (CID) and tax increment financing (TIF) incentives. The **City's current practice is to hold** retail centers receiving economic incentives to the standards for retail centers in the draft sign code (recommended by the Planning Commission on May 20, 2019). Therefore, staff is recommending as a condition of approval changes to the proposed signage notes with standards more restrictive than those proposed by the applicant but similar to the standards for retail centers in the draft sign code.

COMPLIANCE WITH DEVELOPMENT STANDARDS AND GUIDELINES

The Master PUD Plan establishes development standards and guidelines, as indicated above.

OTHER FACTORS

SUBDIVISION PLAT:	Lots 1-4, Villa West Subdivision #17 and Lot 1, Villa West Subdivision #9. A replat may be needed if it is determined during site plan review that new easements are needed or easements need to be re-aligned or vacated.
TRAFFIC/TRANSPORTATION:	<p>SW Wanamaker and SW 29th Street are both classified as major arterial streets on the MTPO Functional Classification Map and constructed to a five-lane arterial standard with sidewalks.</p> <p>No changes are proposed to the existing driveways on Wanamaker and 29th Streets. Cross access between all lots and the adjacent lots fronting Wanamaker (Villa West PUD) has been provided.</p>
FLOOD HAZARDS, STREAM BUFFERS:	Not Applicable
HISTORIC PROPERTIES:	Not Applicable
NEIGHBORHOOD MEETING:	The applicant conducted a Neighborhood Information Meeting on Wednesday, May 29, 2019 at 5:30 pm. The only attendees at the meeting other than City staff were the adjacent property owners who did not express any concerns with the project.

REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES

ENGINEERING/STORMWATER:	A Stormwater Management Plan will be reviewed and approved at the time of site plan review for new construction in Phase 2.
ENGINEERING/TRAFFIC:	There are no comments since no changes are proposed affecting access to Wanamaker and 29 th . Future plans will be reviewed at the time of site plan review for each phase.

ENGINEERING/UTILITIES:	The buildings are currently served by sewer and water. Future plans will be reviewed at the time of site plan review for each phase.
FIRE:	There were no issues from the Fire Department related to the PUD amendment. Future plans will be reviewed at the site plan development stage for each phase.
DEVELOPMENT SERVICES:	Permits will be required.
METROPOLITAN TOPEKA TRANSIT AUTHORITY (TMTA):	TMTA has requested the applicant include a bus pad for a new bus shelter on SW 29 th Street near the Subway on the south side of the shopping center as a part of Phase 1. The exact location of this pad still needs approval by the City Traffic Engineer at the time of site plan review for Phase 1. The applicant is agreeable to adding a bus stop pad in the adjacent SW 29 th Street right-of-way for a shelter.

KEY DATES

SUBMITTAL:	April 15, 2019
NEIGHBORHOOD INFORMATION MEETING:	May 29, 2019
LEGAL ADVERTISING:	May 27, 2019
PROPERTY OWNER NOTICE MAILED:	May 23, 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 a mix of retail and office uses to the east and south and multiple family residential uses to the north and west. The commercial uses surrounding the property consists retail strip centers and free-standing commercial buildings at and along the frontages of SW 29th and Wanamaker. The multiple-family residential uses to the west and north contain multiple dwelling units in multiple buildings per property and surrounded by common open space and common parking areas. The zoning will allow land uses that are compatible with the character of the neighborhood.

ZONING AND USES OF PROPERTY NEARBY: The zoning of surrounding properties is **“C-4” Commercial to the south and southeast**. The property to the immediate east containing an office complex is zoned **“O&I-1” Office and Institutional** and the church to the east is zoned **“R-1” Single Family Dwelling** district. All the surrounding property to the north and west is zoned **and used for “M-2” Multiple Family Dwelling District uses**. The proposed PUD is consistent with the zoning and uses of property nearby since it is located at a commercial node.

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 for commercial uses since 1979 when the Villa West Shopping Center was originally developed. A second retail building was added in the 1990s. The latest amendment to the PUD Master Plan for Villa West in 2009 allowed for the future development of self-storage on the undeveloped tract at the

north end of the property in the grass field (indicated as Building site F); this self-storage was never built. The current PUD master plan proposes a new retail building on this tract and removes this entitlement for self-storage on that portion of the site. Recent years have seen an underutilization of the shopping center and the proposed master PUD plan along with requested incentives are intended to help support the redevelopment and better utilization of the property for commercial.

SUITABILITY OF USES TO WHICH THE PROPERTY HAS BEEN RESTRICTED: The subject property is still suitable for the current commercial uses of the property as it is located at a highly visible and major thoroughfare. The proposed modifications that add retail and food service are suitable uses of the property and compatible with the commercial character of the area. **The current zoning of the property that allows “I-1” uses for future self-storage on Building site F area is not as suitable for the site considering that significant investment is being made to redevelop and re-image the existing shopping center for retail and entertainment uses.** The proposed commercial use that replaces the approved self-storage will allow the center to redevelop in a cohesive and compatible manner. The use of the property as self-storage warehousing may be seen as incompatible with shopping, restaurant and entertainment uses that are being proposed and surrounding area.

CONFORMANCE TO THE COMPREHENSIVE PLAN: The subject property lies within an area that has developed in a nodal pattern at the major intersection of SW 29th and Wanamaker and is designated a *Community Commercial Node* in the Topeka Land Use and Growth Management Plan – 2040 (LUGMP). *Community Commercial Nodes* are located at the intersection of major arterials where all four corners encompass commercial uses. The PUD does not change the original commercial intent of the previous PUD **and actually proposes to remove the “I-1” Light Industrial use district that allow self-storage warehousing on the site (Building site F), which is potentially inconsistent with this Commercial Node designation.**

THE EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTAL AFFECT NEARBY PROPERTIES: The proposed PUD Master Plan is no less restrictive than the current PUD, but is less specific about development in the area shown as Building F and allows an additional building in the middle of the existing parking lot. The proposed PUD allows **more “C-4” uses than the previous PUD**, which is shown by the additions of Building F and Building G. The addition of Building G within the existing parking lot may affect circulation and parking for adjoining uses on Wanamaker that may currently be using this area for overflow parking. The uncertain nature of development contained on Building site F is a concern particularly since this site abuts residential to the north and west and C-4, with respect to noise and traffic, may allow uses more intense from what was proposed originally, as self –storage warehousing may have less activity than many commercial uses.

However, the overall site is commercial in character and the proposed development is mostly compatible with surrounding properties since it is an infill development within an existing commercial center and node and located at a highly visible intersection. In turn, **“I-1” could be seen as an incompatible zoning district with the commercial and multiple family residential zoning of the area.** The new commercial development and redeveloped center increases activity at the center and prevents further decline in the appearance of the shopping center, which has lost tenants over the past 10 years because of disinvestment in and underutilization of the shopping center by the previous ownership.

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: The subject property is located at a highly visible intersection and the shopping center has lost tenants in the recent years leading **to the center’s decline.** **The investments being made in the center because of the zone change will contribute to improving the overall appearance and attractiveness of this highly visible arterial intersection.** Disapproval of the proposed PUD master plan will impose a hardship to the landowner. Under the previous owner, the appearance and overall condition of the center declined because of a lack of maintenance and overall disinvestment, making it difficult for the owner to attract new, viable tenants. The proposed PUD master plan is an important part of the effort to improve the property and attract tenants

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.

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 Master Planned Unit Development Plan for Sherwood Crossing as recorded with the Office of the Shawnee County Register of Deeds.
2. **Revising Landscape note #4 to include:** “. . . Landscaping along street frontages shall be provided for both phases to the extent possible.” where this note applies to Building F.
3. Revising Signage Notes as follows, with text additions shown in underline and text deletions striked out:
 - a. ONE (1) 4 FREESTANDING “CENTER SIGN” ON WANAMAKER TO ACCCOMMODATE IDENTIFICATION OF MULITPLE TENANTS. THE HEIGHT OF THE CENTER SIGN WILL BE LIMITED TO ~~38~~30 FEET AND PER SIDE AREA TO ~~300~~ 240 SQUARE FEET PER SIDE. ARCHITECTURAL EMBELLISHMENTS AND ADDRESS NUMBERS WILL NOT BE INCLUDED WHEN CALCULATING SIGN HEIGHT AND AREA. THE HEIGHT AND AREA OF THE SIGN ARE ALLOWED TO BE 35 FEET AND 300 SQUARE FEET IF THE OWNER OR APPLICANT DEMONSTRATES THE INCREASED HEIGHT AND AREA IS NECESSARY TO ACCOMMODATE IDENTIFICATION OF BUSINESSES AND TENANTS. THE CENTER SIGN SHALL BE EITHER OR A MONUMENT SIGN OR CONSISTS OF MULTIPLE COLUMNS, WITH EACH COLUMN HAVING CLADDING OR COVERING IN A COATED, TEXTURED DURABLE PANEL OR SIMILAR MATERIAL. EACH COLUMN, INCLUDING CLADDING OR COVERING, SHALL HAVE A MINIMUM WIDTH OF 2 FEET.
 - b. ONE (1) 4 FREESTANDING MONUMENT SIGN ON SW 29TH, HEIGHT NOT TO EXCEED 25 FEET AND AREA PER SIDE NOT TO EXCEED ~~200~~ 120 SF AND SET BACK A MINIMUM OF 5 FEET FROM THE 29TH STREET RIGHT-OF-WAY. THE ALLOWED AREA OF THE SIGN MAY BE INCREASED TO 150 SF IF THE OWNER OR APPLICANT DEMONSTRATES THE INCREASED HEIGHT AND AREA IS NECESSARY TO ACCOMMODATE IDENTIFICATION OF BUSINESSES AND TENANTS. ARCHITECTURAL EMBELLISHMENTS AND ADDRESS NUMBERS WILL NOT BE INCLUDED WHEN CALCULATING SIGN HEIGHT AND AREA.
 - c. BUILDINGS F AND G ARE EACH ALLOWED THEIR OWN MONUMENT SIGN. THE BUILDNG F SIGN MAY BE LOCATED ALONG THE WANAMAKER ROAD FRONTAGE, AT OR CLOSE TO THE NORTHERNMOST ENTRANCE TO THE SITE AND SET BACK A MINIMUM OF 5 FEET FROM THE WANAMAKER ROAD RIGHT-OF-WAY, AND SHALL NOT EXCEED A HEIGHT OF 15 FEET OR AND AREA OF 60 SF~~SQUARE FEET IN AREA.~~ THE BUILDING G SIGN SHALL BE LOCATED WITHIN 50 FEET OF THE BUILDING IT IDENTIFIES, AND SHALL NOT EXCEED A HEIGHT OF 7 FEET OR 30 SQUARE FEET IN AREA. ADDRESS NUMNBERS ARE NOT INCLUDED IN CALCULATING SIGN AREA.
 - d. BIG O TIRES TIRES LOTS 1 AND 4 COMBINED SHALL BE ENTITLED TO ONE (1) MONUMENT SIGN NOT TO EXCEED A HEIGHT OF 15 FEET AND AREA OF 60 SF AND SET BACK A MINIMUM OF 5 FEET FROM THE WANAMAKER ROAD RIGHT-OF-WAY; IF EITHER OF THESE SIGNS IS ALTERED IT SHALL NOT EXCEED A HEIGHT OF 25 FEET AND AREA OF 120 SF. A REFACE OR OTHER ALTERATION TO ANY OF THE TWO EXISTING SIGNS IS NOT ALLOWED UNLESS THEY CONFORM TO THE PUD MASTER PLAN. AS AN ALTERNATIVE, THE SIGNAGE FOR LOTS 1 AND 4 COMBINED MAY BE ADDED TO THE MONUMENT SIGN FOR BUILDING F, IN WHICH CASE THE

AREA OF THE MONUMENT SIGN FOR LOTS 1 AND 4 AND BUILDING F COMBINED SHALL BE ALLOWED TO A HEIGHT OF 25 FEET AND AREA OF 120 SF.

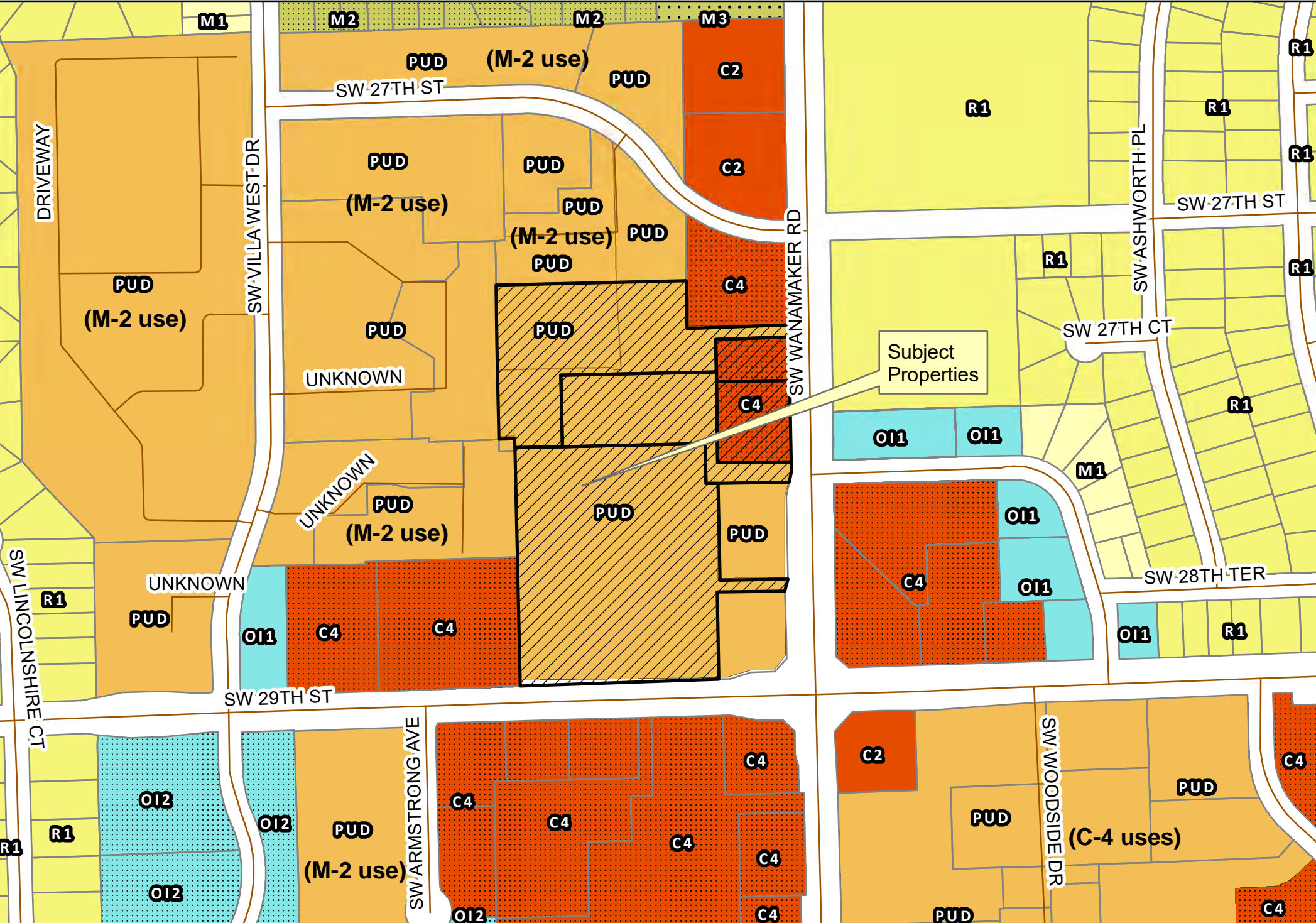
- e. No change to note e is required.
- f. ALL NEW FREESTANDING SIGNS SHALL BE LOCATED A MINIMUM OF 100 FEET FROM ANY OTHER FREESTANDING SIGN ON PROPERTY PART OF THE PLANNED UNIT DEVELOPMENT.

ATTACHMENTS:
Aerial Photo
Zoning Map
Future Land Use Map
Master PUD Plan
Exterior Elevations Exhibit



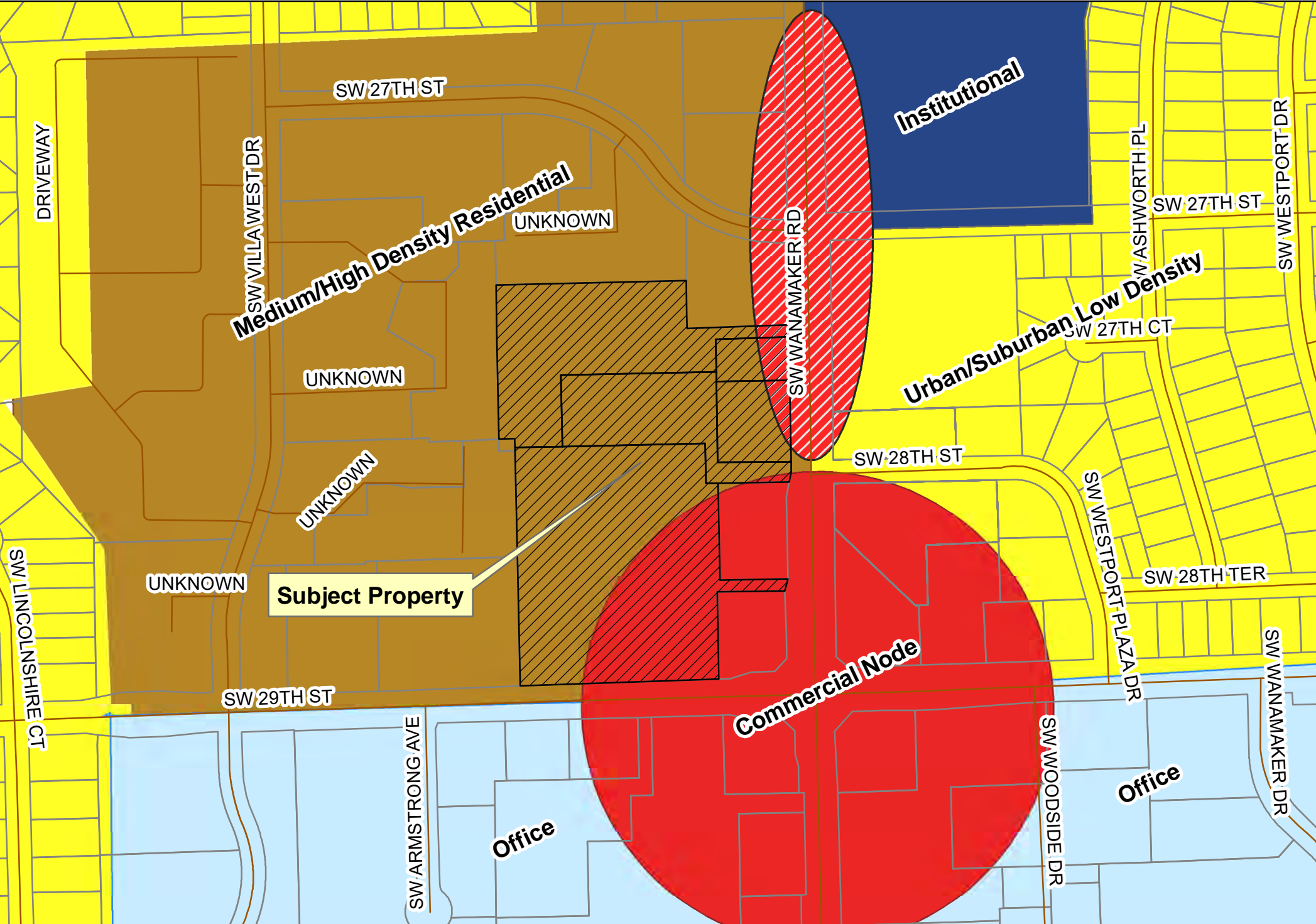
PUD 19/1 Sherwood Crossing PUD (29th St. Partners)





PUD19/1 Sherwood Crossing PUD (29th St. Partners)





PUD19/1- Future Land Use Map

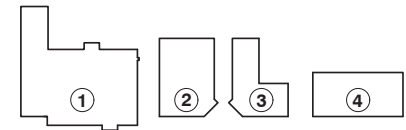




conceptual
South Elevation Building 1
1/8" = 1'-0"



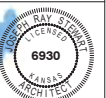
conceptual
East Elevation Building 1
1/8" = 1'-0"



Key Plan
no scale



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Drawings and Specifications
are original proprietary work and
property of the Architect intended
for the specifically titled project.
Use of same confined herein
without consent of Architect for
other or other projects is
prohibited. Drawings illustrate
best information available to
Architect. Field verification of
actual elements, conditions, and
dimensions is required.



Project Number 18.100.01
ADA Compliance
Certification
To best of my professional
knowledge, the facility as
indicated is in compliance with
the Americans with Disabilities
Act, including the current ADA
Title III Design Guidelines.
Joseph Ray Stewart
Kansas Architect 6930

Revisions

commercial center renovation - additions
sherwood crossings
Wanamaker Road at Southwest 28th Street
Topeka, Kansas

sheet
A1
preliminary
Exterior Elevations

approval
6 September 2018

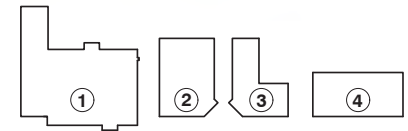


conceptual
East Elevation Building 2
1/8" = 1'-0"
0 10 20

conceptual
East Elevation Building 3
1/8" = 1'-0"
0 10 20



conceptual
East Elevation Building 4
1/8" = 1'-0"
0 10 20



Key Plan
no scale





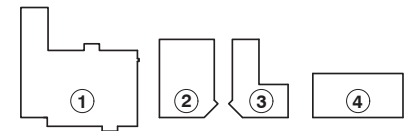
conceptual
North Elevation Building 5
1/8" = 1'-0"



conceptual
West Elevation Building 5
1/8" = 1'-0"



conceptual
East Elevation Building 5
1/8" = 1'-0"



Key Plan
no scale





JOE STEWART
ARCHITECT

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Drawings and/or specifications are original proprietary work and property of the Architect intended for the specifically titled project. Use on other projects without consent of Architect for those other projects is prohibited. Drawings illustrate best information available to Architect. Field verification of actual elements, conditions, and dimensions is required.



Project 7 September 2018
Project Number 18.100.01

ADA Compliance
Certification

To best of my professional knowledge, the facility as indicated is in compliance with the Americans with Disabilities Act, including the current ADA Title III Design Guidelines.

Joseph Ray Stewart
Kansas Architect 0930

Revisions

commercial center renovation . additions

sherwood crossings

Wanamaker Road at Southwest 28th Street
Topeka , Kansas

s h e e t

A3

Preliminary
Exterior Elevations

approval
6 September 2018

Sherwood Crossing Project Plan

Finding of Consistency with the Land Use and Growth Management Plan 2040



CITY OF TOPEKA

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

Bill Fiander, AICP, Director
Tel: 785-368-3728
www.topeka.org

MEMORANDUM

TO: Topeka Planning Commission

FROM: Bill Fiander, AICP
Planning & Development Director

DATE: June 17, 2019

RE: Planning Commission Resolution 1-2019 - Finding of Consistency with
Land Use and Growth Management Plan 2040 – Sherwood Crossing
Redevelopment Project Plan

Introduction

A formal review has been initiated by the City to consider a proposed commercial redevelopment project known as the Sherwood Crossing Redevelopment Project Plan (Project Plan) at the northwest corner of Southwest 29th Street and Wanamaker Road. The Planned Unit Development (PUD) rezoning application for the northwest corner is also being considered by the Planning Commission at the June 17th meeting.

Part of the approval process for a Project Plan requires the Planning Commission to determine whether the proposed Project Plan “is consistent with the intent of the comprehensive plan”. A resolution has been prepared for consideration by the Planning Commission (attached).

Background

On March 19, 2019, the Topeka Governing Body held a public hearing and approved the establishment of the Sherwood Village Redevelopment District. The next step in the process will be for the Governing Body to consider a Project Plan for the District. Before the Governing Body can consider the Project Plan, the Planning Commission must review the Project Plan and determine whether the Project Plan is consistent with the Land Use and Growth Management Plan (LUGMP).

The existing commercial site is currently occupied with a variety of businesses. Buildings on the site have deferred maintenance, and although the site benefits from its location adjacent to two major arterial streets, it has not been fully occupied for a number of years.

The Sherwood Crossing Project Plan consists of:

- Buildings A-E: Modifications to existing buildings, including facades, removal and replacement of canopies that cover entries, landscaping parking lot islands, and re-facing signage.
- Building F: A 1-story commercial/retail building in the northern portion of the site. (22,500 square feet).

- Building G: A 1-story commercial/retail building within the existing parking lot in the central portion the site. (8,500 square feet).
- Big O Tires: Building expansion on the north end of the tire shop.

Planning Commission Finding

Policies of the LUGMP related to fiscally responsible growth, commercial land use, Tier 1 development/redevelopment, and fiscal incentives that support the Project Plan include:

- Section II – Executive Summary
 - c. Pillars for a Prosperous Community
 - Invest in Place/Add Value Where We Are
Fiscally responsible growth happens where Topeka has already invested. Grow value in Topeka’s existing neighborhoods with strategic investments and incentives.
 - Return on Investment
Topeka’s infrastructure and service investments are down payments for the future. It is imperative to develop those areas with investments at a level that seeks the greatest return on those initial investments.
- Section IV – Growth Management
 - i(1) Service Tier 1
 - Encourage infill and redevelopment within Topeka to take advantage of existing urban infrastructure and services and that promote a range of uses to fit within the overall character of the area.
 - To help spur infill and redevelopment city-wide, consider crafting new incentives. Be creative, but ensure any fiscal incentives will return the City’s investment. Examples of fiscal incentives include:
 - d. Tax Increment Financing (TIF) and Community Improvement Districts (CID).
- Section V – Land Use
 - b(iii) Future Land Use
 - The future land use map designates the intersection of Southwest 29th Street and Wanamaker Road as a Community Commercial Node. This designation supports the proposed project.

Recommendation

The Planning Commission will review the Sherwood Crossing rezoning application in advance of this requested action. However, in accordance with K.S.A 12-1772, the Planning Commission must determine whether the proposed Project Plan “is consistent with the intent of the comprehensive plan”.

Staff’s opinion is that the Project Plan is consistent with the LUGMP, and recommends that the Planning Commission move the approval of the attached Resolution (1-2019), finding the that the Project Plan is consistent with the Land Use and Growth Management Plan 2040.

Attachments:

- Planning Commission Resolution 1-2019

**Planning Commission
City of Topeka, Kansas**

Resolution No. 1-2019

RESOLUTION OF THE TOPEKA PLANNING COMMISSION FINDING THAT THE PROPOSED SHERWOOD CROSSING REDEVELOPMENT PROJECT PLAN IS CONSISTENT WITH THE LAND USE AND GROWTH MANAGEMENT PLAN 2040.

WHEREAS, the Topeka Governing Body has established the Sherwood Crossing Redevelopment District (“District”) generally located at the northwest and northeast corner of Southwest 29th Street and Wanamaker Road in the City; and

WHEREAS, the developer for the District has submitted the Sherwood Crossing Redevelopment Project Plan (“Project Plan”) for consideration by the Topeka Planning Commission in accordance with K.S.A. 12-1772 which, among other things, requires a finding by the Commission that the Project Plan “is consistent with the intent of the comprehensive plan for the development of the city;” and

WHEREAS, the “comprehensive plan for the development of the city” is the Land Use and Growth Management Plan 2040; and

WHEREAS, the Commission has reviewed the Sherwood Crossing Planned Unit Development (PUD) Master Plan which includes the land uses in the Project Plan.

NOW, THEREFORE, BE IT RESOLVED by the Commission that, in accordance with K.S.A. 12-1772, the Commission finds that the Project Plan is consistent with the Land Use and Growth Management Plan 2040.

Adopted this 17th day of June, 2019.

Chair

ATTEST:

Z19/04
Tim's Auto Salez, LLC

STAFF REPORT – ZONING CASE
TOPEKA PLANNING DEPARTMENT

PLANNING COMMISSION DATE: Monday, June 17, 2019

APPLICATION CASE: Z19/4 By: Tim's Auto Sales LLC

REQUESTED ACTION: Zoning change from "C-4" Commercial District TO "I-1" Light Industrial District

APPLICANT / PROPERTY OWNERS: Tim's Auto Sales LLC

APPLICANT REPRESENTATIVE: Kevin Holland, P.E., CFS Engineers

PROPERTY LOCATION / PARCEL ID: 660 NE US 24 Highway / 1041704001021000

PARCEL SIZE: 4.39 acres

PHOTOS:



View from South, from South Side of US-24 Highway



View from Frontage Road, South Side of Site and North Side of US-24 Highway

CASE PLANNER:	Mike Hall, AICP; Manager, Current Planning
RECOMMENDATION:	Approval
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 from "C-4" Commercial District TO "I-1" Light Industrial District

PROJECT AND SITE INFORMATION

PROPOSED USE / SUMMARY:	Future use of the property for a self-storage facility
DEVELOPMENT / CASE HISTORY:	Current use is automobile sales storage of a variety of vehicles. Aerial photos from 2018 indicate cargo/shipping containers are also stored on the property.
ZONING AND USE OF SURROUNDING PROPERTIES:	<p>East: "I-1" Light Industrial / Car Repair and Storage "C-4" Commercial / Office and Storage of Snowplow and De-icing trucks</p> <p>West: "I-1" Light Industrial / Golf Course and Driving Range.</p> <p>South: "C-4" Commercial / Undeveloped and Vacant</p> <p>North: "R-1" Single Family Dwelling District / Undeveloped and Vacant</p>

DEVELOPMENT STANDARDS AND POLICIES

PURPOSE, USE STANDARDS:	"I-1" district: <i>"The district is established to provide for a wide range of uses except specified uses which are obnoxious by reason of odor, dust, smoke, gas, or noise. The extent and range of uses are highly Intensive."</i> Uses allowed under I-1 zoning include: <i>Agriculture product and sales; warehousing, storage and distribution; contractor yards; truck/freight terminals; outside display and storage of equipment and products.</i>
DIMENSIONAL STANDARDS:	"I-1" zoning has no building setbacks, except along the property lines abutting or across the street from a residential dwelling district. For this property, a 30' building setback applies along the north property line. The maximum building coverage ratio is 85 percent.
OFF-STREET PARKING:	"I-1" District: Off-street parking is required per the standards in TMC 18.240. Outside storage areas will need to be hard surfaced per City policy based on the weight of vehicles having or requiring access including vehicles for emergency response.

OTHER DESIGN GUIDELINES AND CONSIDERATIONS:

A Landscape Plan subject to TMC 18.235 Landscape Regulations will be required at the time of Site Plan Review application.

SIGNAGE:

Signage will be permitted per TMC 18 Division 2 Signs or as amended. I-1 zoning currently allows freestanding signs up to 55 ft. in height and 300 sf. All signs require a Sign Permit through Development Services Division.

COMPREHENSIVE PLANS:

Land Use and Growth Management Plan 2040 (LUGMP): The Land Use and Growth Management Plan – 2040 designates the property for *Commercial* uses and more specifically for Community Commercial uses. This designation along Highway 24 is intended to allow for uses such as automobile/truck/trailer dealerships and tractor/farm supply stores. Along Highway 24 light industrial zoning may also be appropriate when the existing character of the area reflects a mixed land use arrangement containing heavy commercial and industrial uses such as those uses within this area.

TRANSPORTATION/MTPO PLANS:

Not applicable

OTHER FACTORS

SUBDIVISION PLAT:

Lots 1 and 2, Block A, Schuster Subdivision No. 2

FLOOD HAZARDS, STREAM
BUFFERS:

Designated "Reduced Flood Risk Due to Levee"

UTILITIES:

City water located in US-24 ROW and running parallel with front property line. Nearest city sanitary sewer is over 400 feet west of property. GIS map indicates there are no storm sewers adjacent to property.

TRAFFIC:

Access to the site will be taken from the US 24 Highway frontage road. Site circulation will need to be addressed at the time of Site Plan Review in order to minimize impact on the frontage road.

HISTORIC PROPERTIES:

Not applicable

NEIGHBORHOOD MEETING:

The applicant conducted a neighborhood information meeting on Tuesday, May 28th at 5:30 pm in the North Topeka office of CFS Engineers at 2011 NW Topeka Boulevard. No one attended the meeting other than the applicant. The applicant received a phone call from the owner of the adjacent golf course with questions but also supportive of development that will remove the current outdoor storage on the property. (The meeting occurred at the time of an intense thunderstorm and tornado watch.)

REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES

PUBLIC WORKS/ENGINEERING:	<p>A 12" water main runs along the south side of the property in the US-24 Highway right-of-way. There is an existing fire hydrant at the SW corner of the property. The nearest sanitary sewer main is located on the north side of US-24 about 490 feet west of the subject property.</p> <p>Plans for stormwater drainage and treatment if applicable will be reviewed and approved at site plan review stage. The need for a subdivision re-plat is not anticipated but if a re-plat is required a stormwater drainage report will be required with the plat.</p>
FIRE:	<p>New development will be required to ensure adequate access and hydrants for effective emergency response.</p>
DEVELOPMENT SERVICES:	<p>No concerns expressed at this time. Development Services will review development plans when they are submitted for review.</p>

KEY DATES

SUBMITTAL:	May 2, 2019
NEIGHBORHOOD INFORMATION MEETING:	May 28, 2019
LEGAL NOTICE PUBLICATION:	May 27, 2019
PROPERTY OWNER NOTICE:	May 23, 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: Development of the subject property in accordance with the standards for the proposed "I-1" Light Industrial zoning is consistent with the surrounding character of the property. In addition to the golf course adjacent to and west of the subject property, the lands along the frontage road on the north side of Highway 24 contain a mix of light industrial and heavy commercial land uses such as car and truck repair, contractor shops, and vehicle and equipment storage. The north half of the parcel adjacent to and east of the property is undeveloped and vacant. The area north of the property is undeveloped and used for agriculture. The south side of U.S. 24 Highway consists of undeveloped land and heavy commercial uses such as truck and car repair.

THE ZONING AND USE OF PROPERTIES NEARBY: The proposed zoning is compatible with the zoning and land use of adjacent property. The subject property is bordered on its west side by land classified "I-1" Light Industrial and used as a golf course. The land on the east side of the property is zoned "I-1" Light Industrial and contains truck and car repair and undeveloped, vacant land. The land adjacent to and north of the subject property zoned "R-1" Single Family

residential and is undeveloped, and development of this property for residential use is not likely in the foreseeable future. Adjacent lands on the south side of US-24 Highway are classified "C-4" Commercial.

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The property is not vacant. Aerial photographs indicate the current use has existed at this location since some time prior to 1994. The property has been zoned for heavy commercial uses since 1965, first under the "G" Commercial classification which later converted to "C-4" Commercial.

CONFORMANCE TO COMPREHENSIVE PLAN: The proposed I-1 zoning is consistent with the comprehensive plan. The Land Use and Growth Management Plan – 2040 designates the property for *Commercial* uses and more specifically for Community Commercial uses. This designation along Highway 24 is intended to allow for uses such as automobile/truck/trailer dealerships and tractor/farm supply stores. Along Highway 24 light industrial zoning may also be appropriate when the existing character of the area reflects a mixed land use arrangement containing heavy commercial and industrial uses such as those uses within this area.

THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES OF WHICH IT HAS BEEN RESTRICTED: The property is suitable for the many uses allowed under the C-4 classification. The current use as car sales is allowed under the current classification, although much of the storage of what appear to be cargo containers and inoperable vehicles is not currently allowed. (It is perhaps allowed to continue as a legal non-conforming use.) A wide variety of other uses suitable for lands fronting on US-24 are allowed, including but not limited to general retail sales; car, truck, and heavy equipment sales; restaurants; contractor offices; and most types of outdoor recreation. Self-storage Type II is not allowed under the current C-4 zoning. Self-storage Type II includes rental storage in which individual units have their own exterior access and recreational vehicle storage,

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: Removal of current restrictions resulting from the proposed zoning change are not anticipated to detrimentally affect nearby properties. The applicant's purpose for the zoning change is to develop a self-storage facility. However, some of the other uses allowed in the I-1 Light Industrial district that are not allowed under the property's current C-4 zoning include agriculture product and sales; warehousing, storage and distribution; and contractor yards; truck/freight terminals. I-1 zoning also requires no building setbacks except along the property lines abutting or across the street from a residential dwelling district. Other facts support the change in zoning. In particular, the current development has existed for over 20 years and so does not meet all of the City's current standards. Any new development of this site will require an approved Site Plan Review application and the application of off-street parking, landscaping, and recently adopted building design standards. On balance, if the change in zoning facilitates redevelopment of the property it will likely have a positive effect on surrounding properties.

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: Disapproval of the proposed zoning change does not impose a substantial hardship upon the property owner since the current C-4 Commercial zoning of the property allows for a wide range of land uses. However, approval of the proposed I-1 Light Industrial zoning accords a benefit to the surrounding property owners and the broader community to the extent the new zoning facilitates the stated intention to redevelop the property. The proposed zoning is the same as adjoining zoning to the east and west and so is not likely to result in harm to the public health, safety and welfare.

AVAILABILITY OF PUBLIC SERVICES: Adjacent public streets appear adequate to serve the development, although vehicular access to the property will be reviewed with site development plans by both the City and Kansas Department of Transportation. All essential public utilities, services and facilities are presently available to serve this property with any required connections being made at the expense of the developer.

STAFF RECOMMENDATION:

RECOMMENDATION: Based on the above findings and analysis Planning Staff recommends approval of the zoning reclassification from "C-4" Commercial District TO "I-1" Light Industrial District.

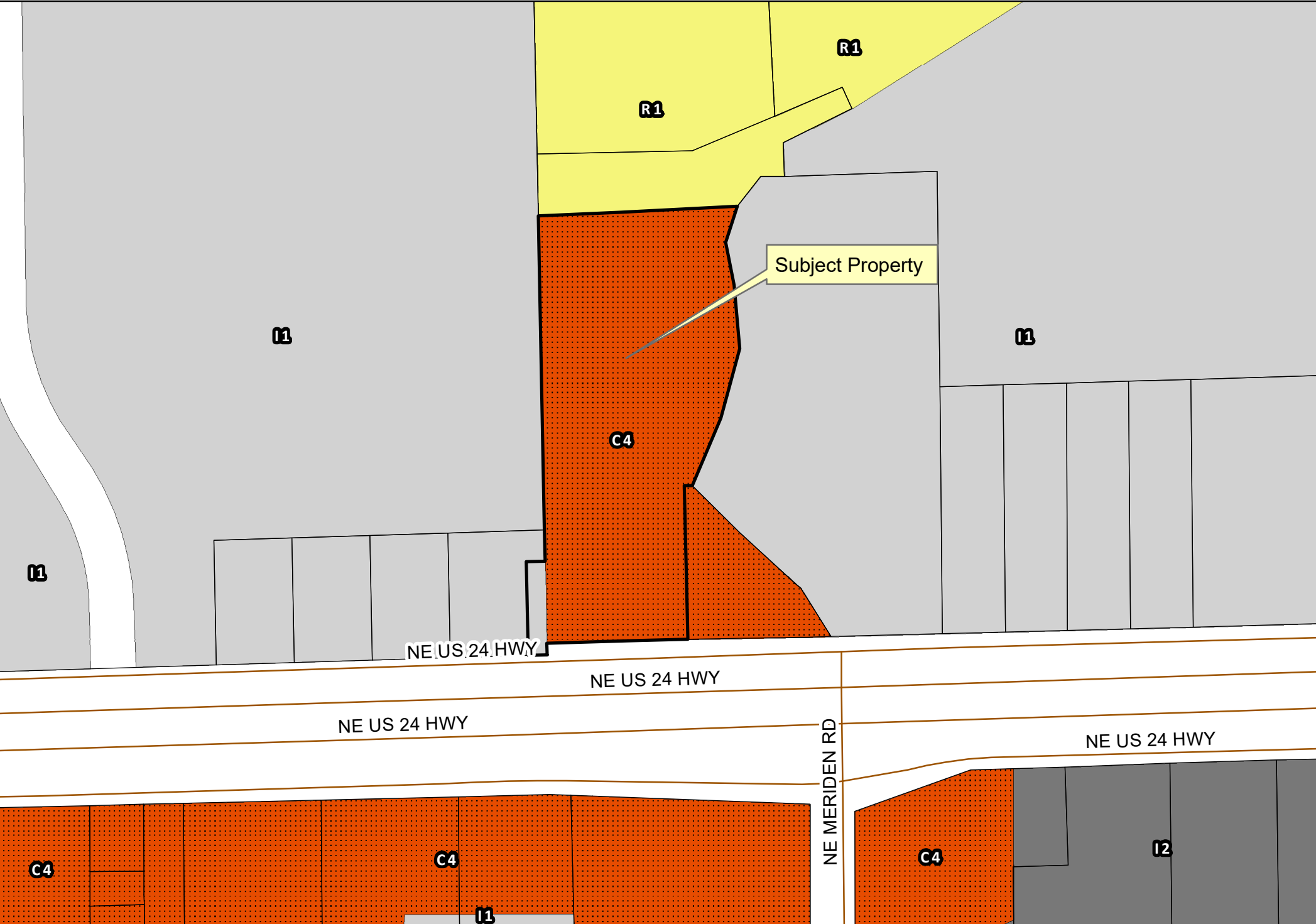
RECOMMENDED MOTION: Based on the findings and analysis in the staff report I move to recommend to the Governing Body approval of the reclassification of the property from "C-4 Commercial District TO "I-1" Light Industrial District.

Exhibits:
Aerial map
Zoning map
Future land use map
NIM Attendance



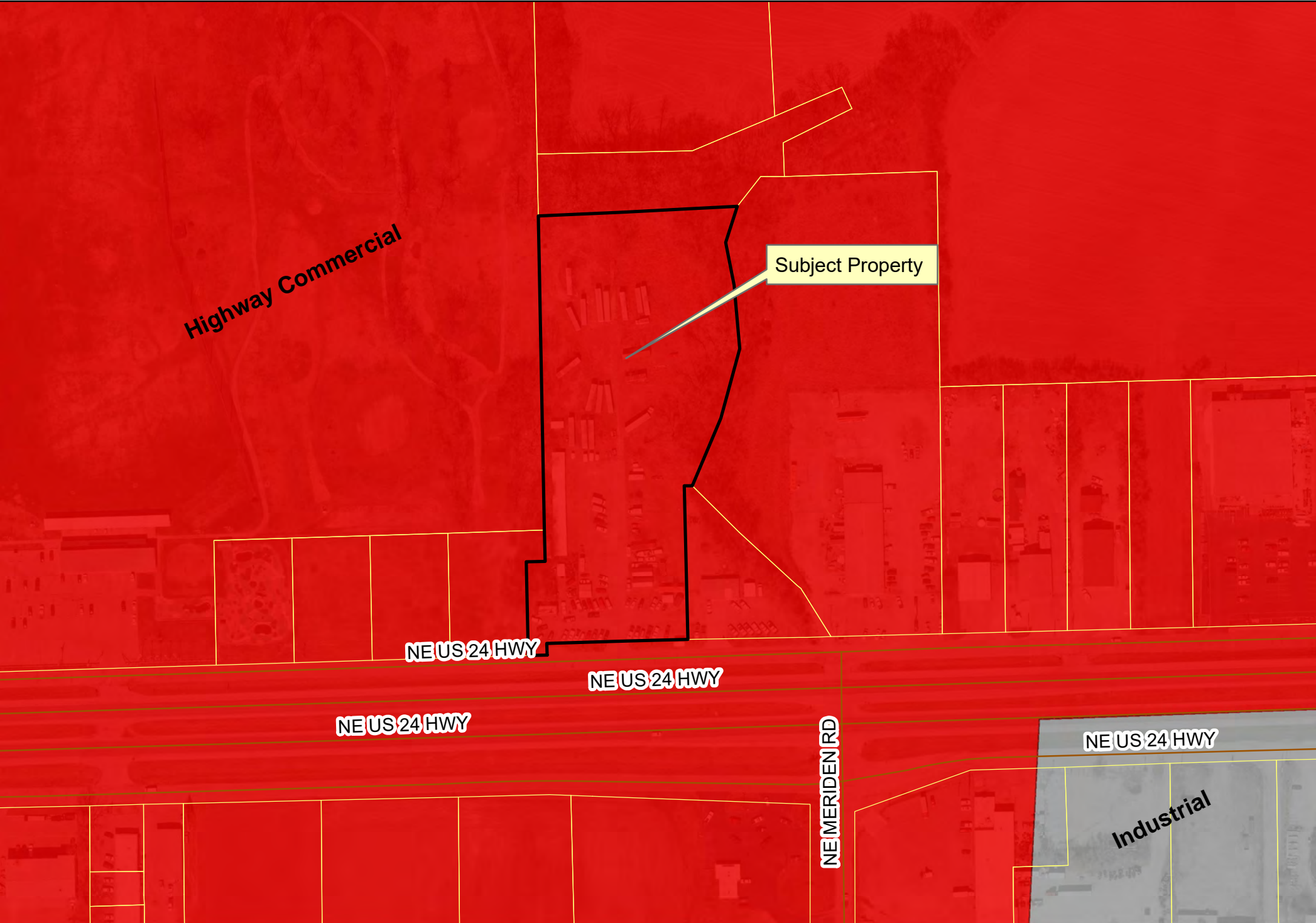
Z19/04 by: Tim's Auto Salez





Z19/04 by: Tim's Auto Salez





**Z19/04 by: Tim's Auto Salez
Future Land Use Map**



Kris Wagers

From: Kevin Holland <kholland@cfse.com>
Sent: Thursday, May 30, 2019 9:40 AM
To: Michael Hall
Subject: Tims Auto Salez Public Meeting

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.



Mike, a public meeting was held at 2011 N Topeka Boulevard for the rezoning case of Tims Auto Salez from C-4 to I-1. Nobody showed up to the meeting but Brett Lewis, current owner of the adjacent golf course called to discuss what was being planned. He was supportive of the "junk lot" being cleaned up. The attached picture was shown as a like image to the storage facility that would be built on the property.



Kevin K. Holland, P.E. | CFS Engineers

2930 SW Woodside Drive | Topeka, KS 66614

O: 785.272.4706 | f: 785.272.4736

M: 785.221.5313 | cfse.com

CU19/06
Cantilever Topeka, LLC
by Giant Communications

STAFF REPORT – ZONING CASE
TOPEKA PLANNING DEPARTMENT

PLANNING COMMISSION DATE: June 17, 2019

APPLICATION CASE NUMBER /
NAME:

CU19/06 By: Giant Communications

REQUESTED ACTION / CURRENT
ZONING:

A **Conditional Use Permit (CUP)** for “**Public Utility Facility, Type II**”
(fiber optic equipment building) on property zoned “**C-4**” Commercial
District

PROPERTY OWNER:

Cantilever Topeka, LLC

APPLICANT:

Giant Communications

APPLICANT REPRESENTATIVE:

Ms. Angela Sharp, PE, Bartlett & West

PROPERTY LOCATION / PARCEL ID:

5031 SW 28th Street. / Parcel No. 1421003011003050

PHOTOS:



Facing south from 28th Street with State of Kansas offices on right (former **Albertson's Market**) and multi-family condominiums on left.



Facing north from SW 29th Street with State of Kansas offices on left; communications monopole in background (adjacent to SW 28th Street); and drainage ditch and adjacent multi-family condominiums on right.



Facing east toward general location of new facility with multi-family condominiums in background beyond drainage ditch along east property boundary.

PARCEL SIZE:	0.84 acre
CASE PLANNER:	J. Neunuebel, Planner
RECOMMENDATION:	Based upon the findings and analysis in the staff report, Planning staff recommend <u>APPROVAL</u> subject to the conditions on Page 7.
RECOMMENDED MOTION:	Based on the findings and analysis in the staff report I move to recommend APPROVAL to the Governing Body of the Conditional Use Permit CU19/06, subject to conditions in the staff report.

PROJECT AND SITE INFORMATION

PROPOSED USE / SUMMARY:

Giant Communications is proposing to construct a facility for control and maintenance of **the company's expanded** fiber optic system within the area on a parcel located between SW 28th Street and SW 29th Street. The visible elements of the facility will include a 360 square foot modular building **with a height of 9'** with paved parking area for 2 parking stalls, along with landscaping. The development site will be located aside the existing paved driveway (between SW 28th & SW 29th) at a location generally adjacent to the loading dock area of the State of Kansas office building to the west (former **Albertson's market**). Access to the site is provided by this existing driveway and pursuant to access easement contained within the Butler Plaza Subdivision.

DEVELOPMENT / CASE HISTORY:

The subject property is vacant and has been zoned for commercial use for many years, with a change in zoning from PUD (commercial use group) to C-4 Commercial District as was approved in 1996. A communication tower installed in November 2018 is located approximately 250 feet to the north on the neighboring lot fronting onto SW 28th Street. The communication tower is an allowed use within C-4 zoning districts.

ZONING AND CHARACTER OF SURROUNDING PROPERTIES:

The subject property is located on a parcel located between SW 28th Street and SW 29th Street. The property is vacant except for a 130-foot high communications monopole on the north portion of the subject parcel adjacent to SW 28th Street. The surrounding area is comprised of a mix of zoning districts and land uses including commercial, office, institutional, and residential uses.

Adjacent land uses to the subject site are as follows:

Adjacent and north: O&I-2 district with medical and other types of offices, with Shunga Creek and Crestview Community Center and Park beyond.

Adjacent and west: C-4 commercial and PUD commercial districts **with State of Kansas office building (formerly Albertson's market) and O'Reilly Auto Parts immediately adjacent, with various commercial businesses further to the west along SW Fairlawn Rd.**

Adjacent and east: The subject parcel includes a drainage ditch along the east property boundary approximately 40 feet in width, with multi-family residences (Normandy Condominiums) immediately beyond and Tanglewood Skilled Nursing and Rehabilitation Center located further north on SW 28th Street.

Adjacent and south: PUD commercial district on the south side of SW 29th Street within “Indian Hills Center” including Westlake Ace Hardware and Big Lots.

COMPLIANCE WITH DEVELOPMENT STANDARDS AND GUIDELINES

BUILDING HEIGHT & SETBACKS:

Maximum building height in the R-1 zoning district is 70 feet, and the proposed pre-manufactured building has a height of 9 feet.

Required minimum building setbacks within the C-4 zoning district are 25' front (SW 29th Street **side**); **10' side**; and **25' rear and the placement** of the proposed building meet or exceed these minimum standards.

PARKING AND ACCESS:

Access to the subject site will be from an existing driveway and associated access easement immediately west of the subject location.

The Topeka Zoning Ordinance does not include a parking standard (quantity) specifically for such a facility. The proposed parking of 2 stalls including an ADA stall is deemed sufficient for personnel and vehicular access anticipated will occur once per week for routine maintenance of the facility.

LANDSCAPING AND SCREENING:

The CUP landscape plan demonstrates compliance with TMC 18.235 Landscape Regulations including screening requirements pursuant to the facility being visible from the multi-family residences (Normandy Condominiums) located to the east.

SIGNAGE:

The CUP site plan includes a note stating that signage shall be limited to a building mounted wall sign identifying the purpose of the facility, and such a sign must adhere to City of Topeka sign requirements within the C-4 district.

LIGHTING & SOUND GENERATION:

The CUP is recommended to include a condition requiring a note stating that the intensity of any exterior lighting shall be no more than three foot-candles as measured at the property line, and the source of illumination shall not be visible from public right-of-way or adjacent properties.

No unusual or intrusive sounds will be generated by the facility.

DESIGN STANDARDS:

The project applicant has requested an exemption from **the City's** recently adopted Nonresidential Design Standards, and staff have determined that this request is valid based upon the function, size, and use of the building pursuant to TMC 18.275.030(2)(i)(A).

The CUP site plan includes a note stating that exterior colors shall consist of earth tones.

TMC 18.215.030 – GUIDELINES
FOR CUP EVALUATION:

The guidelines relate to development density, height and floor area relative to surrounding structures, setbacks of surrounding structures, building coverage, functionality and safety of parking and circulation, stormwater management, building design, traffic and other operational characteristics, the Comprehensive Plan, and other applicable regulations.

Adherence to guidelines:

- The pump station will generate less traffic (fewer trips) than surrounding land uses of commercial and multi-family residential..
- The building is smaller and development is less dense than the existing development on surrounding lots.
- The small size of the project does not require a stormwater assessment pursuant to City requirements.
- The building and parking meet required setbacks.
- **Landscaping to be provided exceeds the City's** requirements.
- Public facilities such as water pump stations are necessary and not unusual in residential districts.

PUBLIC FACILITIES

TRANSPORTATION:

The **subject property is located approximately 300' from public right-of-ways** for SW 28th Street (a local street) and SW 29th Street (a minor arterial), and finished sidewalks are completed within right-of-ways for both these streets.

OTHER FACTORS

SUBDIVISION PLAT:

The subject property is platted as Lot 4 of Block A of the Butler Plaza Subdivision.

FLOOD HAZARDS, STREAM
BUFFERS:

None

UTILITIES:

The property is served by a full range of utilities and services.

TRANSPORTATION/TRAFFIC:

The proposed Conditional Use Permit for the subject public facility will have no discernable impact upon transportation/traffic within the area.

HISTORIC PROPERTIES:

None

NEIGHBORHOOD INFORMATION
MEETING:

The applicant conducted a Neighborhood Information Meeting on May 22, 2019. In addition to the applicant and City staff there were 5 surrounding property owners present who asked questions on the project such as type of building to be constructed and planned improvements, and no concerns were expressed regarding the proposed project. **(Applicant's meeting summary attached.)**

REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES

PUBLIC WORKS/ENGINEERING:	No issues identified.
WATER POLLUTION CONTROL:	No issues identified.
FIRE:	No issues identified.
DEVELOPMENT SERVICES / PERMITTING DIVISION:	No issues identified. Construction plans will be required for issuance of a building permit.
SHAWNEE COUNTY PARKS AND RECREATION DISTRICT:	No issues identified.

KEY DATES

APPLICATION SUBMITTAL:	April 19, 2019
NEIGHBORHOOD INFORMATION MEETING:	May 22, 2019
LEGAL NOTICE PUBLICATION:	May 27, 2019
ADJOINING PROPERTY OWNER NOTICES MAILED:	May 23, 2019

STAFF ANALYSIS

EVALUATION CRITERIA: In considering an application for a Conditional Use Permit, the Planning Commission and Governing Body make findings and conclusions with respect to the following pursuant to Topeka Municipal Code Section 18.245.020 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 as related to 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 lies within an area designated ***“Office”*** by the Topeka Land Use and Growth Management Plan – 2040. The Land Use and Growth Management Plan recognizes the need for various utility facilities including those accommodating fiber optic networks as necessary in sustaining business and commercial development within the city and region, and the small footprint of the proposed facility provides for office or commercial uses to be developed on the remainder of the property.
2. The character of the neighborhood including but not limited to: land use, zoning, density, architectural style, building materials, height, structural mass, siting, open space and floor-to-area ratio: Given its small size and location approximately 300 feet from either the SW 28th or 29th Street(s) right(s)-of-way, the proposed facility will not be readily visible from either roadway or from adjacent development. The residential area (Normandy Condominiums) **to the east is approximately 125’ away** and the small size and footprint of the facility will be less intrusive against the backdrop of the rear of the much larger building to the west. So, too, the CUP site plan includes new landscaping to be installed to the east of the building that will, over time, effectively screen it from being viewed from the condominiums, and the site plan is also notated to require earth-tone exterior colors.

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 installation and operation of a facility for the expansion of a fiber optic network is not unusual in a residential or commercial district and will be harmonious with the existing residential and commercial zoning and land uses.
4. The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations: Without the proposed fiber optic facility the subject property remains suitable as restricted under its **current "C-4" Commercial** District zoning.
5. The length of time the property has remained vacant as zoned: The subject property is vacant and has never been developed, while the adjacent lot to the north (adjacent to SW 28th Street) has also remained vacant except for the installation of a 130-foot high communications monopole in November 2018.
6. The extent to which the approval of the application would detrimentally affect nearby properties: The proposed facility will generate far fewer vehicle trips (approximately 1 trip per week) than would a commercial business pursuant to the underlying C-4 commercial zoning. With the small size of the facility and enhanced landscaping, the pump station will not detrimentally affect nearby properties.
7. The extent to which the proposed use would substantially harm the value of nearby properties: As described in the previous sections including the low intensity of the proposed use and design of the facility, the proposed facility will not harm the value of nearby properties.
8. The extent to which the proposed use would adversely affect the capacity or safety of the portion of the road network influenced by the use, or present parking problems in the vicinity of the property: The proposed use will generate very few additional vehicles trips required for routine maintenance of the facility, and will have no discernable impact on the road network.
9. The extent to which the proposed use would create excessive air pollution, water pollution, noise pollution or other environmental harm: The proposed facility will have a minimal impact. It will not generate air or water pollution, and there will be no noise generation. The increase in impervious surface is less than 10,000 square feet and, therefore, there is no concern about stormwater drainage with respect to volume or quality.
10. The economic impact of the proposed use on the community: Facilities required in the implementation of newer technologies such as fiber optic networks are essential to a community's **continued economic development and** have a positive impact on the broad community and City at-large. Fiber optic networks serve an important function as do other forms of public infrastructure (roads, sewer, water, electric, gas) and are vital to a 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 no apparent gain to the public health, safety and welfare by denial of the application since approval of the application will help to ensure a modern communications network and will have no discernable negative impacts on surrounding properties.

STAFF RECOMMENDATION:

RECOMMENDATION: Based upon the above findings and analysis, Planning staff recommend APPROVAL subject to the project condition stated below as shall be completed prior to consideration by the Governing Body:

1. Add complete case Number to site plan to all sheets – **"Case CU19/06."**
2. Add new General Note #12 stating the the intensity of any exterior lighting shall be no more than three foot-candles as measured at the property line, and the source of illumination shall not be visible from public right-of-way or adjacent properties.

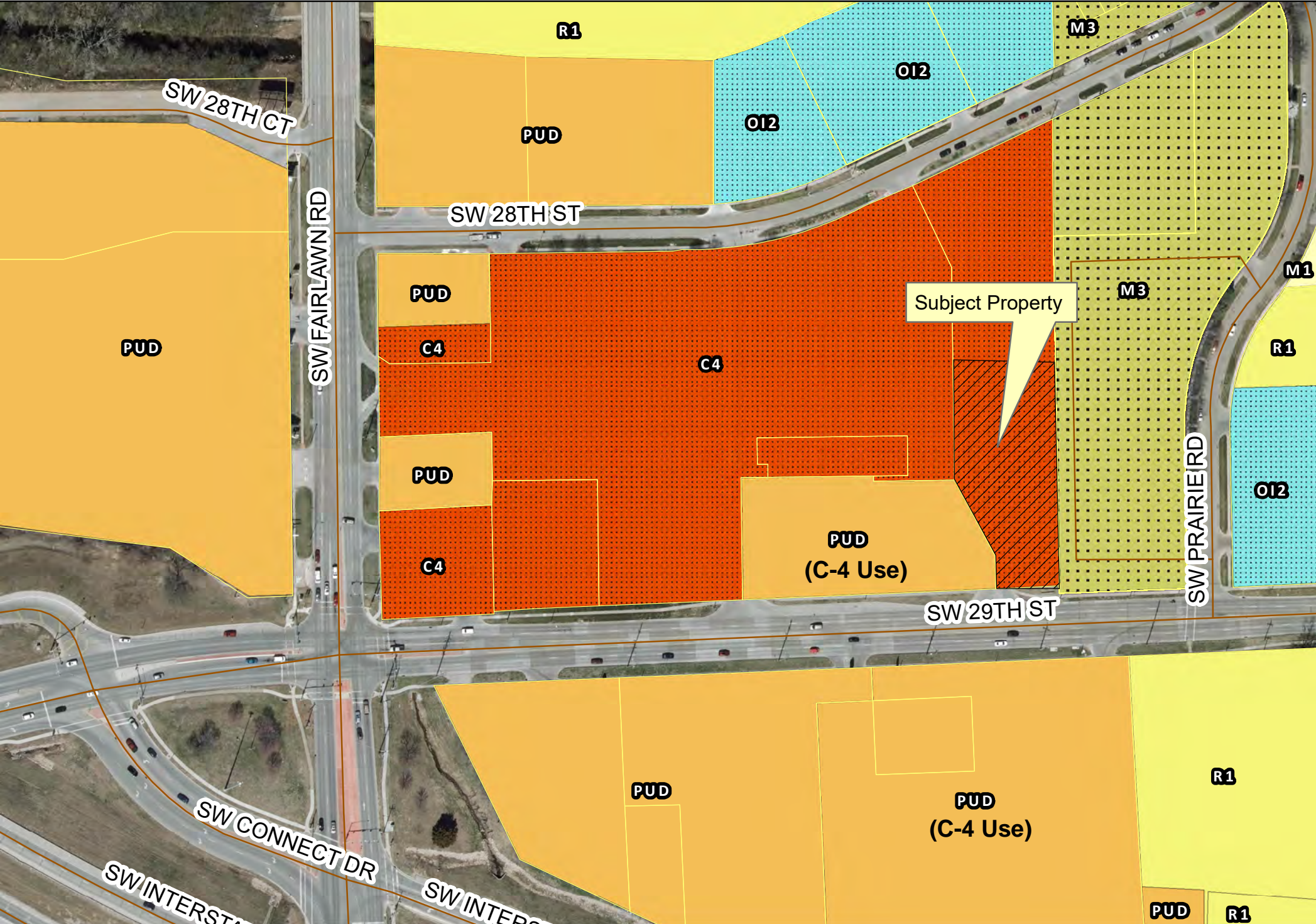
3. **Revise General Note #10 to indicate the following: "Signage shall be limited to wall signs allowed in the C-4 District pursuant to the City of Topeka sign regulations."**

RECOMMENDED MOTION: Based on the findings and analysis in the staff report I move to recommend APPROVAL to the Governing Body of the Conditional Use Permit CU19/06, subject to the conditions of approval in the staff report.

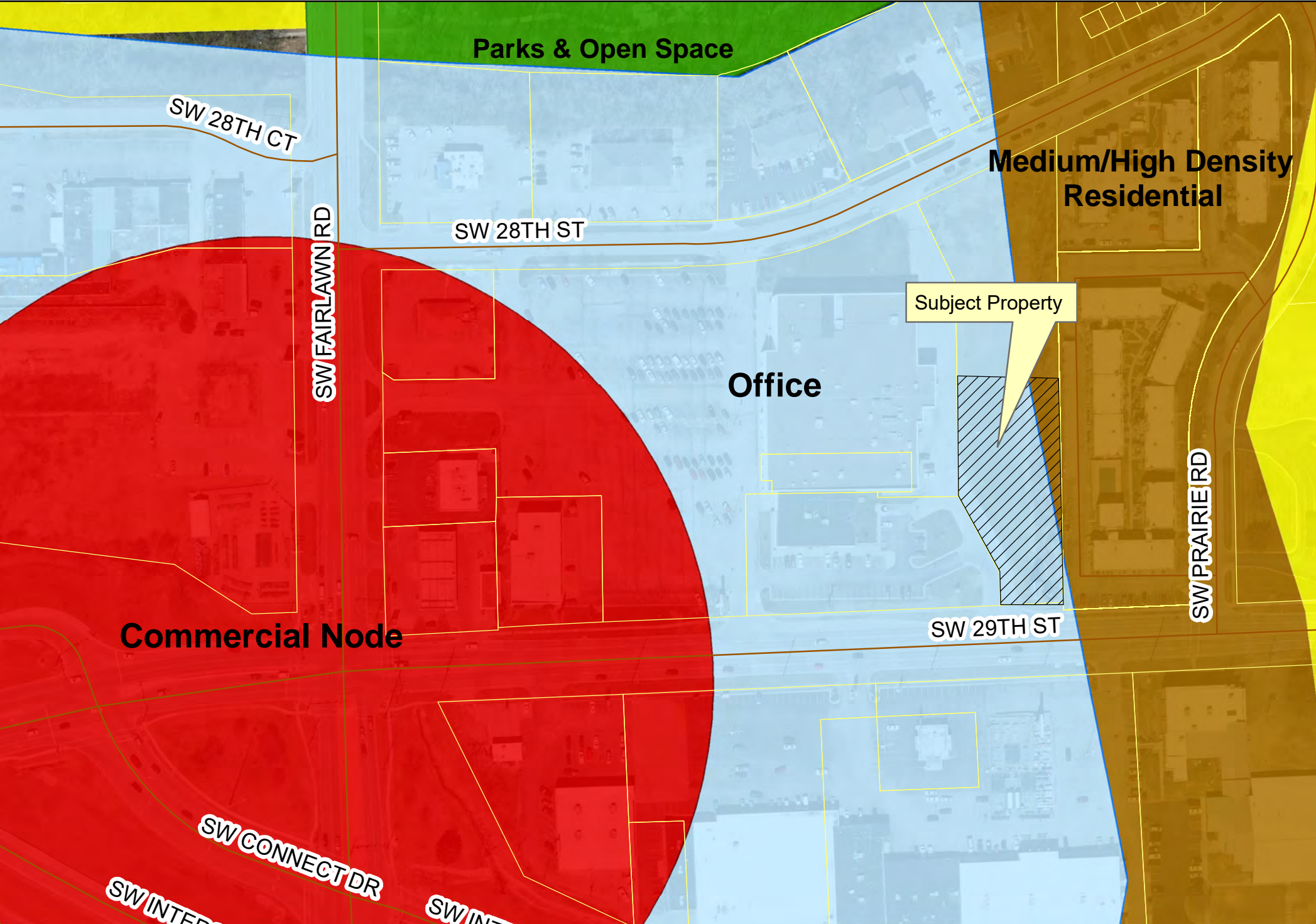
Attachments:

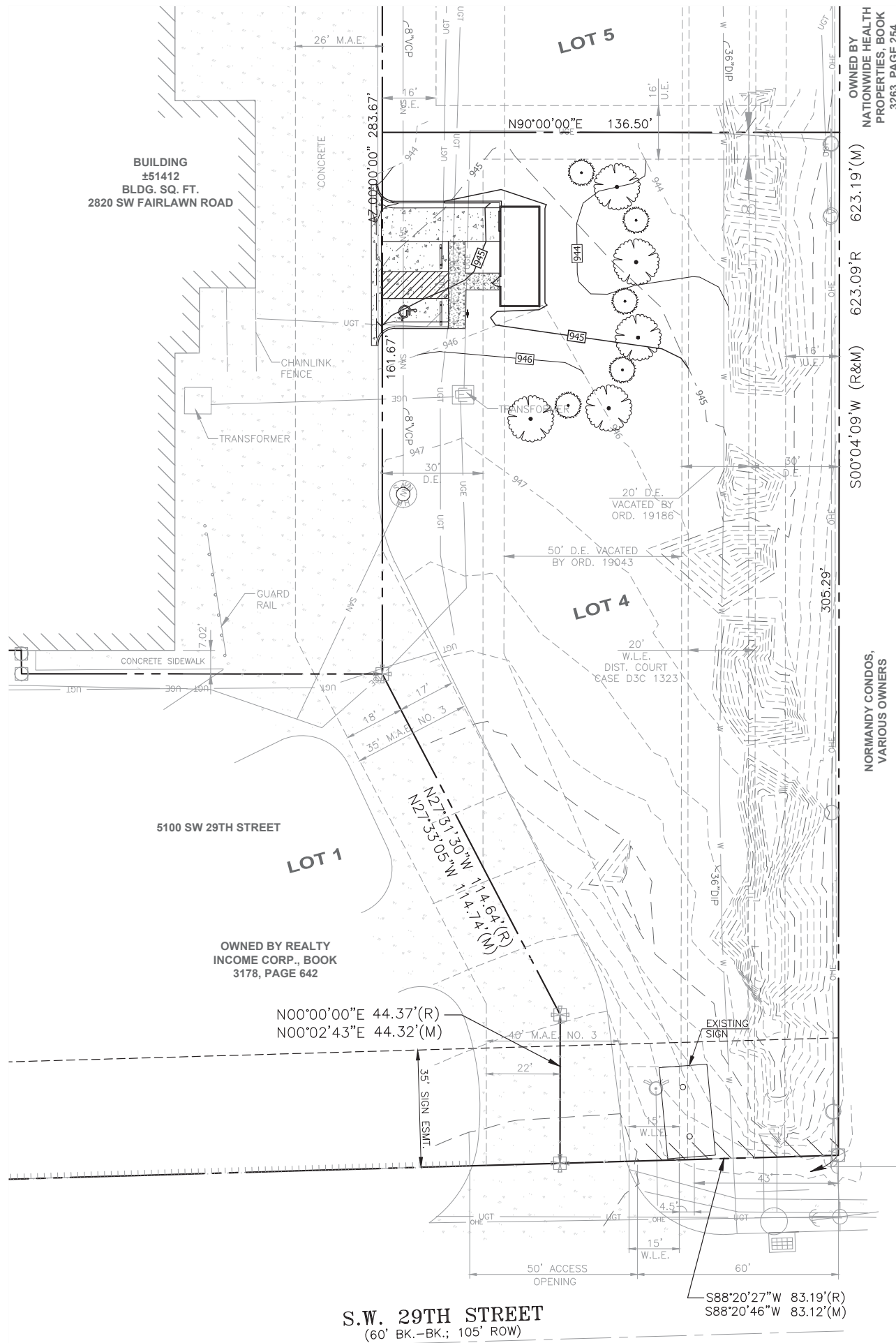
- Aerial Map
- Zoning Map
- Future Land Use Map (LUGMP 2040)
- CUP site plans
- Applicant Request for Exemption for Nonresidential Design Standards
- Neighborhood Information Meeting Summary & Sign-In



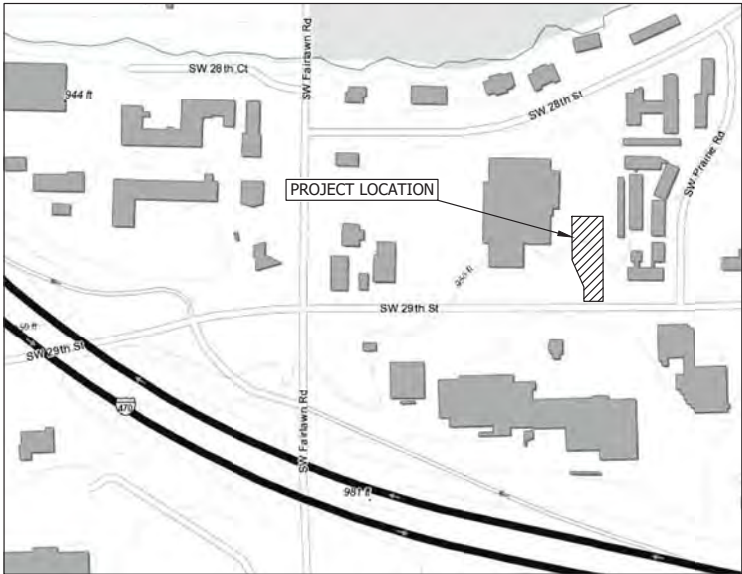


CU19/06 by: Giant Communications
Zoning Map





LEGEND
M.A.E. MUTUAL ACCESS ESMT.
W.L.E. WATER LINE ESMT.
D.E. DRAINAGE ESMT.
U.E. UTILITY ESMT.



VICINITY MAP
SCALE: NTS

GENERAL NOTES

- Existing Zoning: C4 - Commercial District
No changes in zoning are proposed.
- Property Description:
Butler Plaza Subdivision, Block A, Lot 4, containing 0.84 acres.
- Owner:
Cantilever Topeka LLC and Hudson Revocable Living Trust c/o
Associated Commercial Management
1111 SW Gage Blvd., Suite 100
Topeka, Kansas 66604
- Civil Engineer & Plan Preparer
Bartlett & West, Inc.
1200 SW Executive Dr.
Topeka, KS 66451
- Current Use:
Vacant commercial lot.

Proposed Use:
Public Utility Facility (Giant Communication)
- Personnel and vehicular access is limited to periodic maintenance and operations visits that may occur once per week.
- Water and sanitary sewer service provided by the City of Topeka.
- Proposed site paving to be concrete. Curbing, valley gutter and sidewalk to be concrete in accordance with City of Topeka standards and specifications.
- Parking Information:
Required Parking = 2 Stalls
Proposed Parking Provided = 1 Standard Stall & 1 ADA Stall
- Signage shall be limited to a building mounted wall sign identifying the purpose of the facility.
- The exterior color scheme of the building shall consist of earth tones to blend with the surroundings. Roofing material will be EPDM rubber roofing with an approximate 3.5% pitch.

**GIANT COMMUNICATIONS
GENERAL LAYOUT
CUP SITE PLAN
BLOCK A, LOT 4
BUTLER PLAZA SUBDIVISION
TOPEKA, KS**

DESIGNED BY:	RLW
DRAWN BY:	RLW
APPROVED BY:	ACS
DESIGN PROJ:	19994.000
CONST PROJ:	
SCALE:	AS NOTED
DATE:	APRIL 19, 2019
DRAWING NO:	CU19/06
SHEET NO:	1 of 2

Bartlett & West
1200 SW EXECUTIVE DRIVE
TOPEKA, KS 66615
888.200.6464
www.bartlettwest.com

Last edit on: 4/18/2019 8:24 AM by: RCP07022 Drawing Name: W:\Proj\130001\19994\000\AutoCad\CUP19994.000_CUP-2 Layout.dwg Layout Name: Layout Printed on: 6/6/2019 2:10:44 PM

LANDSCAPE REQUIREMENTS

- Square footage of developed area:3,058 sf
Points required = 33 points
- Parking points= 1.5 per parking stall
2 stalls x 1.5 = 3 points
- Total points required =36
- Existing tree credits claimed = 0
- Existing irrigation credits claimed = 0
- Residential buffer required?
Yes - 6' width on east side only

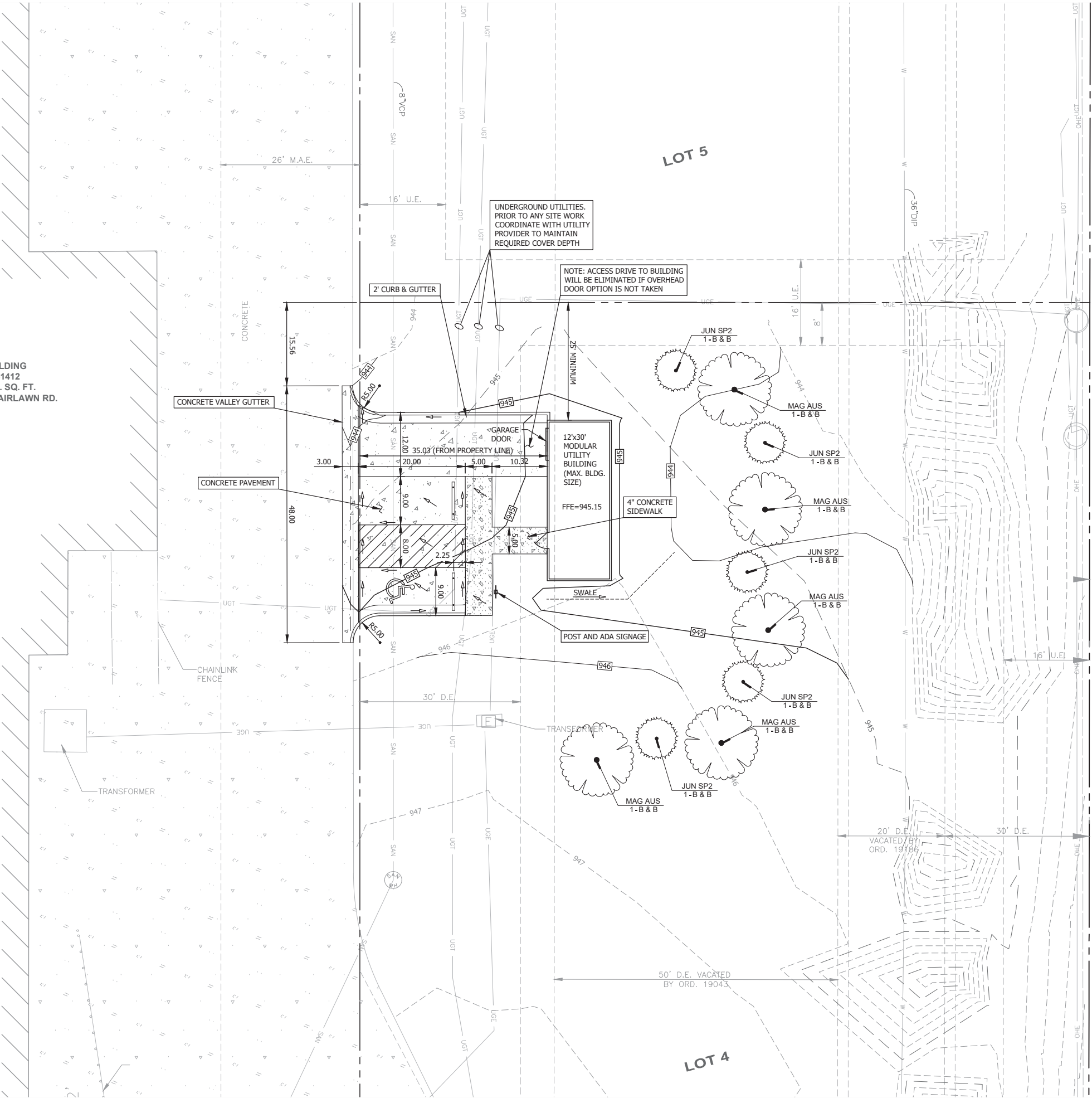
POINTS PROVIDED

Evergreen Trees: 10 x 8 pts/tree = 80
TOTAL POINTS PROVIDED= 80

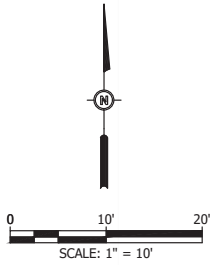
PLANT SCHEDULE

TREES	BOTANICAL NAME / COMMON NAME	CONT	SIZE		QTY
JUN SP2	Juniperus chinensis 'Spartan' / Spartan Juniper	B & B	5' Min.		5
MAG AUS	Magnolia virginiana australis / Sweet Bay	B & B	1.5" CAL		5

BUILDING
±51412
BLDG. SQ. FT.
2830 SW FAIRLAWN RD.



OWNED BY
NATIONWIDE HEALTH
PROPERTIES BOOK
3263, PAGE 254



GIANT COMMUNICATIONS
LAYOUT PLAN
CUP SITE PLAN
BLOCK A, LOT 4
BUTLER PLAZA SUBDIVISION
TOPEKA, KS

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TOPEKA, KS 66615
888.200.6464
www.bartlettwest.com

DESIGNED BY:	RLW / KDW
DRAWN BY:	RLW / KDW
APPROVED BY:	ACS
DESIGN PROJ:	19994.000
CONST PROJ:	
SCALE:	AS NOTED
DATE:	APRIL 19, 2019
DRAWING NO:	CU19/06
SHEET NO:	2 of 2

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1200 SW Executive Drive
Topeka, KS 66615
ph (785) 272-2252
www.bartwest.com

April 19, 2019

Annie Driver
City of Topeka
Planning Department
620 SE Madison Street
Topeka, KS 66607

Re: Giant Communications - CUP
Building Design Standards Exemption Request

Annie,

On behalf of Giant Communications I am writing this letter requesting an exemption from the Building Design Standards based on Section 18.275.030 Exemptions – Alternative Compliance of the Topeka Municipal Code.

Section 18.275.030 (a)(s)(i)(B) indicates “The planning director may exempt building design standards if the applicant demonstrates that strict application of the design standards results in undue hardship due to one or more of the following factors: the building, expansion, or remodel is not visible from the public right-of-way.”

The proposed building for this public utility use is designed for the specific purpose of housing the equipment and materials required for the efficient operation of the fiber optic system. A change in the building type would have negative operational as well as cost implications for the utility. I have attached photos from the prospective building manufacturer that shows an example of the type of building being proposed. To meet the above criteria for exemption, we have indicated planting of 10 evergreen or fir types of trees that will provide screening from views along SW 29th Street to the south and from the residential property to the east.

We look forward to any questions or comments as a part of the CUP review process.

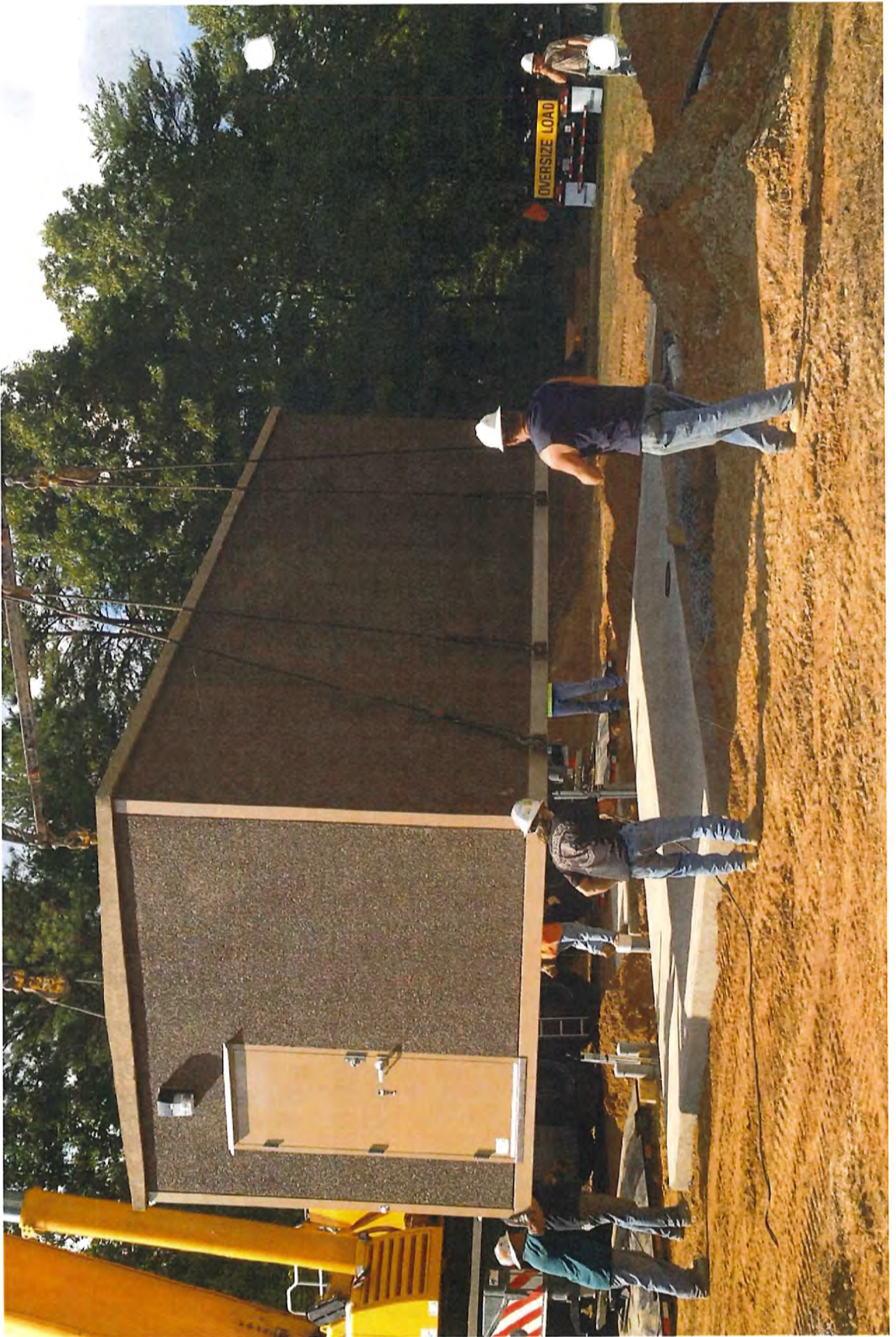
thanks,

Angela C. Sharp, PE

Cc: Austin Taylor, Giant Communications via Email



Driving Community and Industry Forward, Together.







Subject: Summary of Neighborhood Information Meeting for Giant Communications CUP application.

Meeting Location: Crestview Community Center – 4801 SW Shunga Drive

Date/Time: May 22, 2019, at 5:30 PM

To: City of Topeka Planning & Development Department

From: Giant Communications, Inc.

To whom it may concern,

On May 22nd at 5:30 PM, we held a publicized meeting for the above referenced project. There were seven people in attendance for the meeting. Please find attached the attendance sheet, including signatures. Others in attendance were John Neunuebel (COT Planning), and Austin Taylor (Manager of Ops, Giant Communications).

Mr. Nuenuebel explained the need for, and purpose behind the CUP. Austin answered general inquiries, there were no concerns in reference to the Giant Communications project.

Respectfully submitted,



Austin Taylor

Giant Communications, Inc.

Neighborhood Information Meeting

Sign-in Sheet

Neighborhood Information Meeting

Sign-in Sheet

Proposed Conditional Use Permit for Property Located at 5031 SW 28th Street

Date: May 22, 2019, at 5:30 PM

Crestview Community Center - 4801 SW Shunga Drive

[illegible]

CU19/07
City of Topeka

STAFF REPORT – ZONING CASE
TOPEKA PLANNING DEPARTMENT

PLANNING COMMISSION DATE: June 17, 2019

APPLICATION CASE NUMBER /
NAME:

CU19/07 By: City of Topeka Utilities Department

REQUESTED ACTION / CURRENT
ZONING:

A **Conditional Use Permit (CUP)** for “**Public Utility Facility, Type II**”
(water pump station) on property zoned “**R-1**” Single-Family
Dwelling District

PROPERTY OWNER:

City of Topeka

APPLICANT/ Property Owner:

City of Topeka

APPLICANT REPRESENTATIVE:

Ms. Angela Sharp, PE, Bartlett & West

PROPERTY LOCATION / PARCEL ID:

2907 NW Topeka Blvd. / Parcel No. 1041702002019000

PHOTOS:



Facing west toward subject property located immediately west of NW Topeka Blvd.



Facing northwest from southeast corner of subject property with structure for previously-operating pump station on right partially concealed by vegetation.



Facing west along south property line with existing driveway and house on adjacent property just visible behind trees.

PARCEL SIZE:	0.44 acre (19,217 sq.ft.)
CASE PLANNER:	J. Neunuebel, Planner
RECOMMENDATION:	Based upon the findings and analysis in the staff report, Planning staff recommend <u>APPROVAL</u> subject to the conditions on Page 8.
RECOMMENDED MOTION:	Based on the findings and analysis in the staff report I move to recommend APPROVAL to the Governing Body of the Conditional Use Permit CU19/07, subject to conditions in the staff report.

PROJECT AND SITE INFORMATION

PROPOSED USE / SUMMARY:

The City of Topeka Utilities Department is proposing to construct a water pump station. The visible elements of the pump station will include a 993 square foot **building (approximate height of 21' at peak of roofline)**; with access to the site provided by an improved driveway a minimum of 16 feet in width (partially utilizing an existing driveway providing access to an adjacent residence); a 5-foot high steel entry gate to be placed at the south property line; a telemetry antenna 60 feet in height (as utilized at other similar City facilities); along with new landscaping in addition to mature trees and shrubs currently on the site.

DEVELOPMENT / CASE HISTORY:

The subject property includes an existing pump station that has been out-of-service for many years located within an existing cement structure approximately 15 feet in height, and it will be removed as part of the proposed project. The property was recently acquired by the City through eminent domain authority and action from the previous property owner, who owns the adjacent parcel, with the property having been acquired by the previous owner in June 2000 from Soldier Township who had operated the pump station no longer in service.

The property has remained zoned for single-family residential use since 1969 when it was annexed into the City.

ZONING AND CHARACTER OF SURROUNDING PROPERTIES:

The property is located on the west side of NW Topeka Blvd., **approximately 300' north of Soldier Creek**. The surrounding area to the south, west, and east is within R-1 residential zoning district, while the area to the east is within a PUD district with land use groups of M-2 multiple family residential and C-4 commercial pursuant to the **"Soldier Creek PUD Master Plan."**

Adjacent land uses to the subject site are as follows:

Adjacent and north: R-1 district with a single-family residence located approximately 31 feet north of the subject site boundary and approximately 90 feet from the proposed location of the new pump station itself, with single-family residences on large lots beyond.

Adjacent and west: R-1 district with a single-family residence located approximately 35 feet west of the subject site boundary and approximately 130 feet from the proposed location of the new pump station itself, with single-family residences on large lots beyond.

Adjacent and east: PUD including commercial uses such as "BP" auto fueling station and "El Torito" **Mexican foods** market and restaurant. The Woodland Park Apartments are located adjacent to

NW Walnut Grove Rd. beginning at a point approximately 320 feet from the subject site and extending eastward.

Adjacent and south: R-1 district with vacant property adjacent to Soldier Creek, with various commercial uses along NW Topeka Blvd. located south of the creek.

COMPLIANCE WITH DEVELOPMENT STANDARDS AND GUIDELINES

BUILDING HEIGHT & SETBACKS:

Maximum building height in the R-1 zoning district is 42 feet (defined in the Zoning Code as the average height of the gable), and the proposed pump station building has a height of 13.5 feet.

Required minimum building setbacks within the R-1 zoning district are **30' front (NW Topeka Blvd. side); 7' side; and 30' rear**. The proposed placement of the building includes building setbacks from property lines that exceed these **required minimum standards as follows: 52' front; 38' side; 78' side; and 35' rear**.

TELEMETRY ANTENNA HEIGHT & SEBACKS:

The proposed pump station includes a telemetry antenna 60' in height that will be utilized in transmission of data required in remotely controlling and monitoring pump station performance. Pursuant to TMC 18.230.050 (6) such an antenna shall not exceed 62 feet in height and **shall be a minimum distance of 80 percent of the structure's height** from the public right-of-way and adjacent properties. With the required minimum setback for the 60-foot antenna **being 48'**, the proposed setbacks for the antenna **exceed this minimum as follows: 60' front; 64' side; 73' side; and 65' rear**.

PARKING AND ACCESS:

Access to the pump station site will be from an extension of the existing driveway currently serving an adjacent residence to the west. The portion of access driveway within the public right-of-way (NW Topeka Blvd.) shall be fully improved to City of Topeka standards including the use of concrete, while the driveway segment outside the public right-of-way onto the pump station site **will be widened (16' minimum width) and improved including the use of asphalt**.

The Topeka Zoning Ordinance does not include a parking standard (quantity) specifically for a water pump station. The proposed parking of 1 stall is deemed sufficient for personnel and vehicular access anticipated to occur once per week for routine maintenance of the facility.

LANDSCAPING AND SCREENING:

The CUP landscape plan demonstrates compliance with TMC 18.235 Landscape Regulations including screening requirements. Based on the area proposed for development, 41.5 value points are required. Staff considers landscaping and screening to be sufficient.

SIGNAGE:

The CUP site plan includes a note stating that signage shall be limited to a building mounted wall sign identifying the purpose of the facility.

LIGHTING & SOUND
GENERATION:

The CUP site plan includes a note stating that the intensity of any exterior lighting shall be no more than three foot-candles as measured at the property line, and the source of illumination shall not be visible from public right-of-way or adjacent properties.

The CUP site plan also includes a note stating that the ongoing operation of the pump station will generate no sound greater than 55 decibels measured at the property line and this limit shall NOT apply to vehicles for occasional facility and grounds maintenance, use of an emergency generator, temporary station malfunction, or other temporary sources of noise.

DESIGN STANDARDS:

The Nonresidential Design Standards as recently adopted by the City have been determined to not be applicable inasmuch as the subject project application has been in process for a period of time and prior to **the City's adoption of said standards.** (Note: The proposed building utilizes a pitched roof and asphalt shingles commensurate with the residential nature of adjacent development, and the CUP site plan includes a note stating that exterior colors shall consist of earth tones.)

TMC 18.215.030 – GUIDELINES
FOR CUP EVALUATION:

The guidelines relate to development density, height and floor area relative to surrounding structures, setbacks of surrounding structures, building coverage, functionality and safety of parking and circulation, stormwater management, building design, traffic and other operational characteristics, the Comprehensive Plan, and other applicable regulations.

Adherence to guidelines:

- The pump station will generate less traffic (fewer trips) than surrounding land use (SFD residential).
- The building is smaller and development is less dense than the existing development on surrounding lots.
- The building and parking meet required setbacks, and the proposed building incorporates design features such a pitched roof and earth tone colors for compatibility with adjacent residential development.
- Public facilities such as water pump stations are necessary and not unusual in residential districts.

PUBLIC FACILITIES

TRANSPORTATION:

The subject property is located on a segment of NW Topeka Boulevard that is designated as a minor arterial. There are no sidewalks along NW Topeka Blvd within the immediate or general

area and it has been determined that the construction of sidewalks are not required as part of the project since a water pump station will not result in generating an increase in pedestrian trips, and any connecting sidewalk will not be built until Topeka Boulevard is widened or reconstructed.

OTHER FACTORS

SUBDIVISION PLAT:

The subject property is not currently platted but is a legal lot of record. Pursuant to TMC 18.245.060(f)(3) it has been determined that a plat is not required in that waiver of the plat requirement will not adversely affect the subject property or nearby properties.

FLOOD HAZARDS, STREAM BUFFERS:

None

(Note: Subject area protected from flood hazards by the levee adjacent to Soldier Creek.)

UTILITIES:

The property is served by a full range of utilities and services.

TRANSPORTATION/TRAFFIC:

The proposed Conditional Use Permit for the subject public facility will have no discernable impact upon transportation/traffic within the area. Possible improvements to NW Topeka Blvd. roadway shoulder to be assessed during design phase of access driveway expansion and improvement within the public right-of-way.

HISTORIC PROPERTIES:

None

NEIGHBORHOOD INFORMATION MEETING:

The applicant conducted a Neighborhood Information Meeting on May 23, 2019. **In addition to city staff and applicant's engineer, there was an adjacent property owner in attendance at the meeting who asked specific questions on the project such as type of building to be constructed and planned improvements to the jointly used driveway access. (Applicant's meeting summary attached.)**

REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES

PUBLIC WORKS/ENGINEERING:

No issues identified.

PUBLIC WORKS/ TRAFFIC ENGINEERING:

The need for possible shoulder improvements to NW Topeka Blvd. to be assessed during design phase related to the expansion and improvement of the project access driveway within the public right-of-way.

WATER POLLUTION CONTROL:

No issues identified.

FIRE:

No issues identified.

DEVELOPMENT SERVICES
/ PERMITTING DIVISION:

No issues identified. Construction plans will be required for issuance of a building permit.

SHAWNEE COUNTY PARKS AND
RECREATION DISTRICT:

No issues identified.

KEY DATES

APPLICATION SUBMITTAL:

April 19, 2019

NEIGHBORHOOD INFORMATION MEETING:

May 23, 2019

LEGAL NOTICE PUBLICATION:

May 27, 2019

ADJOINING PROPERTY OWNER NOTICES MAILED:

May 23, 2019

STAFF ANALYSIS

EVALUATION CRITERIA: In considering an application for a Conditional Use Permit, the Planning Commission and Governing Body make findings and conclusions with respect to the following pursuant to Topeka Municipal Code Section 18.245.020 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 as related to 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 lies within an area designated ***“Urban/Suburban Low Density Residential”*** by the Topeka Land Use and Growth Management Plan – 2040. This category is generally characterized with ***“a cohesive display of single- or two-family development up to a maximum of six dwelling units per acre. (pg. 43).”*** The Land Use and Growth Management Plan does not include specific guidelines for the placement of water pump stations within residential areas although the Plan recognizes the need for public facilities, including water pump stations, in predominantly residential areas to sustain existing residential development and support new residential development. So, too, approval of the Conditional Use Permit will not alter the underlying residential zoning designation for the property **pursuant to the Comprehensive Plan’s Future Land Use Map.**
2. The character of the neighborhood including but not limited to: land use, zoning, density, architectural style, building materials, height, structural mass, siting, open space and floor-to area ratio: The proposed building utilizes a pitched roof and asphalt shingles commensurate with the residential nature of adjacent development, and the CUP site plan includes enhanced landscaping and a requirement that exterior colors shall consist of earth tones further ensuring compatibility with existing development. Moreover, the proposed new pump station replaces a previously operating pump station within a cement structure having an outward appearance that is not compatible with adjacent residences.
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 installation and operation of a pump station is not unusual in a residential or commercial district and will be harmonious with the existing residential and commercial (PUD) zoning and land uses.

4. The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations: Without the proposed pump station the subject property remains suitable as restricted under its current **"R-1" Single-Family Dwelling District** zoning, and being a legal lot of record a single-family residence could be constructed on the property which may be problematic inasmuch as a new driveway access would need be provided onto the NW Topeka Blvd. public right-of-way in the existing t-intersection at NW Topeka Blvd. and NW Walnut Grove Rd.
5. The length of time the property has remained vacant as zoned: The subject property is vacant except for an existing pump station that has been out of service for many years.
6. The extent to which the approval of the application would detrimentally affect nearby properties: The water pump station will generate far fewer vehicle trips than a single-family residence, which is allowed in this R-1 zoning district. With the proposed design of the building and enhanced landscaping, the pump station will not detrimentally affect nearby properties. Nearby properties are further protected by the site plan being notated in regard to requirements preventing adverse noise or lighting impacts.
7. The extent to which the proposed use would substantially harm the value of nearby properties: Based on the low intensity of the proposed use, the residential character of the building design, as well as replacement of the existing industrial-type pump station structure, the proposed pump station will not harm the value of nearby properties.
8. The extent to which the proposed use would adversely affect the capacity or safety of the portion of the road network influenced by the use, or present parking problems in the vicinity of the property: The proposed use will generate very few additional vehicles trips as will only be required for routine maintenance of the facility, and will have no discernable impact on the road network. The proposed project also will provide for substantial improvements to an existing driveway both within and outside of the public right-of-way.
9. The extent to which the proposed use would create excessive air pollution, water pollution, noise pollution or other environmental harm: The proposed pump station has a minimal impact. It does not generate air or water pollution, and the noise it generates will be minimal. The increase in impervious surface is less than 10,000 square feet and, therefore, there is no concern about stormwater drainage with respect to volume or quality.
10. The economic impact of the proposed use on the community: Water pump stations are essential to a community and therefore have a positive economic impact on the broad community and City at-large. Pump stations serve an important function for the general public as do other forms of public infrastructure (roads, sewer, water, electric, gas) and are **vital to a community's growth and development**.
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 no apparent gain to the public health, safety and welfare by denial of the application since approval of the application will help to ensure the effective delivery of city water to users and is necessary in maintaining public health, safety, and welfare of the community.

STAFF RECOMMENDATION:

RECOMMENDATION: Based upon the above findings and analysis, Planning staff recommend APPROVAL subject to the project condition stated below as shall be completed prior to consideration by the Governing Body:

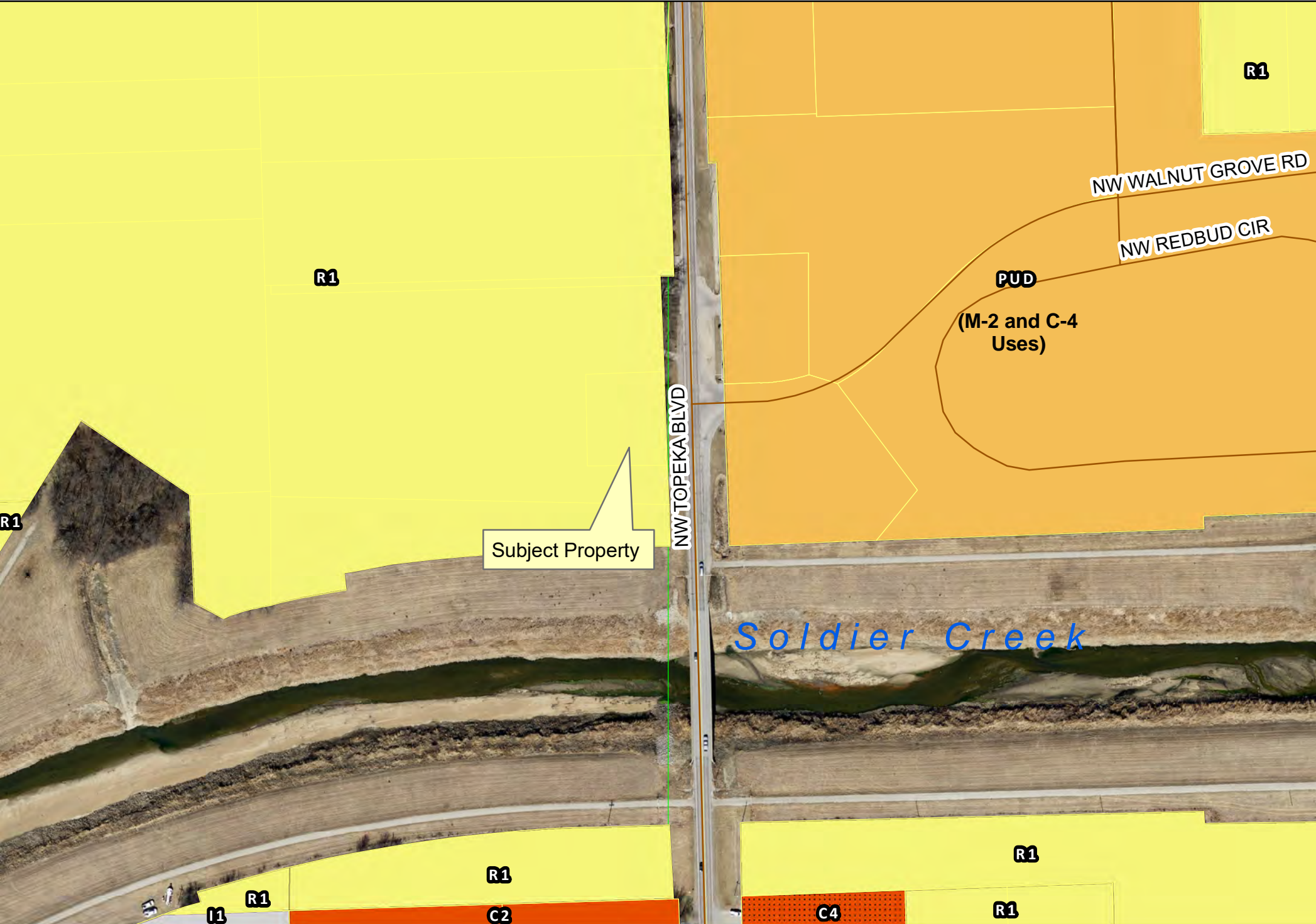
1. Add complete Case Number to site plan all sheets – **"Case CU19/07."**

RECOMMENDED MOTION: Based on the findings and analysis in the staff report I move to recommend APPROVAL to the Governing Body of the Conditional Use Permit CU19/07, subject to the condition of approval in the staff report.

Attachments:

- Aerial Map
- Zoning Map
- Future Land Use Map (LUGMP 2040)
- CUP site plans
- Neighborhood Information Meeting Summary & Sign-In
- Public Comments including those from adjacent property owner.

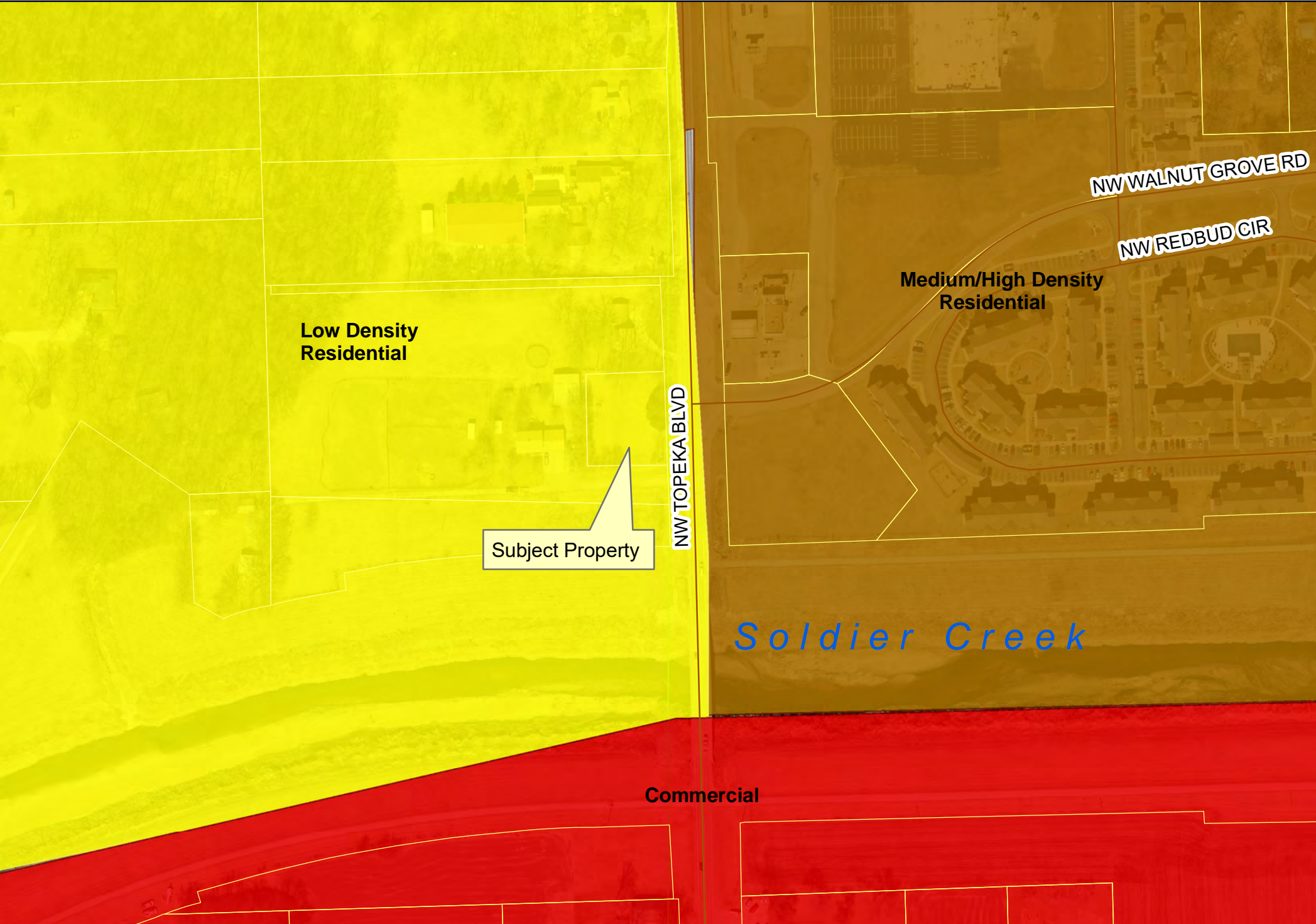




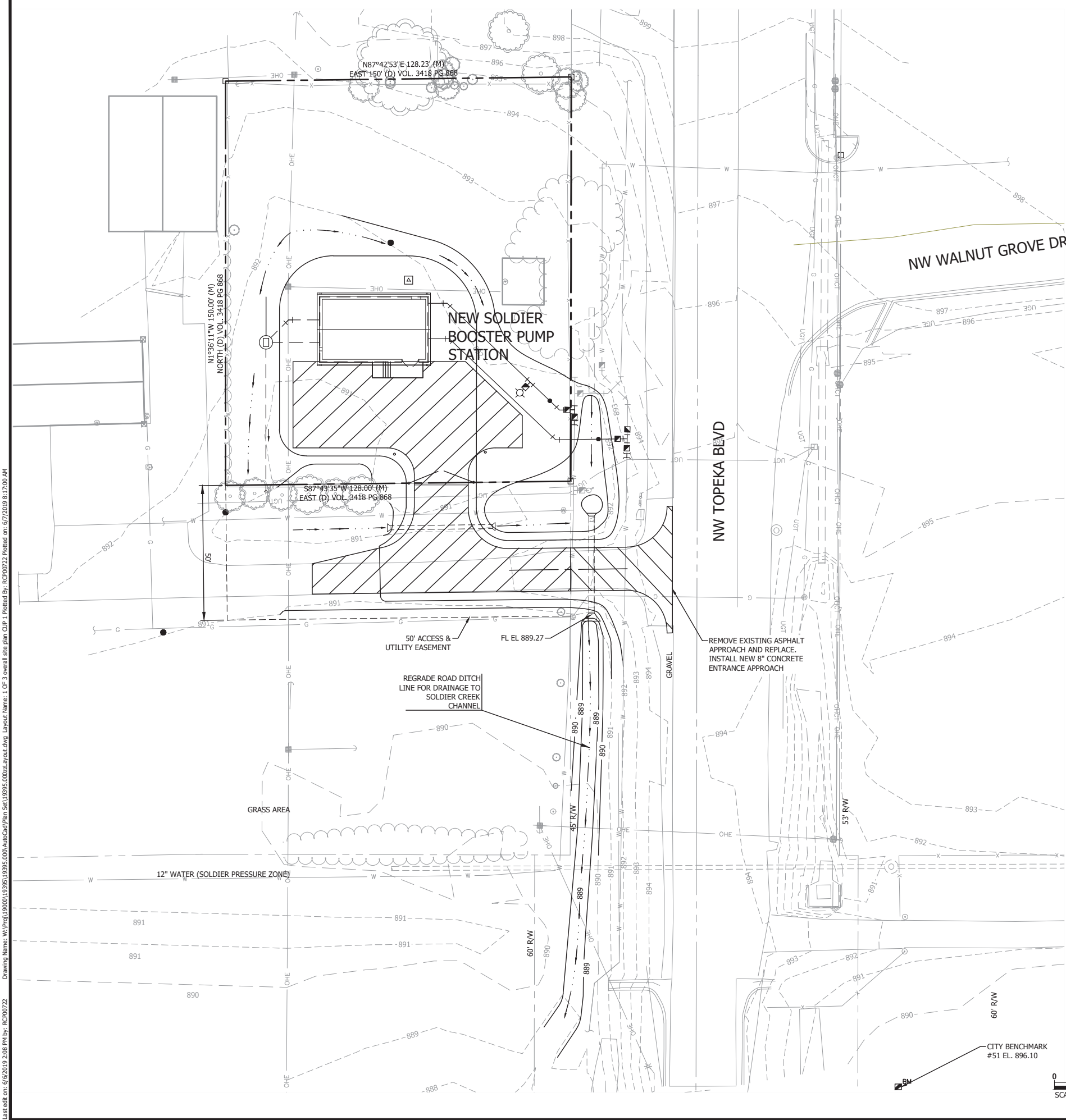
CU19/07 by: City of Topeka Zoning Map

Topeka Planning
& Develop. Dept.





Last edit on: 6/6/2019 2:08 PM by: RCP00722 Drawing Name: W:\Proj\13000\19395\000\AutoCad\Plan Set\19395.000\24\layout.dwg Layout Name: 1 OF 3 overall site plan CLIP 1 Plotted By: RCP00722 Plotted on: 6/7/2019 8:17:00 AM



GENERAL NOTES

- Existing Zoning: R1 - Residential
No changes in zoning are proposed.
- Property Description:
Beginning at a point 152 feet South and 25 feet West of the Northeast Corner of the South Half of the Southeast Quarter of the Northwest Quarter of the Northwest Quarter of Section 17, Township 11 South, Range 16 East of the 6th P.M., in Shawnee County, Kansas; thence South parallel to the East line of the side Southwest Quarter of the Northwest Quarter of the Northwest Quarter, a distance of 150 feet; thence West at right angles to the preceding line a distance of 150 feet; thence North parallel to the East line of the said Southeast Quarter of the Northwest Quarter of the Northwest Quarter described above, a distance of 150 feet; thence East 150 feet to the place of beginning.
- Parcel Size: 0.44 acres (19,217 sf)
- Owner:
City of Topeka
215 SE 7th Street
Topeka, Kansas 66603
- Civil Engineer & Plan Preparer
Bartlett & West, Inc.
1200 SW Executive Dr.
Topeka, KS 66451
- Current Use:
Vacant residential lot.

Proposed Use:
Public Utility Facility (Water Booster Pump Station)
City of Topeka - Soldier Booster Pump Station
- Personnel and vehicular access is limited to periodic maintenance and operations visits that may occur once per week.
- Boundary information taken from survey performed by Bartlett & West, June of 2017.
- Proposed site paving to be asphalt. Driveway approach paving shall be concrete in accordance with City of Topeka standards and specifications.
- Parking Information:
Required Parking = 1 Stall
Proposed Parking Provided = 1 Stall
- Owner to submit location and type of signage to City of Topeka for their approval before receiving a building permit. Signs to be permitted as allowed in sign code for public facilities and public buildings, however, the sign shall not be illuminated and the area of the sign shall not exceed 12 square feet.
- The owner will coordinate the use of a Knox Box, Key or Code with the Fire Department so that they may have access all times.
- Signage shall be limited to a building mounted wall sign identifying the purpose of the facility.
- Any fencing proposed for the site shall require a fence permit from the City of Topeka.
- The exterior color scheme of the building shall consist of earth tones to blend with the surroundings.
- The intensity of any parking lot lighting shall be no more than three foot-candles as measured at the property line. The source of illumination shall not be visible from public rights-of-way or adjacent residential properties.
- Ongoing operation of the pump station will generate no sound greater than 55 decibels measured at the property line. The sound limit on ongoing operation does not apply to vehicles for occasional facility and grounds maintenance, use of an emergency generator, temporary station malfunction, or other temporary sources of noise.
- Maximum height of telemetry antennae is 62 feet.

LANDSCAPE REQUIREMENTS

- Square footage of developed area: 19,235 sf
Points required = 64 points
- Parking points= 1.5 per parking stall
1 stalls x 1.5 = 2 points
- Total points required =66
- Existing tree credits claimed = 100
- Existing irrigation credits claimed = 0
- Residential buffer required? No

POINTS PROVIDED

Evergreen Trees: 1 x 8 pts/tree = 8
TOTAL POINTS PROVIDED= 108

PLANT_SCHEDULE

TREES	BOTANICAL NAME / COMMON NAME	CONT	SIZE	QTY	POINTS
JUN SP2	Juniperus chinensis 'Spartan' / Spartan Juniper	B & B	5' Min.	1	8

GENERAL LAYOUT CUP SITE PLAN

WATER SYSTEM IMPROVEMENTS SOLDIER BOOSTER PUMP STATION TOPEKA, KS

DESIGNED BY: -
DRAWN BY: -
APPROVED BY: ACS
DESIGN PROJ: 19395.000
CONST PROJ: -
SCALE: AS NOTED
DATE: MARCH 2019

DRAWING NO:
CU19/07
SHEET NO:

Bartlett & West

1200 SW EXECUTIVE DRIVE
TOPEKA, KS 66615
888.200.6464
www.bartlettwest.com

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B2 SECTION @ LOUVER
SCALE: 1 1/2" = 1'-0"

3 HEAD
SCALE: 1 1/2" = 1'-0"

2 JAMB
SCALE: 1 1/2" = 1'-0"

1 SILL
SCALE: 1 1/2" = 1'-0"

B3 DOOR FRAME DETAILS
SCALE: 1 1/2" = 1'-0"

ROOF LINE ABOVE

AIR INTAKE LOUVER & DAMPER 4'-0" AFF

EXHAUST FAN & DAMPER 8'-0" AFF

MASONRY EXPANSION JOINT

MASONRY EXPANSION JOINT

3"

3'-4"

2'-8"

24'-0"

3"

6'-4"

3'-4"

1'-10"

1'-3"

4'-0"

6'-0"

4'-0"

2'-9"

12'-0"

FLOOR PLAN

SCALE 1/4" = 1'-0"

ARCHITECTURAL PLAN AND DETAILS CUP SITE PLAN

**WATER SYSTEM IMPROVEMENTS
SOLDIER BOOSTER PUMP STATION
TOPEKA, KS**

Bartlett & West

1200 SW EXECUTIVE DRIVE
TOPEKA, KS 66615
888.200.6464
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MEMORANDUM

Date: May 23, 2019

To: John Neunuebel, Case Planner, Topeka Planning Department

From: Angela Sharp, Bartlett & West

Re: Neighborhood Information Meeting: Soldier Booster Pump Station CUP, CUP19/07
Location and Time: Northland Christian Church, 3102 NW Topeka Blvd.; Thursday,
May 23, 2019 at 6:00 PM

Those in attendance are as indicated on the attached attendance sheet. The meeting began at 6:00 PM with introductions from all in attendance. John Neunuebel, Topeka Planning Department provided an overview of the zoning process including indicating that the Planning Commission hearing for the case is scheduled for June 17 at 6:00 PM in the City Council chambers with the final action meeting taking place by the City Council which normally occurs at their third meeting in July. John indicated that the zoning case is necessary because the proposed booster station lies on property within a residential zoning district and the zoning code requires public utility facilities in residential districts to be permitted with a conditional use permit. John then answered general questions. Braxton Copley added that the Planning Commission hearing is the only opportunity for public comments to be provided on the case since there is not a public hearing at the City Council level. The Council meeting is for Council discussion and action only. Angela Sharp provided history of the subject property in that the City of Topeka constructed a water booster pump station in the 1940's to provide better water service to the North Topeka service area. It was then determined that the station was no longer needed, so it was decommissioned and the property sold to Mr. DeBacker in 2000. Due to the age of another booster station in the service area, it was determined by the City that a new booster station is needed. After analysis the original location was determined to be the best due to the proximity of existing water piping and other criteria. Mr. DeBacker asked where the station pumps to and Paul Bodner indicated that it pumps to the water tower located on N. 46th Street. There was discussion about the demolition of the existing concrete structure on site being a part of the project, that the majority of the trees on site are to remain and that the existing fence along Topeka Blvd. will be removed to facilitate water piping construction. Mr. DeBacker indicated he was pleased to hear that the existing access onto Topeka Blvd. will be replaced with a wider concrete approach as is City of Topeka standard and the drive into the station will be asphalt. There will be a telemetry tower adjacent to the building with a maximum height of 62 feet, which is in keeping with the allowable height from a zoning code perspective. There was discussion about concerns Mr. DeBacker has about the volume of traffic on Topeka Blvd. and the comparative volumes of other thoroughfares that have been widened and improved throughout the community in the past few years. It was indicated that this is an issue that can be researched further by the Public Works Department, but the project at hand will only generate approximately two vehicles per week

to the intersection. There was general discussion about construction methods and materials. The meeting ended at approximately 6:45.

Neighborhood Information Meeting

Sign-in Sheet

Proposed Conditional Use Permit for Property Located at 2907 NW Topeka Blvd

Date: May 23, 2019, at 6:00 PM

Northland Christian Church - 3102 NW Topeka Blvd

[illegible]

John Neunuebel

From: John Neunuebel
Sent: Wednesday, May 15, 2019 11:04 AM
To: John Neunuebel
Subject: FW: Topeka Blvd. North of Hwy 24

From: Greg DeBacker <debackerg@aol.com>
Sent: Tuesday, May 14, 2019 9:45 PM
To: vtrizuto@topeka.org; jneunuebel@topeka.org; Angela Sharp <angela.sharp@BARTWEST.COM>; curt.niehaus@snco.us
Cc: debackerhvac@aol.com
Subject: Topeka Blvd. North of Hwy 24

The Traffic count is as high or higher north of hwy 24 on Topeka Blvd to Menninger Road than 41st and Wanamaker, 37th and Wanamaker, 29th and Croco, 45h and Croco, all these streets have been improved to 4 lane with a center turn lane.

North Topeka Blvd, "old highway 75" had the easements for a 4 lane highway secured back in the 1950's, but was never widened due to the fact the new 75 bypass was being built.

Rochester road has heavy traffic also due to Dillons and Walmart. The bridge over soldier Creek on Rochester had a sidewalk built into it.
The Bridge on Topeka Blvd. over Soldier Creek did not have a sidewalk built into it when it was reconstructed a few years back, and knowing Woodland Park at Soldier Creek apartments was being considered.
There is much foot and bike traffic between the apartments and the shopping areas south of there.

The city is contemplating building a water pump station across from the apartments. There is not a center turn lane for maintenance trucks to turn in.
The water tower the old pump station pumped to was demolished when the old pump station was abandoned.
Why is the city spending money on a pump station on the edge of the city for residences outside the city when the roads in this area are inadequate for current traffic?

The BP Gas station has had numerous rear end collisions in front of it, as drivers descend the hill from the north. A middle turn lane should be required along North Topeka Blvd due to the large volume of traffic.
Pepsi Truck Traffic along with the other Trucking Dock behind Pepsi brings a lot of heavy truck and trailer traffic directly south of Soldier Creek. These trucks impede traffic trying to turn onto narrow roads.

Topeka Blvd should be 4 land with a center turn lane from Highway 24 to at least 3 lanes beyond Menninger Road all the way to Northern Hills Middle School, Which is County.

When the Cloverleaf was rebuilt, it was rebuilt with poor design. The bridge should have been 6 lane to accommodate, Topeka Blvd should have been widened to accommodate the middle turn lane north and south of highway 24.

<https://www.topeka.org/engineering/traffic-engineering/>
https://s3.amazonaws.com/cot-wp-uploads/wp-content/uploads/publicworks/TrafficEngineering/traffic_count_map.pdf

<http://www.ksdot.org/burtransplan/maps/MapCountCities.asp>
<https://www.ksdot.org/Assets/wwwksdotorg/bureaus/burTransPlan/maps/CountMaps/Cities/topeka16.pdf>

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P19/11
Horseshoe Bend Subdivision #5

STAFF REPORT - SUBDIVISION

CITY OF TOPEKA PLANNING DEPARTMENT

*Preliminary Plat Phase**Preliminary and Final Plat**Final Plat Phase*

RECOMMENDATION: Based upon the findings and staff analysis below, the Planning & Development Department recommends the final plat phase of Horseshoe Bend Subdivision #5 be APPROVED and forwarded to the City Council for its acceptance of land to be dedicated for public purposes, subject to the following conditions on Pg. 4.

RECOMMENDED MOTION: I move to forward approval of the final plat for Horseshoe Bend Subdivision #5 to the Governing Body for acceptance of land to be dedicated for public purposes as conditioned on Pg. 4.

NAME: Horseshoe Bend Subdivision #5 [P19/11]

OWNER/DEVELOPER: R&T Builders

ENGINEER/SURVEYOR: Schmidt, Beck, and Boyd LLC/Richard T. Schmidt, P.L.S./Jeff Laubach, P.E.

STAFF: Annie Driver, AICP, Planner

GENERAL LOCATION: On property located north of SE 45th Street, east of SW Topeka Blvd and along the south side of the Kansas Turnpike.

JURISDICTION: **Class "A" Subdivision**- within the corporate limits of the City of Topeka

ANNEXATION: Inside the City Limits

Area	# of Lots	Residential Density	Proposed Land Use	Zoning
10.79 acres	32	3 DUs/acre	Single family dwellings (31 lots); Stormwater Management Easement "SME" (1 lot)	PUD (R-1 uses)

Zoning Case: The property was zoned in 2000 and included in the Grand Oaks Master Planned Unit Development Plan for single family dwellings. The main reason for the PUD zoning was to allow the reduced 40' street right-of-way width with 16' U.E. /P.A.E. along all the **lot's frontages** to incorporate public sidewalks and utilities **instead of the standard 60' right-of-way**. A minor amendment to the PUD is also pending **staff's** review as it is needed to alter the overall phasing schedule. This particular change to the phasing breaks up the last phase (93 more lots total) of Horseshoe Bend into three separate phases. (i.e. The phasing is shown on the preliminary plat.)

Design: The final plat is irregular in shape and comprises 10.79 acres and 32 single-family lots. The final plat will connect SE 43rd Terrace to SE Truman Avenue, which provides another connection from SE 45th Street. **The 16' utility easements/pedestrian access easements** are provided along the frontage of the lots for public sidewalks along the streets. A pedestrian access easement is being provided between Lots 3 and 4, Block B to allow a trail connection to the Landon Trail.

BACKGROUND: This is a final plat for the fifth phase of the seven phase Horseshoe Bend/Grand Oaks Subdivision that was approved July 17, 2000 by the Planning Commission. The original preliminary plat allowed for a total of 309 single-family residential lots and a 7-acre public park and was approved in 2000. Since a preliminary plat is only effective for a period of six months, an extension is needed from the Planning Commission with approval of this final plat phase. This final plat (Horseshoe Bend Subdivision #5) does not significantly alter the original design. In fact, this plat ultimately reduces the total lots and increases the area for stormwater retention since water quality treatment is required in addition to addressing water runoff in the existing pond.

NEIGHBORHOOD INFORMATION MEETING: **The applicant's representative** conducted a meeting on Thursday, May 23, 2019 located at the Southern Hills Mennonite Church at 511 SE 37th Street. Three people in addition to the applicant and staff attended.

➤ Key issues related to the subdivision design that were discussed at the meeting included:

1. The location and safety of the pedestrian access connection with the Landon Trail: A pedestrian access easement is necessary since it will connect the trail with the Shawnee County operated public park previously dedicated and located at the east end of Horseshoe Bend. (i.e. The Landon Trail was not yet constructed when the subdivision was originally preliminary platted so this connection was not provided at the time.) The City Engineer recommends this easement be **increased in width to 20' to allow a 10' wide concrete public trail path with 5' of unpaved surface** on each side of the path. The trail connection will need to be included in the street improvement project and built by the developer at the time the streets are constructed.
2. The need for the SE Grand Oaks Blvd. connection between SE 43rd Terrace and SE 44th Terrace with this phase: Both the Public Works Department and Fire Department are satisfied with street connections as depicted on the final plat. The Grand Oaks Blvd connection will be included within the next phase of Horseshoe Bend as indicated on the preliminary plat.
3. Maintenance and ownership of the Stormwater Management Easement retention ponds: The ownership, responsibility and maintenance of these ponds and open area will need to be outlined and described in an "Operations and Maintenance **Manual**" submitted by the developer to the City of Topeka Utilities Department and noted on the final plat prior to the acceptance of the Stormwater Management Plan by Utilities. This should be completed prior to consideration of the plat by the City Council. The developer intends to retain ownership and, therefore, maintenance of the pond in the short-term. The long term maintenance of these ponds and areas around the ponds (i.e. sidewalks) is not resolved and will need to be resolved by the developer. (Options **include: Homeowner's Association**, Shawnee County Parks acceptance, or other arrangement made by the developer)

➤ Other issues mentioned at the meeting that are not directly related to the subdivision design include:

1. **The City's** insufficient street maintenance;
2. The **developer's inadequate maintenance** of the undeveloped land around the perimeter of the developed lots;
3. The homeless population residing along the Landon Trail;
4. The need for traffic control signage.

SERVICES AND FACILITIES:

1. **WATER SERVICE:** The subdivision will be served by City of Topeka public water supply via **an 8" water main** to be extended at the expense of the developer.
2. **SEWAGE DISPOSAL:** The subdivision will be served via **an 8"** City of Topeka sanitary sewer main to be extended at the expense of the developer.

3. WASTEWATER PLAN SERVICE AREA: The property is located within the Urban Service Area (city limits) of the Land Use and Growth Management Plan -2040, which requires service by a sanitary sewer system. In this respect, the proposal and is in full compliance with said Plan.
4. DRAINAGE CONDITIONS: The Stormwater Management Plan as submitted by the consultant is has not been accepted by the Department of Public Works- Engineering Division and Department of Utilities per comments from City Engineer dated June 6, 2019. The subdivision final plat **dedicates an "SME" for an extended wet** detention basin incorporating two retention ponds that will be designed to address both water quality treatment and stormwater runoff. The developer is required by the Utilities Department to submit a signed "Operations and Maintenance Manual" that identifies who is responsible for and a maintenance schedule for the continued ownership and maintenance of these retention ponds, as well as areas around the ponds and sidewalks along the south and west edges of the retention pond tract. This signed Operations & Maintenance Manual needs to be accepted by the Department of Utilities prior to their approval of the Stormwater Management Plan for the subdivision.
5. STREET PLAN/ACCESS: The subdivision design vacates previously platted public right of way for SE 43rd Terrace that was part of the previously platted Hilltop Subdivision. This final plat dedicates new right-of-way for the extension of SE 43rd Terrace and its re-alignment and connection with SE Truman Avenue. The **subdivision's 40' rights-of-way** were part of the original preliminary plat approved in 2000. The plat provides **16' utility easements/pedestrian access easements on** both sides of the street rather than **the standard 60'** local street right-of-way. This alternative design was intended so the houses could be closer to the street curb line, which allowed greater density and was accommodated under the existing PUD zoning.
6. FIRE DISTRICT: City of Topeka Fire Department. Additional fire hydrants will be provided as needed with the water main extensions.
7. STREAM BUFFER/FLOOD PLAIN: N/A
8. SCHOOL DISTRICT: USD 450 – Shawnee Heights
9. PARKS/OPEN SPACE: The subdivision is located in Parkland Fee District #7 and would normally require a parkland fee of \$225 per new single-family lot. However, a parkland dedication totaling 7 acres was accepted by the Parks Department as a part of the approval of the preliminary plat in 2000 for a public park and is located to the east. Due to that previous parkland dedication, Horseshoe Bend Subdivision #5 only requires a parkland fee of \$141 per single-family unit under TMC 18.40.130 to be collected at the time of building permit issuance.

The developer may also request the Shawnee County Parks Department accept **this additional 2.2 acre "SME"** (Stormwater Management Easements) as a public park. The Topeka/Shawnee County Parks and Open Space Plan (adopted 2005) established policy for parkland dedications. Under the current policy, this tract is too small to function as a usable public park. Neighborhood parks should be a minimum of 3- 5 acres.

WAIVER/VARIANCE TO STANDARDS: Pursuant to TMC 18.35.160, it is requested the Topeka Planning Commission grant an extension to the six month time limit on its approval of the preliminary plat. Staff is supportive of the Planning Commission granting this extension since the overall street design, lot configuration, and density have not been altered significantly from what was originally approved by the Planning Commission.

CAPITAL IMPROVEMENT PLAN (CIP): 45th Street from SW Topeka Blvd was widened to five-lanes in 2012 as a part of the County ½-cent sales tax project.

CONFORMANCE TO COMPREHENSIVE PLAN: The Land Use and Growth Management Plan - 2040 establishes this area for *Urban/Suburban Low Density Residential* land uses. The expected residential density is 3 dwelling units per acre, which is in conformance with the LUGMP – 2040 policies that recommend densities of up to 3-4 DUs/acre within areas classified *Urban/Suburban Low Density Residential*.

STAFF ANALYSIS:

As zoned under the existing PUD master plan allowing the reduced rights-of-way widths for a local street, the subdivision conforms to the standards and provisions of the Subdivision Regulations. The subdivision is compatible with, as well as, an extension of the adjacent subdivisions. Based upon the above findings and analysis, staff recommends Horseshoe Bend Subdivision #5 be APPROVED and forwarded to the City Council for its acceptance of land to be dedicated for public purposes, subject to the following conditions:

1. Approval and acceptance of the Stormwater Management Plan by the City of Topeka Departments of Public Works and Utilities prior to City Council consideration of the final plat, including submittal and acceptance of a signed **“Operations & Maintenance Manual”** that addresses the continued ownership, responsibility, and maintenance of the Stormwater Management Easement lot as well as the sidewalks adjacent with this lot.
2. Add plat note that clarifies the **ownership, maintenance and responsibility of the “SME” lot “Tract A”** that includes the retention ponds as well maintenance responsibility of the public sidewalks adjacent with this lot.
3. Dedicate an **additional 10’ for the** Pedestrian Access Easement “P.A.E.” on Lots 3 and 4, Block B. The “P.A.E.” **should be a total of 20’ in width to allow for the 10’ concrete trail connection with 5’** of unpaved areas on both sides of the concrete trail.
4. **Revise Note #7 to include:** “. . . The “P.A.E.” between Lot 3 and 4 Block B shall be constructed by the developer at the time of street improvements **with a 10’ wide** concrete trail connection with the Landon Trail.” Address maintenance responsibility for this trail path and whether this trail connection is maintained by lot owners, jointly by all owners **through establishment of a Homeowner’s Association** (HOA), other arrangement established by the developer, or Shawnee County Parks Department.

Attachments:

Aerial Map
Revised Preliminary Plat
Final Plat
NIM Meeting



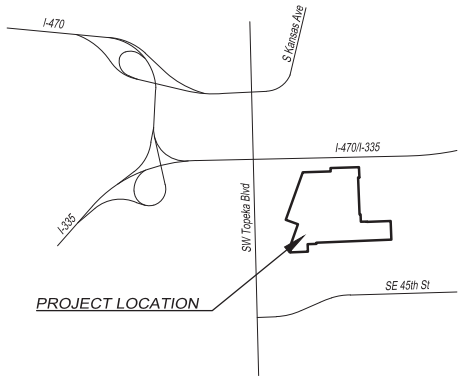
P19/11 Horseshoe Bend Subdivision #5



PRELIMINARY PLAT

HORSESHOE BEND SUBDIVISION NO. 5

A REPLAT OF PART OF LOT 1, BLOCK A, LOTS 1, 2 AND 3, BLOCK B, PART OF LOT 3, BLOCK C; PART OF LOTS 1, 5, 6 AND 7, BLOCK F, LOT 1 AND PART OF LOT 2 AND 3, BLOCK G AND A PORTION OF SE TRUMAN AVENUE, SE 42ND STREET, SE 43RD STREET, SE 44TH STREET AND SE FREEMONT STREET, ALL IN HILLTOP SUBDIVISION NO. 2 AND LOTS 2, 3 AND 4, BLOCK E, GRAND OAKS SUBDIVISION, ALL IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS.



LOCATION MAP
NTS



Scale: 1" = 100'
0 100'

LEGEND

- P.A.E. Pedestrian Access Easement
- U.E. Utility Easement
- R.W. Right of Way
- D.E. Drainage Easement
- S.S.E. Sanitary Sewer Easement
- Proposed Lot Number
- SS Existing Sanitary Sewer Line
- W Existing Water Line
- Proposed Stormwater Management Easement

Description:

A replat of part of Lot 1, Block A, Lots 1, 2 and 3, Block B, part of Lot 3, Block C; part of Lots 1, 5, 6 and 7, Block F, Lot 1 and part of Lot 2 and 3, Block G and a portion of SE Truman Avenue, SE 42nd Street, SE 43rd Street, SE 44th Street and SE Freemont Street, all in Hilltop Subdivision No. 2 and Lots 2, 3 and 4, Block E, Grand Oaks Subdivision, all in the City of Topeka, Shawnee County, Kansas being more particularly described as follows: Beginning at the Southwest corner of Lot 1, Block A, Horseshoe Bend Subdivision No. 4; thence on an assumed bearing of S88°00'53"W, 788.81 feet; thence S20°00'45"W, 49.47 feet; thence S50°30'48"E, 186.43 feet; thence on a 160.00 foot radius curve left an arc distance of 115.46 feet, said curve having a long chord bearing of S18°41'13"W, 112.97 feet; thence S01°59'07"E, 23.68 feet to the Northeast corner of Lot 1, Block E, Grand Oaks Subdivision; thence S88°00'53"W, 90.00 feet to the Northwest corner of said Lot 1; thence S01°59'07"E, 110.00 feet to the Southwest corner of said Lot 1; thence S88°00'53"W, 260.03 feet to the Southwest corner of said Lot 4, Block E, Grand Oaks Subdivision; thence N01°28'07"W along the West line of said Lot 4, being coincident with the Easterly right of line of SE Truman Avenue, 1.58 feet Measured, (1.49 feet Plat); thence continuing along said right of way line on a 120.00 foot radius curve right an arc distance of 44.99 feet, said curve having a long chord bearing of N09°16'19"E, 44.73 feet; thence continuing along said right of way line N20°00'45"E, 69.63 feet Measured (69.60 feet Plat); thence S88°00'53"W, 26.96 feet to the centerline of said SE Truman Avenue; thence N20°00'45"E along said centerline, 325.21 feet; thence N69°57'45"W, 191.46 feet Measured (191.35 feet Plat) to the Southwest corner of said Lot 1, Block G, Hilltop Subdivision No. 2; thence Northerly along the West line of said Lots 1 and 2, Block G, Hilltop Subdivision No. 2, N20°04'38"E, 744.68 feet Measured (744.76 feet Plat) to the Northwest corner of said Lot 2, Block G, Hilltop Subdivision No. 2; thence N88°33'53"E, 412.18 feet Measured (412.08 feet Plat); thence N01°26'07"W, 50.00 feet; thence N88°33'53", 418.51 feet Measured (419.98 feet Plat) to the Northwest corner of Lot 1, Block F, Horseshoe Bend Subdivision No. 4; thence S01°59'07"E, 151.95 feet Measured (152.05 feet Plat) to the Southwest corner of said Lot 1, Block F; thence S88°00'53"W, 20.61 feet; thence S01°59'07"E, along the West line of said Horseshoe Bend Subdivision No. 4, 545.18 feet; thence N88°00'53"E, 15.00 feet to the Northwest corner of Lot 1, Block A, Horseshoe Bend Subdivision No. 4; thence S01°59'07"E, 110.00 feet to the Point of Beginning, Containing 27.2 acres more or less.

General Notes:

- Property owners shall be admonished from placing any permanent or semi-permanent obstruction in permanent sewer, drainage or utility easements. This includes, but is not limited to, trees, shrubs, fences, retaining walls, buildings or other miscellaneous obstructions that interfere with access or egress of maintenance vehicles or equipment for the operation and maintenance of the utilities or pipe lines located in the easement. Any permanent or semipermanent obstruction located in the permanent sewer or utility easement may be removed by personnel representing the governing body, to provide for the proper operation and maintenance of that utility line, without cost or obligation for replacement, cost of removal, and/or replacement shall be the responsibility of the property owner.
- Water service will be provided by City of Topeka Water Department. No building permits shall be issued until arrangements for the installation of water main and/or connection charges have been made with the City of Topeka Water Department.
- Sewer service is provided by City of Topeka public sanitary sewer system.
- Minimum opening elevations shall be 1 ft above the highest adjacent 100-year water surface elevation.
- No building permit(s) shall be issued until all Stormwater Management requirements set forth in the Topeka Municipal Code (TMC) are met including: approval of Stormwater Management Plan and granting of any necessary Stormwater Easements.
- All utilities shall be placed underground pursuant to the City's right-of-way management standards.
- All pedestrian access easements (P.A.E.) to be improved with a 4' wide public sidewalk at the time of construction of residences on the lots. The sidewalks along SE 44th Terrace and Truman Avenue adjacent with the "SME" lot "Tract A" shall be constructed by the developer at the time of street improvements.
- According to "FIRM" Map Community Panel Number 20177C0308E, effective September 29, 2011, this tract is in flood zone "X"; areas determined to be outside the 0.2% annual chance flood plain.

Rev.	By	Date	Description
1	JEM	5/23/19	Planning Staff Comments

RT Builders, LLC
2257 SW Romar Road
Topeka, Kansas 66614

Schmidt, Beck & Boyd
Engineering, LLC



1415 SW Topeka Boulevard
Topeka, Kansas 66612
Ph: (785) 215-6830 / www.sbbeng.com

PRELIMINARY PLAT

SHEET TITLE:

SBB Proj. No.:	19-048
Drawn by:	JEM
Checked by:	RS
Date:	5/2/2019
Drawn by:	

Sh. 1 of 1

FINAL PLAT

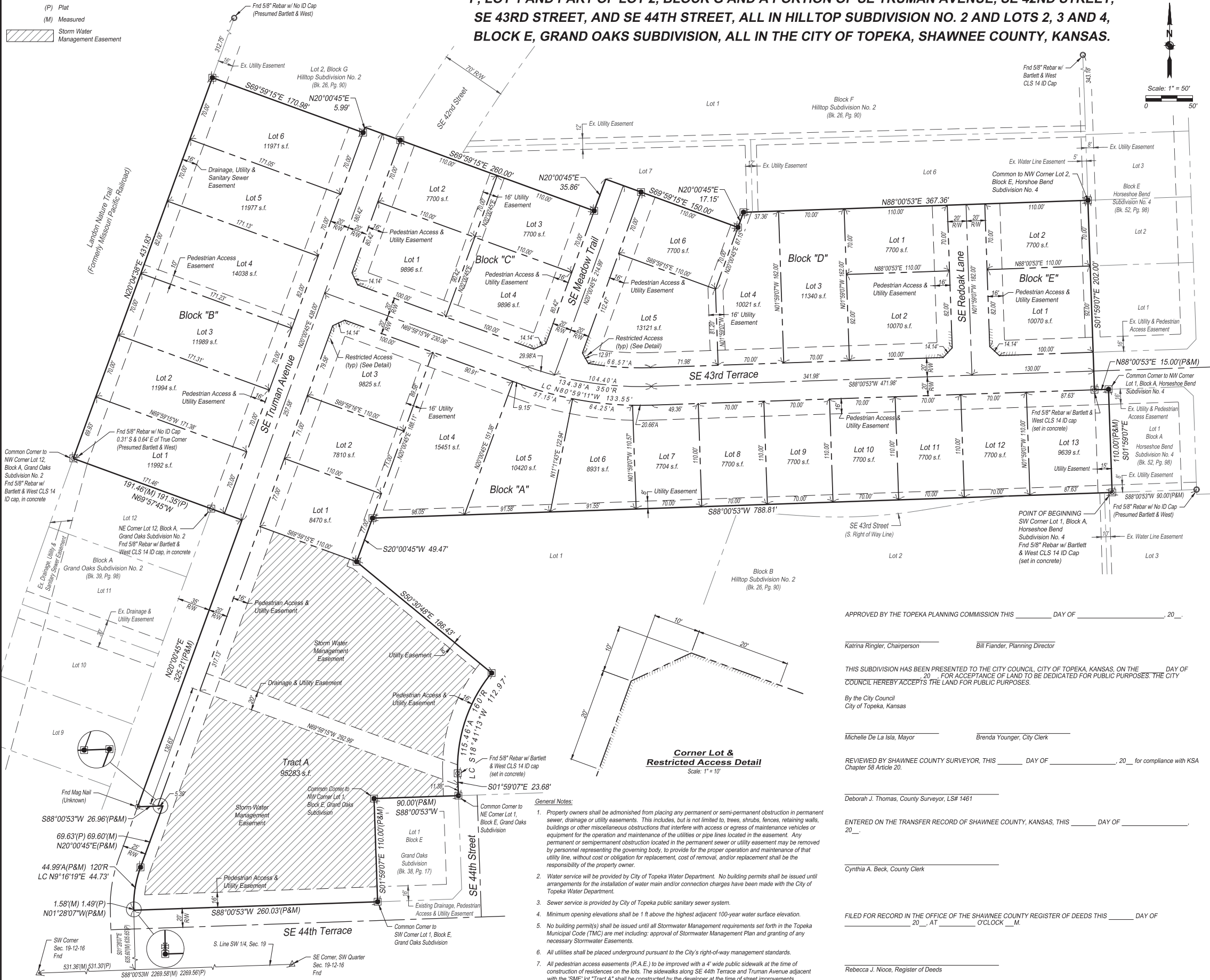
HORSESHOE BEND SUBDIVISION NO. 5

A REPLAT OF PART OF LOT 1, BLOCK A, LOTS 1, 2 AND 3, BLOCK B, PART OF LOTS 5, 6 AND 7, BLOCK F, LOT 1 AND PART OF LOT 2, BLOCK G AND A PORTION OF SE TRUMAN AVENUE, SE 42ND STREET, SE 43RD STREET, AND SE 44TH STREET, ALL IN HILLTOP SUBDIVISION NO. 2 AND LOTS 2, 3 AND 4, BLOCK E, GRAND OAKS SUBDIVISION, ALL IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS.

- LEGEND
- Set 1/2"x24" Rebar w/
SBB ENG CLS 263 ID
Cap, in concrete
- Found Rebar, as noted
- Found Rebar, as noted
(found/set in concrete)
- Found Chiseled Cross
- (P)

Plat
- (M)

Measured
- Storm Water
Management Easement



LEGAL DESCRIPTION:

A replat of part of Lot 1, Block A, Lots 1, 2 and 3, Block B, part of Lots 5, 6 and 7, Block F, Lot 1 and part of Lot 2, Block G and a portion of SE Truman Avenue, SE 42nd Street, SE 43rd Street, and SE 44th Street, all in Hilltop Subdivision No. 2 and Lots 2, 3 and 4, Block E, Grand Oaks Subdivision, all in the City of Topeka, Shawnee County, Kansas being more particularly described as follows: Beginning at the Southwest corner of Lot 1, Block A, Horseshoe Bend Subdivision No. 4; thence on an assumed bearing of S88°00'53"W, 788.81 feet; thence S20°00'45"W, 49.47 feet; thence S50°30'48"E, 186.43 feet; thence on a 160.00 foot radius curve left an arc distance of 115.46 feet, said curve having a long chord bearing of S18°41'13"W, 112.97 feet; thence S01°59'07"E, 23.68 feet to the Northeast corner of Lot 1, Block E, Grand Oaks Subdivision; thence S88°00'53"W, 90.00 feet to the Northwest corner of said Lot 1; thence S01°59'07"E, 110.00 feet to the Southwest corner of said Lot 1; thence S88°00'53"W, 260.03 feet to the Southwest corner of said Lot 4, Block E, Grand Oaks Subdivision; thence N01°28'07"W along the West line of said Lot 4, being coincident with the Eastern right of line of SE Truman Avenue, 1.58 feet Measured, (1.49 feet Plat); thence continuing along said right of way line on a 120.00 foot radius curve right an arc distance of 44.99 feet, said curve having a long chord bearing of N09°16'19"E, 44.73 feet; thence continuing along said right of way line N20°00'45"E, 69.63 feet Measured (69.60 feet Plat); thence S88°00'53"W, 26.96 feet to the centerline of said SE Truman Avenue; thence N20°00'45"E along said centerline, 325.21 feet; thence N69°57'45"W, 191.46 feet Measured (191.35 feet Plat) to the Southwest corner of said Lot 1, Block G, Hilltop Subdivision No. 2; thence Northerly along the West line of said Lots 1 and 2, Block G, Hilltop Subdivision No. 2, N20°04'38"E, 431.93 feet; thence S89°59'15"E, 170.98 feet; thence N20°00'45"E, 5.99 feet; thence S89°59'15"E, 260.00 feet; thence N20°00'45"E, 35.86 feet; thence S89°59'15"E, 150.00 feet; thence N20°00'45"E, 17.15 feet; thence N88°00'53"E, 367.36 feet to the Northwest corner of Lot 2, Block G, Horseshoe Bend Subdivision No. 4; thence S01°59'07"E along the West line of Horseshoe Bend Subdivision No. 4, 202.00 feet; thence N88°00'53"E, 15.00 feet to the Northwest corner of Lot 1, Block A, Horseshoe Bend Subdivision No. 4; thence S01°59'07"E, 110.00 feet to the Point of Beginning. Containing 10.79 acres more or less.

DEDICATION: Know all men by these presents that the undersigned owners to the above described tract of land have caused the same to be subdivided into lots, blocks and public ways which shall be known as HORSESHOE BEND SUBDIVISION NO. 5.

NOTICE: In the event there are other owners or those holding any proprietary interest in any land contained in this subdivision who do not appear and duly acknowledge this plat prior to the time of recording in the Office of the Register of Deeds, the plat shall be null and void.

EASEMENTS: Easements are hereby granted to the public as follows: "Utility Easements" to allow public utility providers, contractors, and authorized agents to locate, construct and maintain facilities to provide utility service to the public. All public utilities specifically including but not limited to water, gas, sewer, stormwater, and telecommunications may place or locate their facilities over, under and along the strips marked "utility easements". A temporary construction easement of 12-feet adjacent to the side of the utility easement is dedicated for the use of the public utilities while initial construction of the public utility's facilities are in progress."

GENERAL DRAINAGE EASEMENT: Drainage easements are hereby established as shown to provide for the unobstructed overland flow or surface water and/or the construction and maintenance of pipe, flume, ditch or any or all improvement for the drainage of said water, all as may be determined and/or approved by the director of the applicable department of public works. Property owners shall not place any permanent or semi-permanent obstruction in said easement. All maintenance within the general drainage easement (GDE) shall be the right, duty and responsibility of the property owner(s) of the property in which the easement is so located, however, if maintenance is neglected or subject to other unusual circumstances and is determined to be a hazard or threat to public safety by the applicable director of public works or designee, corrective maintenance may be performed by the governing jurisdiction with costs assessed to and borne upon, said property owner(s). Officials representing the applicable department of public works shall have the right to enter upon the easement for purposes of periodic inspection and/or corrective maintenance.

STORMWATER MANAGEMENT EASEMENT: Stormwater Management Easements (SME) are hereby established as shown or described to provide for the management of storm water including, but not limited to, detention, retention, storage and treatment of storm water. Property Owners and their assigns and successors (Property Owners) agree to install, construct, reconstruct, replace, enlarge, repair, operate and provide perpetual maintenance of pipe, flume, ditch, swale, vegetative areas or mechanical devices for storm water conveyance and/or treatment, or any improvements in the SME for the drainage and/or treatment of said storm water. No change to the grade, topography or storm water management structures and improvements in the SME shall be made without the prior written approval of the applicable public works director or designee. Property Owners shall not place or permit any permanent, semi-permanent or temporary obstruction in said SME including, but not limited to, trees, shrubs, vegetation, rocks, fences, retaining walls, landscaping, structures, buildings or other obstructions that interfere with or obstruct designed water flow and/or treatment process in an engineered channel, conduit, structure or area, nor shall Property Owners obstruct, prevent or otherwise hinder ingress, egress or operation of maintenance vehicles, equipment and personnel. Upon receiving written permission from the applicable public works director or designee, Property Owners may construct at their own peril other limited improvements and/or landscaping within the SME which do not and will not interfere with the function of the storm water management system. Any obstructions or improvements in the SME, permitted or not permitted, may be removed by the applicable public works department or its contractor to provide for designed water flow and/or treatment process of the storm water management system. Cost of removal, damage and any repair or replacement shall be the responsibility of the Property Owner. All maintenance and repairs within the SME shall be the right, duty and responsibility of the Property Owners of the property on which the SME is located. However, if designed water flow and/or treatment process are impeded by neglected maintenance, system failure or are subject to other unusual circumstances causing a hazard or threat to public safety, as determined by the applicable public works director or designee, emergency or corrective maintenance may be performed by the applicable public works department or its contractor with costs charged to said Property Owners. Unpaid costs shall be assessed to and imposed as a lien on the land. The applicable public works department and its contractors shall have the right to enter upon the SME for purposes of periodic or special inspection and/or corrective maintenance.

STREETS: The public ways (streets and roads) not heretofore dedicated, are hereby dedicated to the public. Temporary turn-around easements are hereby established as shown on the accompanying plat and shall be automatically vacated when streets are extended.

FLOOD PLAIN NOTE: According to "FIRM" Map Community Panel Number 20177C0306E, effective September 29, 2011, this tract is in flood zone "X", areas determined to be outside the 0.2% annual chance flood plain.

APPROVED BY THE TOPEKA PLANNING COMMISSION THIS _____ DAY OF _____, 20__.

Katrina Ringle, Chairperson
Bill Fiander, Planning Director

THIS SUBDIVISION HAS BEEN PRESENTED TO THE CITY COUNCIL, CITY OF TOPEKA, KANSAS, ON THE _____ DAY OF _____, 20__, FOR ACCEPTANCE OF LAND TO BE DEDICATED FOR PUBLIC PURPOSES. THE CITY COUNCIL HEREBY ACCEPTS THE LAND FOR PUBLIC PURPOSES.

By the City Council
City of Topeka, Kansas

Michelle De La Isla, Mayor
Brenda Younger, City Clerk

REVIEWED BY SHAWNEE COUNTY SURVEYOR, THIS _____ DAY OF _____, 20__ for compliance with KSA Chapter 58 Article 20.

Deborah J. Thomas, County Surveyor, L# 1461

ENTERED ON THE TRANSFER RECORD OF SHAWNEE COUNTY, KANSAS, THIS _____ DAY OF _____, 20__.

Cynthia A. Beck, County Clerk

FILED FOR RECORD IN THE OFFICE OF THE SHAWNEE COUNTY REGISTER OF DEEDS THIS _____ DAY OF _____, 20__, AT _____ O'CLOCK __M.

Rebecca J. Nicos, Register of Deeds

CERTIFICATE OF SURVEYOR:

I hereby certify that the details of this plat to be correct to the best of my knowledge and belief, that all boundary corners of this subdivision of land have been monumented and that iron pins are set as shown on the attached plat this _____ day of _____, 20__.

RICHARD T. SCHMIDT, P.S. 919
SCHMIDT, BECK & BOYD ENGINEERING, LLC
1415 SW TOPEKA BLVD.
TOPEKA, KS 66612
rick.schmidt@sbbeng.com

IN TESTIMONY WHEREOF, the owner, RT Builders, LLC, has caused these presents to be signed this _____ day of _____, 20__.

Raymond J. Thurlow, President

STATE OF _____
COUNTY OF _____, SS:

Be it remembered that on this _____ day of _____, 20__, before me, the undersigned, a notary public in and for the County and State aforesaid came Raymond J. Thurlow, President of RT Builders, LLC, who is personally known to me to be the same person who executed, the within instrument of writing.

IN WITNESS WHEREOF: I have hereunto set my hand and affixed my notarial seal the day and year last written above.

Notary Public
My Commission Expires: _____



Schmidt, Beck & Boyd
Engineering, LLC

1415 SW Topeka Boulevard
Topeka, Kansas 66612
Ph: (785) 215-8630 / www.sbbeng.com

SBB Proj. No.:	19-048
Drawn by:	JEM
Checked by:	RS
Date:	5/23/19
Drawing No.:	Sh. 1 of 1

Date: May 23, 2019
To: City of Topeka Planning Department
From: SBB Engineering, LLC
Mark A. Boyd
Re: Horseshoe Bend Subdivision No. 5 – P19/11
Neighborhood Meeting Minutes


To whom it may concern:

On May 23, 2019 at 5:30 P.M., we held a publicized meeting for the above referenced case. There were 4 people present for the meeting. An attendance sheet is attached for name and address. Others in attendance were Annie Drive (Topeka Planning Department), and Mark Boyd (SBB Engineering).

Those in attendance live in the Horseshoe Bend and Grand Oaks subdivisions. Concerns raised included the following:

- The street connection of the current proposed phase creating a raceway. And the lack of connection or completion of Grand Oaks Dr. for emergency access.
- Storm drainage and how it will be handled with the new subdivision. The neighbor directly to the east of the planned facility has concerns with regards to size and maintenance. General discussion on maintenance responsibilities.
- Concerns of construction traffic causing further deterioration the streets.
- General discussion that the City does not adequately maintain the local streets within Grand Oaks subdivision.
- Complained of the current condition of the undeveloped land and the lack of maintenance, such as weed control and construction equipment.
- Homeless population living within the woods along the Landon Trail currently trespass into the lots that parallel the trail and concerns with the proposed pedestrian connection allowing easier access to the subdivision.
- Request that the proposed detention facility also be constructed as a park, as the current Horseshoe Bend facility functions.
- Discussion on the need for traffic control signage throughout the subdivision (ie. Stop signs and Children Playing).

Respectfully submitted,


Mark A. Boyd
SBB Engineering, LLC

Neighborhood Information Meeting Sign in Sheet



Case #: P19/11 Horseshoe Bend Subd. No. 5

Date: May 23, 2019

1415 SW Topeka Blvd, Topeka, KS 66612

P: 785-215-8630 F: 785-215-8634

Name	Address	Phone (if desired)	E-mail (if desired)
Mark Boyd	1415 SW Topeka Blvd.	(785) 215-8630	mark.boyd@sbbeng.com
Tim Emerson	110 SE 44th Hwy	230-5694	timtim26@gmail.com
Jennifer Joy	4311 SE Truman Ave.	785-633-3367	jenny@joyhousecreative.com
Lyle Stroud	120 SE 44th Ter	785-230-0758	Lstroud@Live.com

SBB Engineering, LLC
www.sbbeng.com

mark.boyd@sbbeng.com jeff.laubach@sbbeng.com rick.schmidt@sbbeng.com brian.austin@sbbeng.com

Small Cell Wireless Facilities



CITY OF TOPEKA

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

Bill Fiander, AICP, Director
Tel: 785-368-3728
www.topeka.org

MEMORANDUM

To: Topeka Planning Commission

From: Bill Fiander, AICP
Planning & Development Director

Date: June 17, 2019

RE: Small Cell Wireless Facilities

The information in this memorandum is intended to prepare the Planning Commission for a pending draft amendment to the current regulations for communication towers (Chapter 18.250, Topeka Municipal Code). The purpose of the amendment is to more effectively regulate *small cell wireless facilities*. The attached *Municipal Action Guide: Small Cell Wireless Technology in Cities* (National League of Cities) provides an excellent overview of small cell Wireless Facilities.

Small Cell Wireless Facilities

Broadly speaking, small cell facilities are a type of wireless broadband infrastructure typically taking the form of small antennas placed on existing infrastructure and ground mounted equipment, and used to complement the coverage by larger communication towers ("macrocells") and add capacity in high demand areas. (See attachment 1.)ⁱ

The Federal Communications Commission issued an order in 2018 intended to speed transition to the next generation of wireless services known as 5G. The FCC order generally defines small cell facilities as:

- Antennae and related equipment mounted on structures 50 feet or less in height including the antennae, or on structures no more than 10 percent taller than other adjacent structures.
- Each antenna contains no more than 3 cubic feet in volume.
- All other wireless equipment associated with the structure contains no more than 28 cubic feet in volume. ⁱⁱ

Small cell wireless facilities (SCWFs) are often located in street rights-of-way. Telecom providers using the rights-of-way enter into license agreements with the City providing for use of the right-of-way.

Kansas Statutes (KSA 66-2019) also supports the use of SCWFs and has its own definition, similar to the FCC's definition. Both the FCC order and KSA 66-2019 limit the extent to which municipalities may restrict SCWFs, the time it takes to obtain permits, and the permit fees charged for SCWFs.

Need for Small Cell Wireless Facilities

The escalating use of wireless data is motivating providers to keep up with consumer demand for more speed and data capacity. "Small Cell" technology will help to address this need. "Small Cell" refers to both the smaller coverage area of the wireless signal, and the smaller size of the infrastructure." In comparison, "macrocell towers" are much larger in size and height and have a larger coverage area.ⁱⁱⁱ ("Macrocell towers" is another term for communication towers of the type recently reviewed for conditional use permits by the Planning Commission.)

Need for Urgency

Providers will soon require a large quantity and high density of SCWFs. Staff have been informed that for the relatively dense parts of cities each service provider will require approximately 60 new SCWFs per square mile and one SCWF for every 300 to 600 feet of street.^{iv} In recent months a service provider inquired about the installation of 18 SCWFs. Topeka's current zoning regulations are generally intended for macrocell technology and do not adequately address SCWFs. Under current regulations it appears 10 of these require conditional use permits (CUPs), equating to potentially 2,000 CUPs over time!

Current City Regulations and Recently Developed Guidelines

According to Chapter 18.250 of the Zoning Code (Communication Towers), new SCWFs that are not co-located with other facilities meet the definition of communication tower and, therefore, require a conditional use permit in all "R" (residential), "M" (multi-family residential), "O&I" (Office and Institutional), and "D" (Downtown) zoning districts; are allowed subject to specific standards in C-4 Commercial and the "I" (Industrial) districts; and are prohibited in the "X" (Mixed Use) districts. Requiring a conditional use permit for SCWFs is both impractical and unnecessary because:

- Cities are preempted by Federal and State laws from prohibiting SCWFs as long as they meet reasonable aesthetic standards or guidelines.
- The City will find it difficult to meet the permitting time limits ("shot clocks") imposed by Federal and State laws. A CUP typically requires 90 days or more, and a building permit is required in addition to the conditional use permit.
- The number of CUP applications would be extraordinarily onerous for the Planning Commission and Governing Body.

To prepare for the expected wave of SCWFs the Planning and Development Department worked with the Legal and Public Works Departments for the City and Shawnee County to create joint SCWF Aesthetic Guidelines. The guidelines are not codified but have been administratively accepted by City of Topeka and Shawnee County, and published as part of their respective Standard Technical Specifications Manuals. The guidelines are attached.

Proposed Amendment

Staff anticipates drafting an amendment to Chapter 18.250 to include a definition of SCWFs and other text to distinguish SCWFs from macrocell facilities. It is also expected the draft amendment will include SCWFs as a use in the zoning matrix (Chapter 18.60) to be allowed in most if not all districts, as long as they meet aesthetic and other standards to be drafted for Chapter 18.225 (Specific Use Standards) of the zoning regulations. These standards will include or reference the guidelines in the SCWF Aesthetic Guidelines.

Attachments

1. Examples of Small Cell Wireless Facilities (Source: Jonathan L. Kramer, Esq., Telecom Law Firm, P.C. (January 7, 2019). Webinar: FCC Order on Small Cell Antennas and Cell Site Shot Clocks, Government Fees.
2. *Municipal Action Guide: Small Cell Wireless Technology in Cities*. National League of Cities (2018).

ⁱ National League of Cities (2018). *Municipal Action Guide: Small Cell Wireless Technology in Cities*. P. 16.

ⁱⁱ Federal Communications Commission (2018). Declaratory Ruling and Third Report and Order; FCC Order No. 18-133. p. 4.

ⁱⁱⁱ National League of Cities (2018). *Municipal Action Guide: Small Cell Wireless Technology in Cities*. P. 4.

^{iv} John W. Pestle, International Municipal Lawyers Association (January 7, 2019). Webinar: FCC Order on Small Cell Antennas and Cell Tower Shot Clocks, Government Fees.

Attachment 1: Examples of Small Cell Wireless Facilities



MUNICIPAL ACTION GUIDE

Small Cell Wireless Technology in Cities



NLC NATIONAL
LEAGUE
OF CITIES

CITIES STRONG TOGETHER

Introduction

From our connected homes, where everything is controlled by the internet, to our workplaces, where reliable broadband access is paramount for almost every type of job, technology is impacting every facet of our daily lives. Cities are inextricably linked to the internet, and the integration of new technologies promises better and more innovative ways to serve our residents.

With this seismic shift toward smart cities and the internet of things (IoT), reliance on wireless and wireline broadband infrastructure is becoming greater and greater. Mobile phones, IoT devices and other small wireless gadgets are becoming ubiquitous. Wireless data consumption has reached approximately 1.8 exabytes per month in North America alone, and that number is projected to grow six-fold by 2022.² As various wireless providers maintain that the roll out of 5G internet service is approaching, and the IoT proliferates with the connection of millions of new smart devices to the internet, cities must face the reality that to meet the increasing demands of residents, more wireless facilities and infrastructure must be deployed. With that

reality, city officials must also face a number of policy, public safety, land-use and right-of-way considerations.

As cities navigate this rapidly-changing policy issue with both wireless and infrastructure providers and community residents, a number of considerations for the different stakeholders begin to emerge. This action guide from the National League of Cities (NLC) provides an overview of small cell technology, as well as guidance on how local governments can plan for, develop policy and processes around, and manage the deployment of, small cell wireless infrastructure. It will also provide city leaders with strategies for proactively engaging with wireless providers and residents to plan for small cell networks in their communities.

The Internet of Things in Connected Cities

Every consumer product and piece of infrastructure increasingly has the ability to sense surrounding stimuli, to communicate with other devices and people, and to draw on the computing and storage power of the cloud. This phenomenon has been dubbed the internet of things (IoT). The more smart devices and sharing platforms there are, the more data is generated about consumer preferences and habits. But what does this mean for cities? Smart cities are employing the same technology to connect their disparate utility, infrastructure and public service grids, generating real-time aggregate data. This, in turn, can help cities manage their programs and services more effectively and gauge their impact for residents, businesses and visitors immediately. The city of the future is an interconnected one, where devices communicate with one another in a constant stream of data that provides real-time information to the public and to the municipality.³

What is a 'Smart City'?

The term 'smart city' sometimes seems to mean **everything and nothing** all at once, and a common question about the phenomena is some variation on, "what is a smart city?". A smart city is a city that has developed technological infrastructure that enables it to collect, aggregate and analyze real-time data and has made a concerted effort to use that data to improve the lives of its residents and the economic viability of the community. Smart city initiatives often involve four components: the underlying communications infrastructure, information and communication technologies (ICTs) that generate and aggregate data; analytical tools which convert that data into usable information; and organizational structures that encourage collaboration, innovation and the application of that information to solve public problems.¹ Examples include water or utility monitoring devices that promote efficient or sustainable usage, smart streetlights that double as gunshot spotters and communicate with city administrators when they need maintenance, and traffic control and management systems that streamline traffic bottlenecks and report congestion and traffic data to city transportation planners.

A small cell pole in the median of the Las Vegas Strip.
(Photograph by SmartWorks Partners)

Small Cell Technology

What is small cell technology?

As wireless data usage continues to escalate, providers must find new and innovative ways to keep up with consumer demand for more speed and data capacity. One way to address the capacity crunch is by deploying “small cells,” a type of wireless technology for broadband infrastructure. Various federal, state and local laws define small cell differently. Generally, “small cell” refers to both the smaller coverage area of the wireless signal, and the smaller

size of the infrastructure. Small cell installations generally cover much smaller geographic areas — measured in hundreds of feet — than the traditional macrocell towers that can cover miles in each direction. The antennas are much

smaller than those deployed at macrocell sites, and are often attached to buildings, rooftops and structures in public rights-of-way (ROW), including utility and light poles and other street furniture.⁴ Pole- or ground-mounted equipment accompanying the antenna may also be needed and can be as big as a large refrigerator. This equipment may be in the ROW, or on other public or private property.

These facilities help to complement or stretch macrocell coverage and add capacity in high demand areas.⁵ Small cell infrastructure is typically deployed to alleviate capacity constraints where crowds gather or to cover targeted areas, including public squares and spaces, downtown pedestrian areas, parks, office buildings, campuses, or stadiums and arenas.

Macrocell vs. Small Cell:

Although they serve different purposes, macrocell and small cell technologies complement each other.

Macrocell: Traditional macrocell towers have a coverage area that spans several miles. They’re hard to miss, although their signal degrades towards the edge of their coverage areas.

Small Cell: Small cell technology is much more discreet, mounted on existing structures like rooftops and utility poles. Sometimes, they are accompanied by refrigerator-sized equipment. Because small cells only supply a few hundred feet of coverage, they are best suited for dense areas like downtowns.

What are some of the benefits to cities?

With the increasing usage of wireless devices and data, cities are facing increased demand for reliable wireless service. Small cell facilities can be used to increase the mobile broadband network capacity in cities. This improved service and capacity has many advantages, including economic competitiveness, a “tech friendly” reputation, and more opportunities to deploy smart city and IoT applications. Given that up to 80% of today’s 911 calls are placed via wireless phones, robust wireless networks are also critical to public safety.⁶

What are some of the risks to cities?

Often, wireless providers will want small cells deployed in dense urban areas to provide adequate capacity in high demand spots, and each provider will want its own facility installed to cover the same dense area. Thus, there may be several requests to locate such facilities in the same general areas, such that four polls in a row will have small cells from four different wireless companies. This can result in clusters of small cells that are visually unappealing and detract from the aesthetic of the community. Deployment and installation of small cell facilities can potentially interfere with existing technology, such as wireless traffic signals and other municipal technology in close proximity. There is also the risk of ground

mounted equipment associated with some small cell facilities obstructing a crowded city’s rights-of-way. In addition, recent state and federal efforts to speed the deployment of small cell facilities have focused on preempting local authority to review and control small cell deployments, or to collect fair rents for the use of public property.

What federal and state policies apply to municipal siting processes?

The siting of wireless infrastructure is governed by local, state and federal law. Most wireless infrastructure siting is governed by the applicable government entity with control over the facility’s property or location, and there may also be state and/or federal laws that apply to local determination. Local governments assess applications for permits to build new or alter existing wireless facilities for a variety of purposes, including public safety, overall management of public property or rights-of-way, accessibility requirements, environmental issues, land use and community aesthetics. Local governments may charge wireless service providers or wireless facility providers for application processing, access to the rights-of-way, and/or ongoing fees for access to public property — such as municipal street lights or traffic lights — either pursuant to local codes, as part of a large master lease or license agreements with a provider, or on an application-by-application basis.

Federal oversight of wireless siting is primarily based on three federal laws: The Communications Act of 1934, the Telecommunications Act of 1996 (Telecommunications Act) and a provision of the Middle-Class Tax Relief and Job Creation Act of 2012 (Spectrum Act).

These laws contain provisions intended to spur the development of wireless infrastructure and impose some limits on local authority over that infrastructure. The Telecommunications Act, for instance, makes it unlawful for local government to prohibit, or have the effect of prohibiting, the “provision of personal wireless service,” prevents local government from “unreasonably discriminating among providers of functionally equivalent services,” and requires that local government “act on any authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time.” It also stipulates that local governments denying siting applications do so “in writing and supported by substantial evidence contained in a written record.”⁷ The Federal Communications Commission (FCC) has interpreted that a “reasonable period of time” for local governments to grant or deny siting requests is 150 days for new facilities, and 90 days for collocations.⁸ This presumed time limitation is commonly known as a “shot clock.”

Meanwhile, the Spectrum Act also contains provisions that limit local control over collocated wireless facilities to ensure the swift deployment of wireless technologies. Section 6409(a) of the Act provided that “a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does

not substantially change the physical dimensions of such tower or base station.”⁹ The FCC created regulations in support of this law, specifying that these collocation requests must be approved within 60 days of application, and that this definition includes distributed antenna system (DAS) and small cell facilities.¹⁰ If a city finds that it received an incomplete application, it has a limited period of time in which to pause, or “toll,” the shot clock by notifying applicants in writing of the missing information and relevant local requirements.

The 1934 Communications Act has been cited in recent federal petitions and rulemaking activity¹¹ relating to the deployment of small cell facilities. Section 253 of the 1934 Act requires that local governments receive “fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis,” when determining costs to access the public rights-of-way. The FCC has solicited public comment on how and whether to clarify the meaning of this phrase in relation to small cell wireless facilities but has not yet issued a decision or guidance. Likewise, the FCC has recently issued orders prohibiting moratoria on wireless deployment applications and permitting in essentially all circumstances.¹²

State governments have also passed laws intended to speed the deployment of wireless infrastructure, particularly small cell infrastructure, in recent years. For example, Arizona’s HB 2365, which was signed into law on March 31, 2017, imposes a series of new requirements on cities’ regulation of wireless infrastructure. Arizona’s law creates timelines for both cities and applicants to complete reviews of applications and buildout of the requested site. Additionally, it states that rates

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or fees are limited to not more than the actual and direct costs incurred by cities to review those applications or manage the ROW, and places a fixed dollar cap on those application fees, as well as a fixed cap on annual rights-of-way access and pole collocation fees.^{13 14 15}

Other states have enacted similar limits on local review times, factors which may be considered in a site review and fees local governments may assess. State laws may limit whether local governments can enter into agreements with providers for larger-scale deployments of infrastructure within a community.

What are some of the policy challenges cities face?

Cities adapting their ordinances or processes to enable efficient small cell deployment face a number of policy challenges. First, cities must consider any recent changes to state law that impact local ordinances. Nearly half of all states had already passed small cell legislation or were considering it by their 2018 legislative sessions. Many states that passed laws exempted municipal rights of way from the legislation. These laws may impact what fees or rates cities can assess, what factors they may consider when deciding whether to approve or deny a wireless facility application, and whether the city is subject

to a stricter application review timeline than federal regulations establish.

Cities must also consider their own internal capacity when determining how much time should elapse before a new ordinance focused on small cell deployment goes into effect. For example, if the new process demands the establishment of new online application systems or forms, the city should allow ample time to create those new systems before applicants will expect access to them, to avoid unnecessary delays in the application process. Particularly in the case of small cell deployments, providers may wish to file many applications at once as part of a network build-out, and cities should be prepared to determine whether they can limit the number of applications any provider can file within a given time period under state law, or whether they are capable of accepting batches of similar applications simultaneously.

Cities should be cautious in passing moratoria on new wireless facility applications. While moratoria may provide the necessary time for policy makers to determine how best to approach this new technological and administrative challenge, they are not legal in some states, and have been prohibited by the FCC. Moratoria may invite legal challenges from wireless providers eager to start construction.

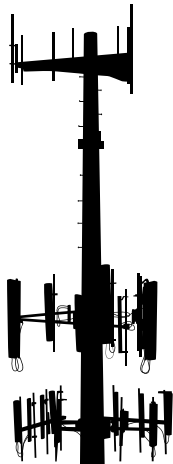
City Examples

Boston: Preserving History and Planning for a Technology-Driven Future

The city of Boston faced a unique challenge when it set out to upgrade the city's wireless networks: its history. The city contains narrow, twisting streets with little sidewalk space, carefully-maintained historic districts, and a wide variety of decorative poles and streetlights — including some gas lamps. This adds up to crowded rights-of-way

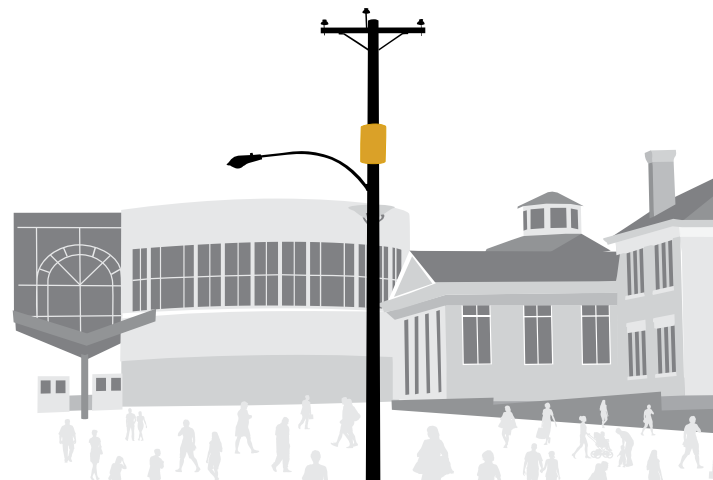
with sensitive aesthetic needs. However, a city known for its universities and tech industries needed to be a competitive leader on broadband infrastructure to retain and attract residents and businesses.

To address the growing demand for small cell wireless infrastructure, the city used widely-available online tools to create an online application and review process that has reduced the average turnaround time for small cell site application reviews to roughly two weeks. The city has also managed to stem potential floods in applications by placing reasonable obligations on providers eager to file many applications at once.



Macrocell technology is much better for large, low-density populations like quiet residential areas.

Small cells are perfect for small, dense-population areas with high-capacity needs. Downtowns, stadiums and theme parks are ideal for this technology.



For instance, after a permit for a new wireless facility is approved, the provider must build its site within sixty days.

Because of its narrow, historic streets, Boston has had to work very closely with neighbors and wireless providers to create innovative pole designs that take up less sidewalk space, or to negotiate a different pole location on a nearby arterial street with fewer residences and more room to site equipment.

Lincoln: Creating Business Solutions to Technology Challenges

In the city of Lincoln, Nebraska, broadband infrastructure is an important development priority. As demand for service, and for permission to build infrastructure, rose in the community, the city decided to tackle business process challenges. The city began physically relocating staff and grouping them by process and function, rather than department, and created a new rights-of-way construction group of staff from multiple departments to manage broadband infrastructure, small cell wireless applications and other issues. This created a one-stop-shop for private utility construction in the public right-of-way.

The city worked with carriers to create a standard pole design that met the needs of 95 percent of the city's pole locations and could accommodate most carriers' equipment. For the other five percent of locations, the city has worked with individual carriers to co-design poles to meet those

locations' needs and added those new designs to a list of pre-approved poles. The city has also developed a database of existing right-of-way infrastructure assets, such as water, power and broadband lines in the city. This helps smooth the application process and cuts down on the time needed to communicate between city departments and with providers. Additionally, the city has created a master license agreement process based on existing public-private partnership agreements and adapted the master license agreements used for broadband to business and home to mobile infrastructure. Making the agreements consistent, and posting them publicly online, has helped reassure providers that they are getting the same deal as their competitors and smoothed the negotiating process.

Lincoln has faced some challenges in recent years with its efforts to deploy wireless infrastructure. Some providers have successfully received permits to build new poles, but have not deployed in those locations, resulting in wasted city resources and no improved service for residents. The city has also fought back against attempts by the state legislature to preempt local authority over small cells. In 2017, the city battled wireless providers who claimed that city-induced costs were inhibiting infrastructure deployment. When Lincoln offered a discount to local carriers who were willing to build out connectivity in rural parts of Nebraska, the providers backed down, and ultimately preemptive legislation did not pass that year.

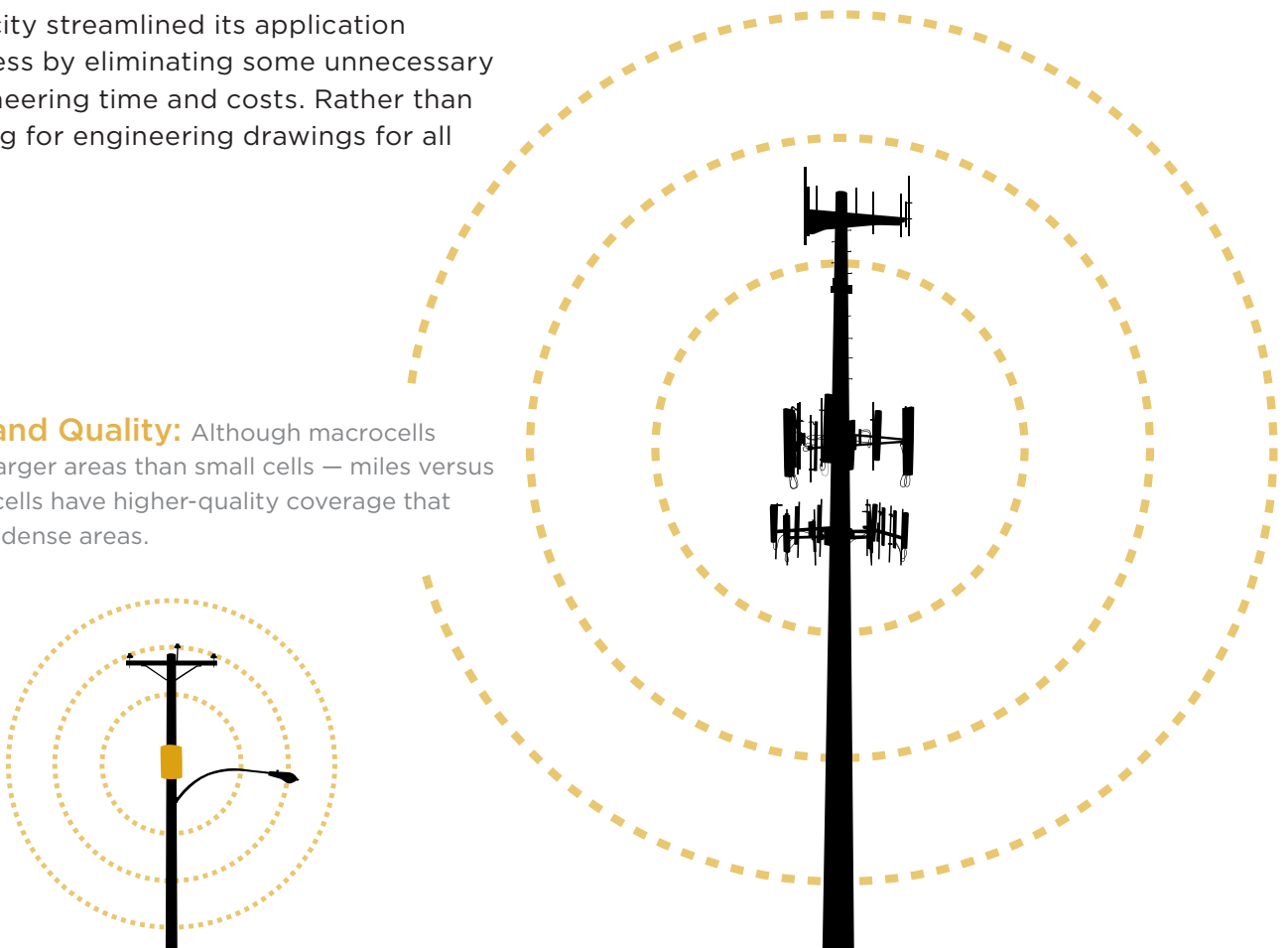
Raleigh: Finding Common Ground with Industry Through Partnerships

The city of Raleigh is focused on being the best — with hopes of being designated a ‘best place’ to live, work and play, as well as a forward-thinking leader in the technology space. The city recognized that in order to achieve those goals, it would need to be open to the prospect of small cell wireless infrastructure deployment. From the moment the city was approached about installing small cell infrastructure, the priority was to establish a good working relationship with wireless providers while protecting and upholding the values and interests of residents within our communities.

The city streamlined its application process by eliminating some unnecessary engineering time and costs. Rather than calling for engineering drawings for all

installations, the city shifted its process to require basic geographic coordinates for proposed wireless sites, so that the city could quickly work with providers to find optimal locations. Wireless providers appreciated hearing back from city staff about site feasibility within a couple of days of submittal. The city has also taken several steps to hear the wishes of residents, most directly through its 20 Citizen Advisory Councils. City employees who manage small cell deployment have been meeting regularly with these advisory boards to gather feedback and answer questions about the process of small cell installation.

Quantity and Quality: Although macrocells cover much larger areas than small cells — miles versus feet — small cells have higher-quality coverage that works well in dense areas.



What is Broadband?

According to the Federal Communications

Commission, broadband is connection speeds of at least 25 Mbps for downloads and three Mbps for uploads. About 20 percent of American households don't have access to broadband under this current definition.

One administrative challenge came about in the form of a piece of legislation passed by the state that preempts the city's ability to manage small cell applications. A 2017 law restricts local governments in the state of North Carolina from sending applications for collocated infrastructure — or infrastructure that wireless providers want to place on existing poles — to city council for review. Wireless providers that wish to collocate small cell infrastructure are allowed to seek administrative approval and place their equipment and infrastructure on those existing poles. This is intended to streamline the review process for small cell installations that do not require a new structure or pole to be constructed. While it shortens the administrative approval process, it removes the city's ability to govern on this issue.

San Jose: Welcoming New Technology While Closing the Digital Divide

Equity drives San Jose's approach to bringing new technologies to the city, and the deployment of municipal broadband and municipal fiber lines is no exception. Located in Silicon Valley, San Jose city officials are acutely aware of the technology boom happening on their doorstep and are eager to welcome these advances, provided they can do so in a way that

speaks to the needs of all residents. With only three percent of the city connected to high quality fiber lines, the city needed to both improve overall access to high speed internet and address the digital divide for 95,000 residents without access. After commissioning a study of the city's broadband approach as well as conducting surveys of low-income populations, San Jose officials set about working with the private sector on an arrangement that facilitates deployment, speaks to the city's equity goals and meets provider expectations.

They settled on a tiered pricing structure where providers pay \$750-\$2500 depending on whether they will cover the entire city or smaller areas. Larger deployments essentially receive a bulk-discounted rate. This revenue then feeds into two important city goals: internal capacity building and digital equity. For the former, the revenue bolsters the public works department, enabling staff to streamline the permitting and governance processes. Providers are therefore amenable to the deal because it facilitates faster small cell deployment. Additionally, the remaining funds, \$24 million so far, go into a "Digital Inclusion Fund" to close the digital divide for low income and vulnerable populations.

When San Jose officials stepped back to look at the whole picture, they noticed that different providers had an interest in deploying in different market segments and, therefore, different neighborhoods. By building relationships with these carriers, San Jose has been able to spread coverage across the city. Where gaps arise, the digital inclusion fund fills in. Some of the projects on deck include free device checkout at libraries and coding camps. The city will also pursue grants on top of these core funds to further build out program support in the long term.

Tempe: Bringing Transparency to the Process

The city of Tempe knows that small cell infrastructure will be integral to meeting the technological demands of the future. For city staff, determining the process for small cell infrastructure deployment and being transparent about it with wireless providers was very important. Once the city established a master license agreement with the first carrier in the market, that original agreement was used as a template to develop subsequent agreements with small cell infrastructure providers, who also wanted to deploy small cells and distributed antenna systems (DAS).

In 2017, however, preemptive legislation was passed by the Arizona state legislature that hindered the city's ability to completely control small cell infrastructure deployment. The new law imposed fee caps as well as shot clocks on the application

process. It also forced cities to reduce their fees to a rate that was significantly lower than existing market rate agreements.¹⁶ The rationalization for such legislation was that it was needed to speed up deployment in Arizona by limiting a city's capacity to interfere via local legislation and incentivize 5G by reducing the industry's costs of deployment. During the negotiation period preceding the passage of the bill, the city fought hard to maintain its ability to manage the right-of-way, mostly in order to retain control over the aesthetic elements of deployment and to minimize any visual blight caused by the size of the small cell allowed (the equivalent of 27 pizza boxes).¹⁷

The new law required Arizona cities to establish and make standard terms of agreements publicly available. Tempe viewed the legislation's six-month implementation period as an opportunity to foster collaboration between the public and private sectors. Before finalizing the standard terms and conditions, site license provisions, application processes for small cells and design criteria, the city sent draft copies of all proposed documents to the major carriers and infrastructure providers for feedback. Collaboration with the industry was important in avoiding conflict when documents advanced to the city council for deliberation and approval.

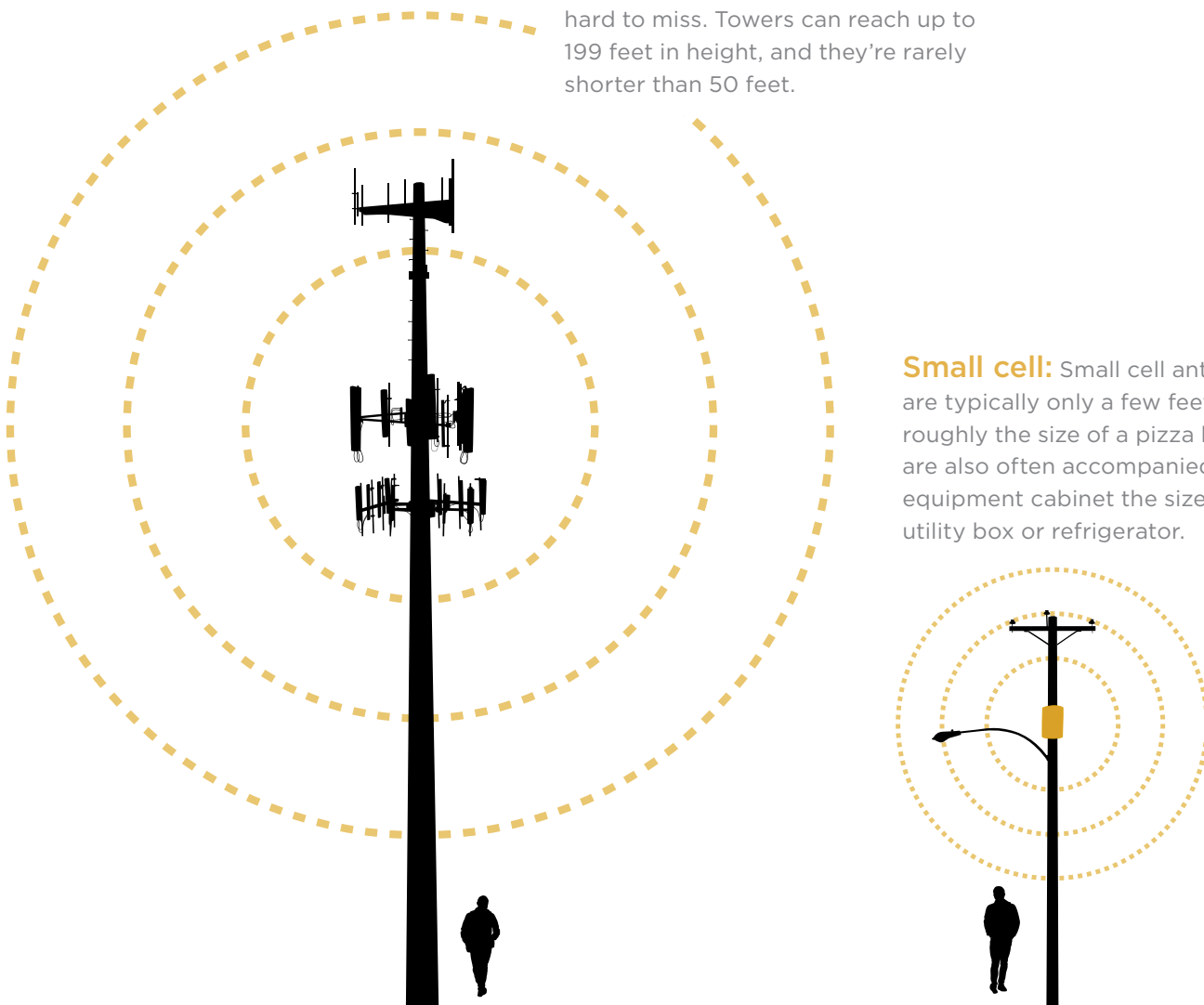
The city also carefully considered the desires and values of the public. For residents, aesthetics and the way the new

small cell infrastructure blended into the community were very important. Tempe was able to coordinate with other local cities and wireless providers to create design guidelines, ensuring that new infrastructure would mesh with the local aesthetic. The city worked to ensure that the guidelines were not too much of a

hindrance to deployment. Tempe found that balancing the concerns of industry with the city's ability to manage its poles and right-of-way is critical. Local government can function as the connection between the community and industry, ensuring that both parties' interests are represented and accounted for.

Towers: Macrocell infrastructure is hard to miss. Towers can reach up to 199 feet in height, and they're rarely shorter than 50 feet.

Small cell: Small cell antennas are typically only a few feet tall, roughly the size of a pizza box. They are also often accompanied by an equipment cabinet the size of a utility box or refrigerator.



Strategies for City Leadership



1 Gain a full understanding of the technology and important safety considerations.

Local elected officials and decision-makers should ensure that they understand technical, political and legal implications of the technology, its deployment, and any existing policies related to small cell facility siting. This will ensure that the best interests of the community are upheld when new decisions around small cell siting are being made.



2 Articulate your priorities for accommodating this technology.

City officials should determine how they want to integrate this technology into their communities and be intentional about expressing those desires during the policy-making discussions and deployment process. Some questions and considerations might include:

- a. Whether the city wants to subsidize the build-out of the facilities to speed up wireless connections;**
- b. Whether the city needs extra time to conduct a thorough engineering review for public safety concerns; or**
- c. Whether the city will work to harmonize the facilities with the look and feel of different parts of town.**



3 Create clear policies for permit review that let both city staff and industry applicants know the expectations.

This includes establishing processes for how applications will be addressed or processed, timeframes, objective requirements for the decisions and possibly application checklists. Cities should communicate these policies broadly and transparently to potential applicants. They may also wish to collaborate with likely applicants to develop design standards compatible with technological needs.



4 Develop a template right-of-way access policy/agreement, as well as a city pole attachment agreement.

Cities should make sure these policies and agreements address multiple kinds of infrastructure, from macrocell towers to small-cell facilities. This might include the establishment of requirements for both types of structures — such as size, location, design, public safety, stealth, etc.



5 Think through in advance any beneficial items the city could negotiate with industry in exchange for use of the right-of-way — if allowed by state law.

Issues up for negotiation might include collocation; length of time for siting; terms of installation; terms for upgrade; free or discounted services for schools, libraries, or other public entities; or other provisions that benefit the community and its residents.



6 Give careful consideration to fee structures.

There are a variety of fees and charges that cities may want to address. Application fees to cover the cost of staff to review applications, permitting fees to cover costs of building permit reviews and inspections, regulatory access fees for use of public ROW (ongoing), rent based on market rates if using public property (ongoing), and ongoing maintenance fees. Cities should take care to ensure that costs for removal of abandoned equipment are not borne by taxpayers.

Definitions

Collocation:

When multiple wireless providers attach antennas and other equipment to a single shared support structure. This practice may lower barriers to entry for new providers and reduce pole proliferation. The federal government defines collocation as: the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.¹⁸

Small cell facilities:

Small cell facilities are a type of wireless broadband infrastructure. They typically take the form of small antennas that are placed on existing infrastructure (both indoors and outdoors) and ground mounted equipment. These facilities help to compliment or stretch tower macrocell coverage and add capacity in high demand areas. In many states this term is defined by state law.

Ground mounted equipment:

This type of equipment sits at ground level, such as along sidewalks. It is distinct from equipment mounted on existing infrastructure such as telephone poles or buildings. This equipment is similar to traffic control or telephone equipment cabinets.

Macrocell:

A macrocell is a wireless facility used in cellular networks with the function of providing radio coverage to a large area of mobile network access. A macrocell differs from a microcell by offering the backbone of coverage area and high-efficiency output. It is placed on stations where the output power is higher, usually in a range of tens of watts.¹⁹

Smart city:

A “smart city” is one that has developed technological infrastructure that enables it to collect, aggregate and analyze real-time data to improve the lives of its residents.²⁰

Internet of things (IoT):

The internet of things (IoT) is a computing concept that describes the idea of everyday physical objects being connected to the internet and able to identify themselves to other devices. The term is closely identified with RFID as the method of communication, although it also may include other sensor technologies, wireless technologies or QR codes.²¹

5G:

The term for emerging 5th generation wireless telecommunications standards usually associated with network speeds of 1 Gpbs or more.²²

Exabytes:

An exabyte is a unit of measurement that describes 10^{18} bytes or 1 billion gigabytes. This unit refers to such a large amount of data that it is typically used to express quantities of information transmitted over the internet in absolute terms.

Internet Service Providers:

An internet service provider (ISP) is a company that provides customers with Internet access. Data may be transmitted using several technologies, including dial-up, DSL, cable modem, wireless or dedicated high-speed interconnects. Typically, ISPs also provide their customers with the ability to communicate with one another by providing Internet email accounts, usually with numerous email addresses at the customer's discretion. Other services, such as telephone and television services, may be provided as well. The services and service combinations may be unique to each ISP.²³ Throughout the paper we use this term synonymously with the term carrier.

Infrastructure Developer:

Company or entity that invests in or builds out the basic physical and virtual systems of a community, including roads, utilities, internet and wireless networks, water, sewage, etc. These systems are considered essential for enabling productivity in the economy and require significant fiscal investments. Developers and investors can be from the public or the private sector.²⁴

Resources

National Association of Telecommunications Officers and Advisors: Wireless Facility Siting: Model Chapter Implementing Section 6409(a) and Wireless Facility Siting: Section 6409(a) Checklist — <https://www.natoa.org/documents/6409ModelOrdinance.pdf>

United States Department of Commerce Internet Policy Task Force and & Digital Economy Leadership Team: Fostering the Advancement of the Internet of Things

https://www.ntia.doc.gov/files/ntia/publications/iot_green_paper_01122017.pdf

BroadbandUSA: Broadband Glossary — https://www2.ntia.doc.gov/files/bbusha_broadband_glossary_161024.pdf

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¹ **Trends in Smart City Development.** (2016). National League of Cities. Access at: <http://www.nlc.org/sites/default/files/2017-01/Trends%20in%20Smart%20City%20Development.pdf>

² **Ericsson, Ericsson Mobility Report at 13** (Nov. 2016), <https://www.ericsson.com/assets/local/mobilityreport/documents/2016/ericsson-mobility-report-november-2016.pdf>.

³ **Trends in Smart City Development.** (2016). National League of Cities. Access at: <http://www.nlc.org/sites/default/files/2017-01/Trends%20in%20Smart%20City%20Development.pdf>

⁴ **Federal Communications Commission.** (2016). Public Notice: Comment Sought on Streamlining Deployment of Small Cell Infrastructure by Improving Wireless Citing Policies. Access at: https://apps.fcc.gov/edocs_public/attachmatch/DA-16-1427A1.pdf

⁵ **WIA** (2017). Enabling Wireless Networks Everywhere, Presentation.

⁶ See <https://www.nena.org/?page=911Statistics>.

⁷ **47 U.S.C. § 332(c)(7)(B)**

⁸ **Petition to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting**, WT-Docket No. 08-165 (11/18/09).

⁹ **47 U.S.C. § 1455(a)**

¹⁰ **Acceleration of Broadband Deployment by Improving Wireless Siting Policies**, WT Docket No. 13-238, 11-59, 13-32, (10/17/14)

¹¹ **Ibid.**

¹² **Federal Communications Commission.** (2018): Public Notice: FCC Speeds Access to Utility Poles to Promote Broadband, 5G Deployment. Access at

<https://www.fcc.gov/document/fcc-speeds-access-utility-poles-promote-broadband-5g-deployment-0>

¹³ \$750.00 (A.R.S. § 9-593(I)) and \$1000.00 (A.R.S. § 9-594(E)(3)).

¹⁴ \$50 per small cell (A.R.S. § 9-592(D)(4))

¹⁵ \$50 per pole (A.R.S. § 9-595).

¹⁶ The average small cell fee charged by Arizona cities in 2017 was \$3,530.00 per site, which included both the use of the pole and the use of the right-of-way for a small cell and associated ground equipment. (This amount was about 1/8 of the annual fees charged for macro sites). The legislation capped this fee at \$100.00 per site (\$50.00 for the use of the pole and \$50.00 for the use of the right-of-way.)

¹⁷ All antennas to be located inside an enclosure of up to 6 cubic feet in volume and the associated equipment to be up to 28 cubic feet in volume. A.R.S. § 9-591(19).

¹⁸ **47 C.F.R. § 1.40001(b)(2)**

¹⁹ <https://www.techopedia.com/definition/2950/macroc>

²⁰ **Trends in Smart City Development.** (2016). National League of Cities. Access at: <http://www.nlc.org/sites/default/files/2017-01/Trends%20in%20Smart%20City%20Development.pdf>

²¹ <https://www.techopedia.com/definition/28247/internet-of-things-iot>

²² https://www2.ntia.doc.gov/files/bbusha_broadband_glossary_161024.pdf

²³ <https://www.techopedia.com/definition/2510/internet-service-provider-isp>

²⁴ <http://www.investorwords.com/2464/infrastructure.html#ixzz5COh9N3rU>

About NLC

The National League of Cities (NLC) is the nation's oldest and largest organization devoted to strengthening and promoting cities as centers of opportunity, leadership, and governance. NLC is a resource and advocate for more than 1,600 member cities and the 49 state municipal leagues, representing 19,000 cities and towns and more than 218 million Americans.

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City of Topeka/Shawnee County Small Cell Wireless Facilities General Design & Aesthetic Guidelines



January 22, 2018

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Background and Purpose

These guidelines primarily apply to location requests for small cell wireless facilities within the public street right-of-way of the City of Topeka (“City” or “Topeka” or “COT”) and Shawnee County (“County” or “SC”) in order to maintain compatible, safe and visually appealing road corridors in the City and County.

The City of Topeka and Shawnee County will use these guidelines to accommodate an increase in the availability and quality of wireless broadband by wireless providers and wireless infrastructure companies to locate small cell facilities in the public right of way (ROW). These low-powered antennas provide cellular and data coverage to supplement the provider’s cellular network. New small cell towers will improve the provider’s ability to meet current and future cellular needs. These guidelines provide aesthetic requirements and specifications that all small cell towers installed within the public ROW must meet prior to installation in the City of Topeka and Shawnee County. That does not preclude these guidelines from being applied to small cells not installed within the public ROW even though that is their intent.

Kansas State Statute 66-2019 addresses the siting of wireless infrastructure and the placement of small cell facilities in public rights-of-way. The law is intended to promote the rapid deployment of small cell facility infrastructure within the right-of-way by ensuring that municipalities grant or deny permits to construct, modify, maintain, and operate wireless facilities in a timely manner and within reasonable parameters. The law recognizes the authority of a municipality to manage access to, and occupancy of, rights-of-ways to the extent necessary with regard to matters of local concern. This includes the protection of the integrity of residential and historic areas and ensures that the use of the rights-of-way in such districts is technologically and aesthetically appropriate.

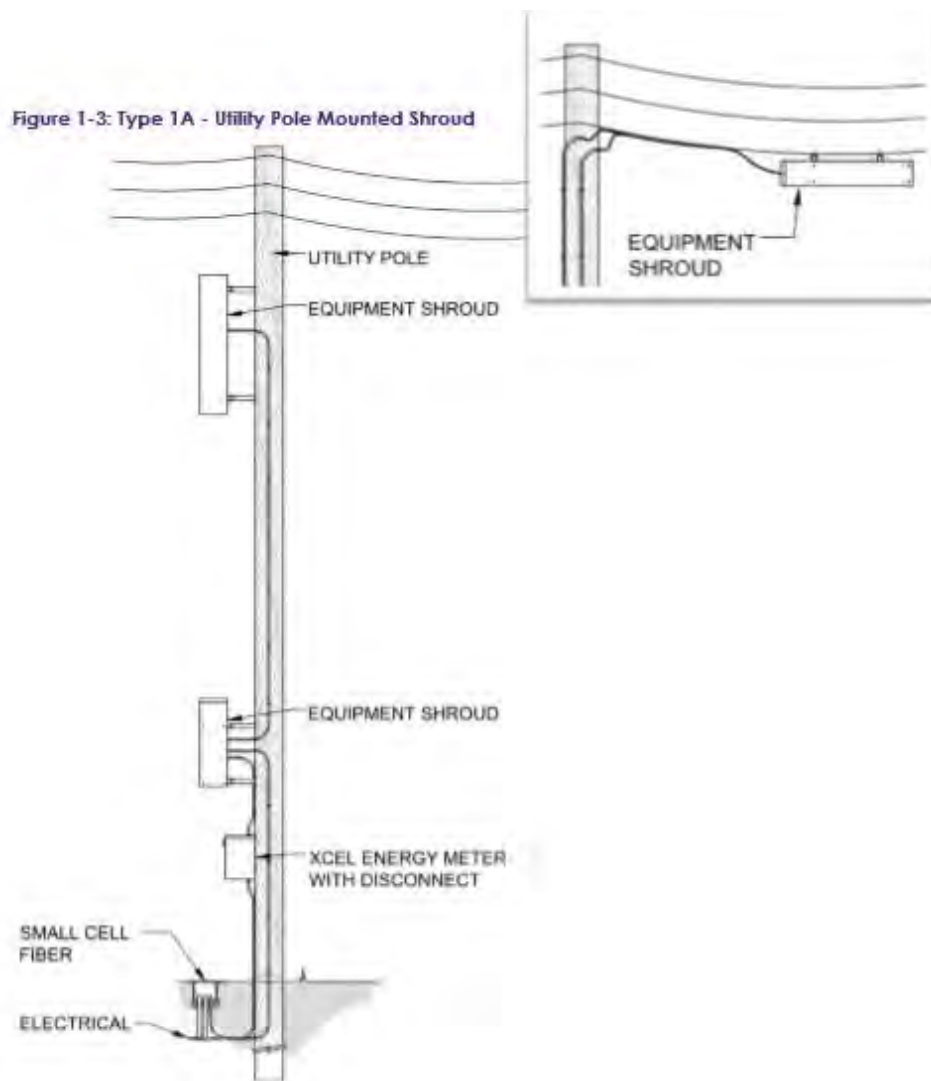
The purpose of the Small Cell Wireless Facilities General Design & Aesthetic Guidelines is to strike a balance between preserving the character of the City of Topeka and Shawnee County through careful design, siting, landscaping and dimensional standards to blend these facilities into their environment, while enhancing the ability of wireless communications carriers to deploy small cell facilities and wireless support structures in the City and County quickly, effectively, and efficiently so that residents, businesses, and visitors benefit from ubiquitous and robust wireless service availability. They are intended to allow sufficient flexibility to respond to and integrate future advances in small cell facilities technology as well as innovations that improve the ability for these facilities to integrate into the surrounding environment. Due to the rapid advances in wireless technology, the Small Cell Wireless Facilities General Design & Aesthetic Guidelines will be evaluated periodically to ensure that the provisions respond and adapt accordingly to these evolving technologies.

Small Cell Types

The FCC report and order¹ defined small cell antennas as three cubic feet or less and associated equipment as twenty-eight cubic feet or less. Height criteria for small cell structures include: (1) fifty (50) feet in height or less; (2) or structures that are no more than ten (10) percent higher than that of adjacent structures; or (3) does not extend existing structures upon which the equipment is located to a height of more than 50 feet or by more than 10% whichever is greater. There are four types of small cell types permitted within the City of Topeka and Shawnee County.

Type 1: Attachments to Utility Poles

A wireless or small cell facility is categorized as Type 1 when locating small cell attachments on existing utility poles or utility lines.

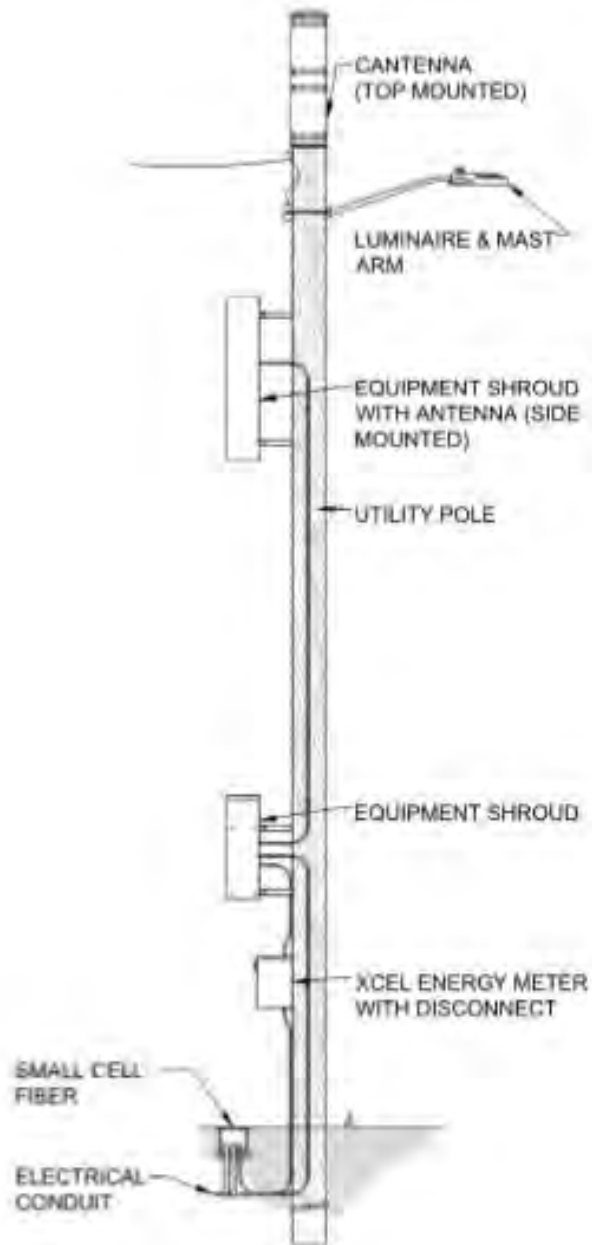


¹ <https://docs.fcc.gov/public/attachments/FCC-18-133A1.pdf>

Type 2: Small Cell on Existing Wooden Pole with Streetlight

A wireless or small cell facility is categorized as Type 2 when locating small cell equipment on existing wooden streetlights.

Figure 1-4: Type 2 - Attachment to Wooden Streetlight Pole



Type 3: Combination Small Cell and Streetlight

A wireless or small cell facility is categorized as Type 3 when replacing an existing streetlight pole with a combination small cell and streetlight pole.

Figure 1-5: Type 3A - Combination Pole with Antenna

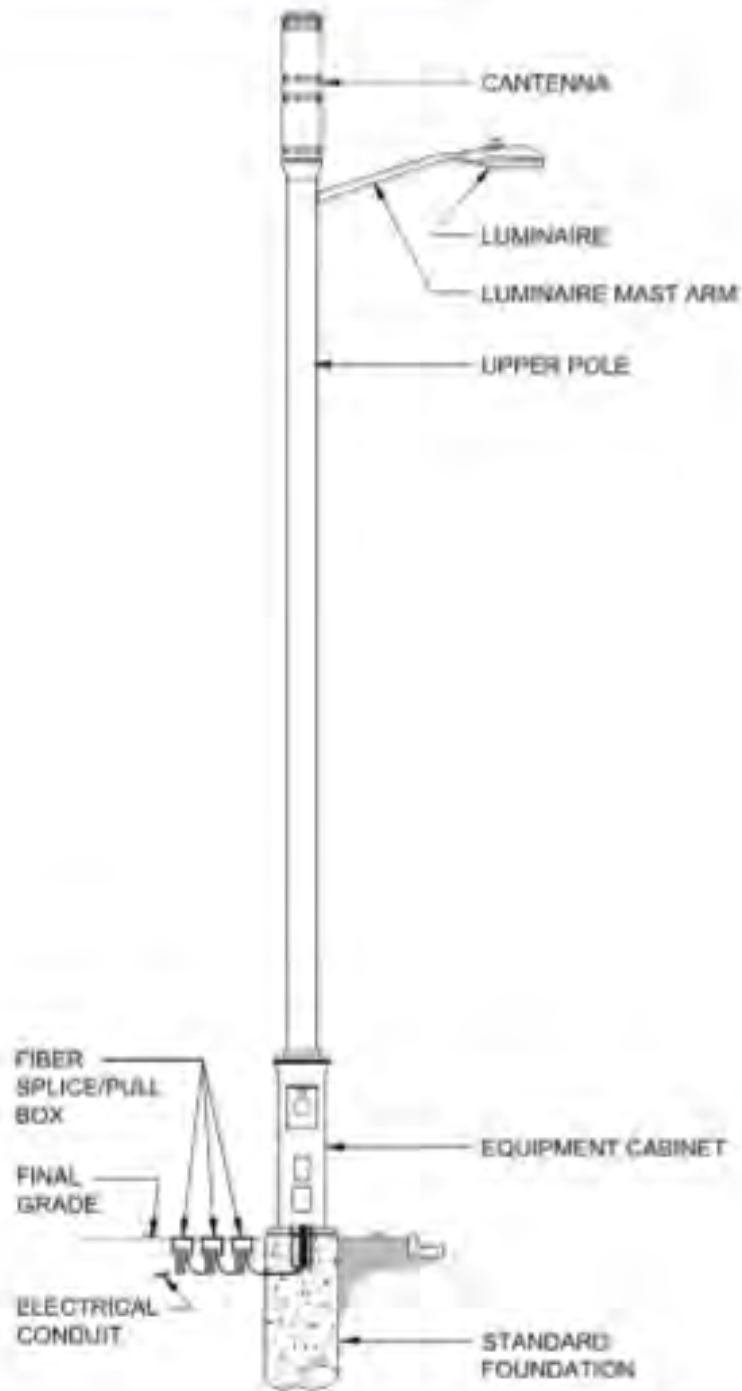


Figure 1-6: Type 38 - Combination Pole with Equipment Shroud

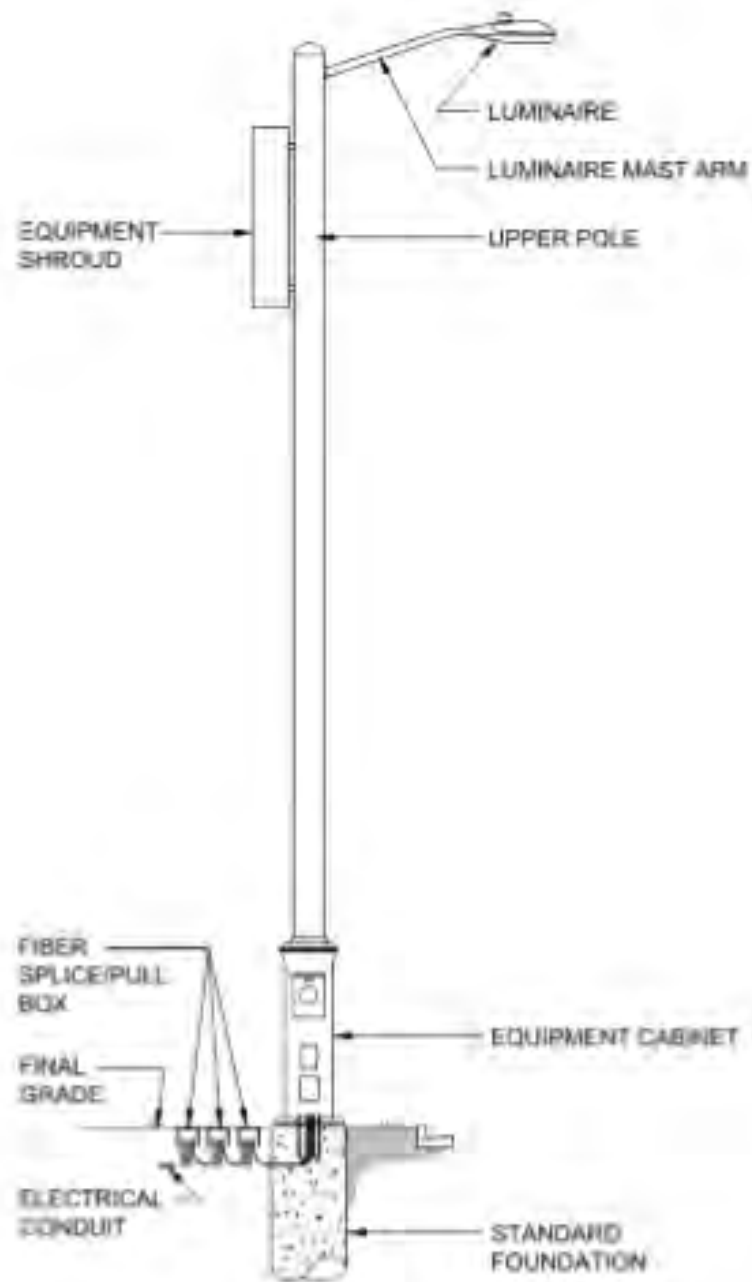
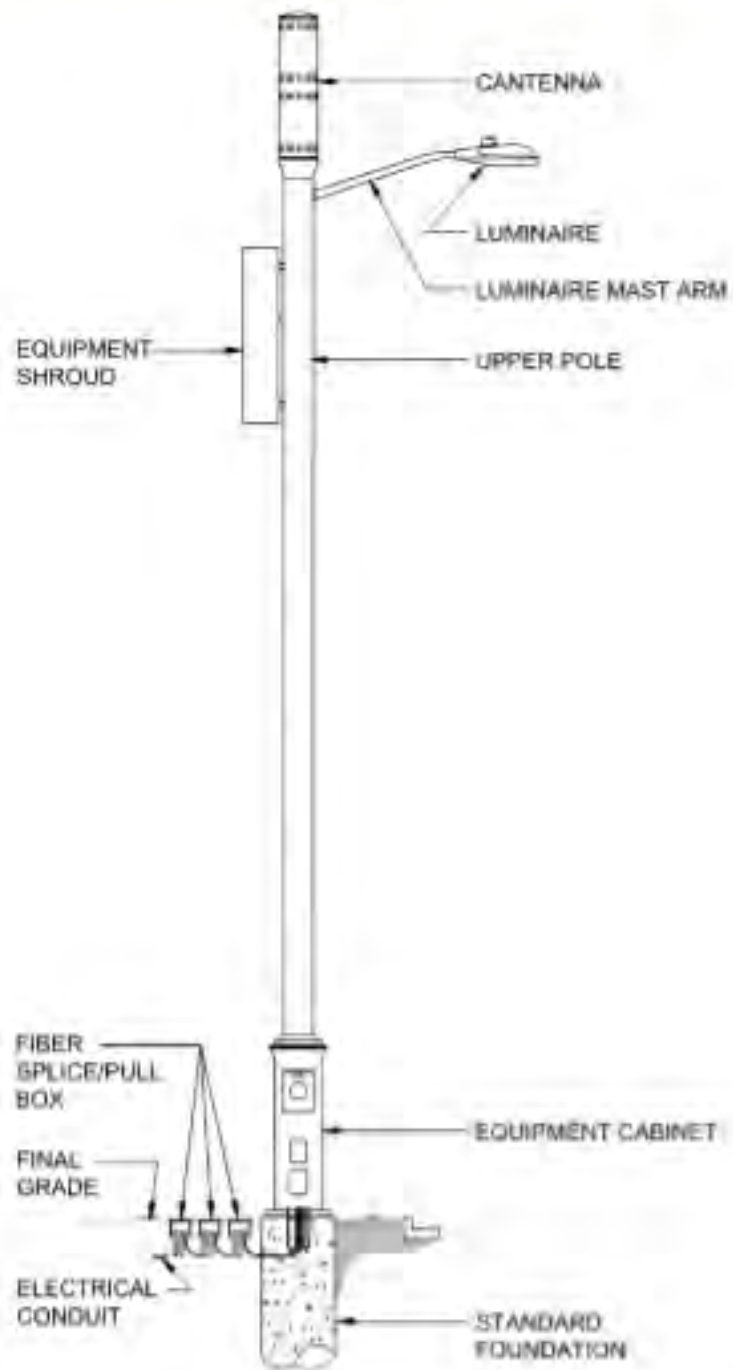


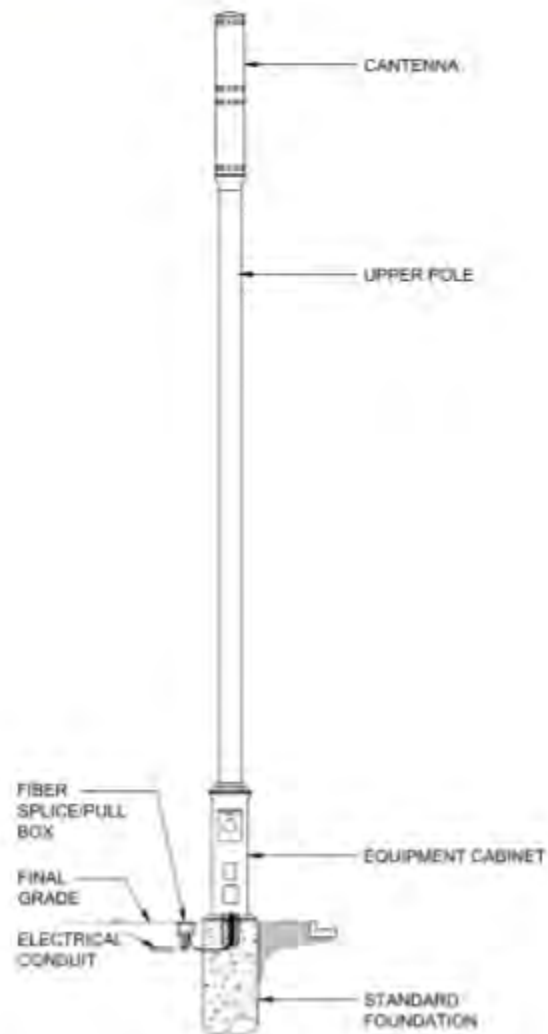
Figure 1-7: Type 3C - Combination Pole with Antenna and Equipment Shroud



Type 4: Freestanding Small Cell

A wireless or small cell facility is categorized as Type 4 when installing a freestanding small cell.

Figure 1-8: Type 4 - Freestanding Small Cell



General Design Guidelines

FCC Order 18-133 and K.S.A. 66-2019 outlines general guidelines that cities must adhere to when processing applications. In addition, the following **General Design Guidelines** provide direction to wireless communications carriers on the aesthetic specifications that all small cell facilities and wireless support structures must meet prior to installation in the City of Topeka and Shawnee County right-of-way. Additional guidance is provided for small cell wireless facilities located in areas designated under the **Context Specific Design Guidelines**.

All applications for small cell wireless infrastructure will be reviewed and decisions regarding applications shall be made in accordance with K.S.A. 66-2019, FCC standards outlined in FCC order 18-133, and local building/zoning/historic preservation regulatory processes. These applications will be processed in accordance with the FCC standards and the state statute in order to ensure uniformity across the state with respect to consideration of every application.

As part of the application process, every Network Provider shall sign a license agreement that addresses concerns related to the use of the right-of-way. This includes new poles, attachments on City poles, and attachments on third party poles.

The City or County must approve any small cell installations that deviate from these guidelines.

Performance Objective for All Requests

Network Providers shall consider the aesthetics of the existing streetlights and neighborhoods adjacent to proposed small cell locations prior to submitting an application to the City or County. New small cells shall match the existing streetlight aesthetics when installed in a district or neighborhood with unique streetlight assemblies. Unique assemblies may include mast arms, decorative pole bases, architectural luminaires, mounting heights, pole colors, etc.

Small Cell Facilities (Types 1-3)

Antennas

- Maximum Size
 - Each antenna shall be located entirely within a shroud enclosure of not more than six (6) cubic feet in volume.
 - The diameter of the antenna or antenna enclosure should not exceed the diameter of the top of the wireless support structure pole, and to the maximum extent practical, should appear as a seamless vertical extension of the pole.
 - In no case shall the maximum diameter of the shroud be wider than one and one half times the diameter of the top of the pole.

- Where maximum shroud diameter exceeds diameter of the top of the pole, the shroud shall be tapered to meet the top of the pole.
- Mounting Location
 - Unless otherwise required by the Context Specific Design Guidelines, all antenna shall be mounted to the top of the wireless support structure pole, aligned with the centerline of the structure.
- Design Specifications
 - Shape. Antennas shall be generally cylindrical in shape.
 - Enclosure. Antenna shall be completely housed within a cylindrical shroud that is capable of accepting paint to match the wireless support structure.
 - Color. Color for all antennas and shrouds shall match the color of the wireless support structure as prescribed in the Context Specific Design Guidelines.

Associated Small Cell Facilities and Equipment.

- Maximum Size
 - Exclusive of the antenna, all wireless equipment associated with the small cell facility shall not cumulatively exceed twenty-eight (28) cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.
- Encroachments Prohibited
 - No portion of a wireless support structure or small cell facility cabinet or enclosure may encroach at grade or within the airspace beyond the right-of-way or over the travel-way.
- Screening and Installation Location.
 - All small cell facilities, associated equipment and cabling shall be completely concealed from view within an enclosure, and may be installed in the following locations:
 - Within an equipment enclosure mounted to the wireless support structure;
 - Within an equipment cabinet integrated within the transformer base of a new wireless support structure; or
 - Within a ground-mounted cabinet physically independent from the wireless support structure.
- Color
 - Color for all small cell facilities and enclosures/cabinets attached to wireless support structures or integrated within the transformer base shall match the color of the associated wireless support structure as prescribed in the Context Specific Design Guidelines.
 - Color for all ground-mounted small cell facilities and cabinets shall be as prescribed in the Context Specific Design Guidelines.

Small Cell Facilities Mounted to Wireless Support Structures

- Minimum Mounting Height
 - All small cell facilities mounted to wireless support structures shall provide a minimum clearance of 10 feet above established grade.
- Maximum Permitted Protrusion of Enclosure from Wireless Support Structure Pole
 - Small cell equipment enclosures shall not protrude more than eighteen (18) inches beyond the face of the pole to the outermost portion of the enclosure.
 - Small cell equipment enclosures should be installed as flush to the wireless support structure pole as practical. In no case shall an enclosure be installed more than four inches from the wireless support structure pole.
- Required Enclosure Mounting Location.
 - All small cell facilities and equipment enclosures shall be mounted on the side of the pole opposite the direction of vehicular traffic of the adjacent roadway. Enclosures shall extend perpendicular from the pole and parallel to the right-of-way.
- Required Arrangement of Multiple Small Cell Facility Cabinets
 - All pole-mounted equipment must be installed as flush to the pole as possible. Where multiple enclosures are proposed on a wireless support structure pole, the enclosures shall be grouped as closely together as possible on the same side of the pole.
- Design Specifications
 - Size. Small cell equipment enclosures should be the smallest size practicable to house the necessary small cell facilities and equipment.
 - Small cell equipment enclosures shall be cylindrical or rectangular in shape, and should generally be no wider than the maximum outside diameter of the pole to which it is attached, to the maximum extent possible.
 - Attachment. The shroud enclosure shall be securely strapped to the wireless support structure pole using stainless steel banding straps. Through-bolting or use of lag bolts on publicly-owned wireless support structures is prohibited. New wireless support structures may utilize mounting brackets in accordance with the maximum horizontal offset requirements. Care should be taken to integrate the mounting hardware into the enclosure design.
 - Concealment of Gap. Metal flaps or “wings” shall extend from the enclosure to the pole to conceal any gap between the enclosures and the pole. The design of the flaps shall be integrated with the design of the enclosure.
 - Owner Identification. A four (4) inch by six (6) inch (maximum) plate with the Carrier’s name, location, identifying information, and emergency telephone number shall be permanently fixed to the enclosure on the side of the cabinet opposite the direction of vehicular traffic of the adjacent roadway.

Small Cell Facilities Cabinets Integrated within a Wireless Support Structure Transformer Base

- Transformer Base/Cabinet Size.
 - Equipment cabinets integrated into the support structure transformer base shall have a maximum height of five (5) feet with a total volume of twenty eight (28) cubic feet or less.

- The top of the cabinet shall have no flat horizontal surface greater than two (2) inches wide as measured outward from the pole to the edge of the cabinet to prevent objects from being placed on top the equipment cabinet.
- Siting Requirements
 - Small cell facilities shall comply with City of Topeka and Shawnee County regulations regarding sight distance triangles.
- Design Specifications.
 - Transition to Pole. A decorative transition or base cover shall be installed over the equipment cabinet upper bolts to match the equipment cabinet size and color.
 - Owner Identification. A four (4) inch by six (6) inch (maximum) plate with the Carrier's name, location, identifying information, and emergency telephone number shall be permanently fixed to the cabinet on the side of the cabinet opposite the direction of vehicular traffic of the adjacent roadway.
 - Attachment to Foundation. Transformer base/cabinet shall feature a breakaway design in the event of collisions.

Ground-Mounted Small Cell Facilities (Type 4)

- Siting Requirements
 - So as not to impede or impair public safety or the legal use of the right-of-way by the traveling public, in urban sections with curb and gutter, in no case shall a ground mounted small cell facility cabinet be located closer than four (4) feet from the travel-way, edge line, face of curb OR two (2) feet from a sidewalk, bike lane, or shared-use path as measured to the nearest part of the wireless support structure.
 - In rural sections with open ditches, a ground mounted small cell facility cabinet shall be located one (1) foot inside the right-of-way line.
 - Ground-mounted small cell facility cabinets shall be located a minimum of twelve (12) feet from any permanent object or existing lawful encroachment in the right-of-way to allow for access.
 - Ground-mounted small cell facility cabinets shall not be sited in conflict with required intersection sight distance triangles.
 - Ground-mounted small cell facility cabinet locations shall be located a minimum of twelve (12) feet from driveway aprons as measured parallel to the right-of-way.
 - Facilities shall be consistent with any applicable design standards of the Topeka/Shawnee County Complete Streets Design Guidelines
- Design Specifications
 - Attachment to Foundation/Slab: Cabinets must be secured to a concrete foundation or slab with a breakaway design in the event of collisions.
 - Owner Identification. A four (4) inch by six (6) inch (maximum) plate with the Carrier's name, location, identifying information, and emergency telephone number shall be permanently fixed to the cabinet.
- Additional Landscape Screening

- Screening of small cell facility cabinets with a variety of plant material may be required based on the characteristics of the surrounding area.
- All proposed ground mounted equipment cabinets shall be reviewed for determination of applicability of the landscape screening requirement based on the surrounding context, and where required, for appropriateness of the proposed planting plan and plant specifications.

Power Supply and Fiber Optic Connections (All Request Types)

- Independent Power and Communication Sources Required
 - Small cell facilities located on City and County owned wireless support structures shall not use the same power or communication source providing power and/or communication for the existing facility original to the purposes of the support structure. The independent power source must be contained within a separate conduit inside the support structure. The applicant shall coordinate, establish, maintain and pay for all power and communication connections with private utilities.
- Utility Undergrounding Required
 - All service lines from the power source to the small cell facilities and wireless support structure shall be located underground.
- Wiring, Cables and Conduit Requirements
 - All wiring and cables must be housed within the steel support structure or pole and extended vertically within a flexible conduit.
 - Spools and/or coils of excess fiber optic or coaxial cables or any other wires shall not be stored on the pole except completely within the approved enclosures or cabinets.
 - Exposed wires, cables, connections and external conduit are prohibited.

Removal of Small Cell Facilities and Wireless Support Structures

Remediation of City and County Owned Support Structures

- All City and County owned support structures must be returned to an equal or better state, upon removal of small cell facilities. All mounting hardware and equipment must be removed from the site. All holes left in the pole must be neatly sealed from any moisture intrusion and painted to match the pole.
- Applicant shall restore all areas of the right-of-way impacted by the small cell facilities and/or wireless support structure installation and/or removal to equal or better condition.

Other Small Cell Facilities Prohibitions.

- Lighting
 - Lighting associated with small cell facilities is prohibited. Any internal lights associated with electronic equipment shall be shielded from public view.
- Signage
 - Signage is prohibited on all small cell facilities and wireless support structures, including stickers, logos, text, and other non-essential graphics and information other than the owner identification unless required by FCC.
- Prohibited Wireless Facilities
 - Microwave, macro towers, and other wireless backhaul facilities are not permitted within the right-of-way.

Spacing

Blockface Length Intervals¹	Number of Small Cell Facilities Permitted per Blockface² Outside the Downtown and Historic Districts	Number of Small Cell Facilities Permitted per Blockface within the Downtown and Historic Districts	Minimum Distance between Facilities on the Same Blockface³	Minimum Distance between Facilities on same Blockface within the Downtown and Historic Districts	Limit per Carrier per Block⁴
0'-150'	1	1	N/A	N/A	1
151'-300'	2	1	60'	60'	1
301'-450'	3	2	60'	75'	1
451'-600'	4	3	60'	90'	1
601'-750'	5	4	60'	105'	2
Over 750'	6	5	60'	120'	2

¹ Block lengths should be measured along the edge of curb between the edge lines extended of adjacent intersecting streets.

² This is inclusive of all types of installations and regardless of carrier.

³ In other words, the minimum distance between two facilities sharing the same side of the block. Distance should be measured in a linear fashion along the edge of curb between the two facilities' center points.

⁴ A block is defined as two opposing blockfaces.

Context Specific Design Guidelines

The design and character of the right-of-way in the City of Topeka and Shawnee County is defined by a variety of interconnected factors—the most prevalent are the functional classification of the roadway within the right-of-way and the predominant land uses along the right-of-way. These variables influence the amount of space available in the right-of-way outside of the travel lanes for elements such as sidewalks and shared use paths, street trees, street lights and utility infrastructure, as well as the aesthetic qualities of these elements.

The unique environmental aesthetics of each area, as well as the characteristics of the right-of-way itself must be taken into consideration in the deployment of small cell facilities and wireless support structures. These facilities must blend seamlessly into the surrounding context to the maximum extent possible.

For the purposes of outlining context specific small cell facilities and wireless support structures design guidelines, districts have been defined based on the unique existing and desired character of the rights-of-way within these areas. These districts are:

- Historic Districts
- Downtown
- Mixed Use Districts
- Residential Districts
- Parks

Each small cell unit design should align with preexisting design guidelines for these districts. In addition to the aforementioned General Design Guidelines, the following Context Specific Guidelines must be met. Where conflicts exist between the guidelines, the Context Specific Guideline shall prevail.

Historic Districts/Downtown/Mixed Use Districts

Installation Type Preferences

- The most preferred installation type in Historic Districts is a collocation of an antenna and associated small cell facilities on an existing privately owned utility pole within side street or alley rights-of-way.
- The second most preferred installation type in Historic Districts is a collocation of an antenna on an existing privately owned utility pole with small cell facilities enclosed in a ground mounted cabinet within side street and alley rights-of-way.
- Existing decorative light poles in Historic Districts are not permitted for collocations of small cell facilities due to the design aesthetics, height, and structural capacity of these fixtures.

- The least preferred installation type in a Historic District is a new wireless support structure with small cell facilities within the highly visible ‘front door’ rights-of-way of Historic Districts, including but not limited to, Kansas Avenue.

Installation Details and Specifications

- New wireless support structures should be sited in alignment with other existing poles on the same side of the right-of-way, and aligned as close as practicable with adjacent side property lines, or with shared wall locations in adjacent multi-tenant structures
- In no case shall a wireless support structure be sited directly in front of an adjacent building entrance or storefront.
- Special care should be taken to avoid siting wireless support structures in conflict with business signs.
- New wireless support structures and antennas should be no taller than functionally necessary, and coordinate with the height of existing poles in the same right-of-way to the maximum extent practicable.
- Color for the new wireless support structures, antenna shrouds, pole mounted equipment, and equipment cabinets within a transformer base shall match the color of the decorative light poles and be of a black powder coated finish as approved by the City Engineer.

Ground Mounted Small Cell Equipment Details and Specifications

- The maximum permitted height for ground mounted equipment cabinets shall not exceed three (3) feet as measured from established grade at the foundation/pad without approved concealment measures.
- Color for all ground mounted equipment cabinets shall match pole color or as approved by the City Engineer.

Additional Guidelines

- As a condition for approval of Small Cell Facilities on Decorative Poles or in a Historic District, the City and County shall require reasonable design or Concealment measures such as camouflage to minimize the impact on aesthetics in a Historic District.
- Network provider shall comply with and observe all applicable City, County, State, and Federal historic preservation laws and requirements.
- Small Cell Wireless facilities are prohibited from being within 50 feet of the property boundary of a historic site or structure or Historic Landmark recognized by the City, County, State, or Federal government.

Residential Districts/Parks

Siting Preferences

- Streets lights and other potential support structures are typically not present within the rights-of-way of local residential streets or parks. The addition of small cell facilities and wireless support structures in front of residences and parks would be detrimental to the aesthetic character of the neighborhood, particularly in areas where no other similar infrastructure exists within the rights-of-way.
- Arterial and Collector Streets are the most preferred location for small cell facilities and wireless support structures. To the maximum extent possible, proposed small cell facilities and wireless support structures should only be sited in areas of these rights-of-way where parks do not front the right-of-way.

Installation Type Preferences

- The most preferred installation type in residential districts and parks are collocations of an antenna and associated small cell facilities on existing street light poles or privately owned utility poles within the right-of-way.
- The second most preferred installation type in residential districts and parks is a collocation of an antenna on existing street light poles or existing privately owned utility pole with small cell facilities enclosed in a ground mounted cabinet within the right-of-way.
- The least preferred installation type in residential districts and parks are new wireless support structures with small cell facilities not camouflaged.

Installation Details and Specifications

- New wireless support structures should be sited as close as practicable in alignment with adjacent side or rear property lines perpendicular to the right-of-way, or with shared wall locations in adjacent multi-tenant structures such as townhomes or condominiums.
- Color for new wireless support structures, antenna shrouds, pole mounted equipment, and equipment cabinets within a transformer base shall match the color of the existing street light or traffic light poles in the area as approved by the City Engineer.

Ground Mounted Small Cell Equipment Details and Specifications

- The maximum permitted height for ground mounted equipment cabinets shall not exceed three (3) feet as measured from established grade at the foundation/pad to the top of the cabinet without approved concealment measures.
- Ground mounted equipment cabinets may only be sited within amenity zones where required setbacks from the travelway and sidewalks and multi-use paths can be met.

- Color for all ground mounted equipment cabinets shall match the existing or proposed wireless support structure as approved by the City Engineer.
- A network provider shall not install a type 4 small cell facility in a public right-of-way within a park unless camouflaged or consented to by the park land owner.
- A network provider installing a network node in a public right-of-way described above shall comply with any private deed restrictions and other private restrictions in the area that apply to those facilities.

Glossary of Terms

Term	Definition
5G	The term for emerging 5th generation wireless telecommunications standards usually associated with network speeds of 1 Gbps or more
Accessory equipment	Means any equipment serving or being used in conjunction with a wireless facility or wireless support structure including, but not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.
Antenna	Means communications equipment that transmits or receives electromagnetic radio signals used in the provision of wireless services.
applicant	Means any person or entity that is engaged in the business of providing wireless services or the wireless infrastructure required for wireless services and that submits an application.
application	Means a request submitted by an applicant to an authority for: (A) The construction of a new wireless support structure or new wireless facility; (B) the substantial modification of a wireless support structure or wireless facility; or (C) collocation of a wireless facility or replacement of a wireless facility.
Authority	Means any governing body, board, agency, office or commission of a city, county or the state that is authorized by law to make legislative, quasi-judicial or administrative decisions concerning an application. "Authority" shall not include any school district as defined in K.S.A. 72-6486, and amendments thereto, or any court having jurisdiction over land use, planning, zoning or other decisions made by an authority.
Base Station	Means a station that includes a structure that currently supports or houses an antenna, transceiver, coaxial cables, power cables or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics. "Base station" does not mean a tower or equipment associated with a tower and does not include any structure that, at the time the relevant application is filed with the authority, does not support or house equipment described in this paragraph.
Collocation	Means the mounting or installation of wireless facilities on a building, structure, wireless support structure, tower, utility pole, base station or existing structure for the purposes of transmitting or receiving radio frequency signals for communication purposes.
Distributed antenna system	Means a network that distributes radio frequency signals and consisting of: (A) Remote communications or antenna nodes deployed throughout a desired coverage area, each including at least one antenna for transmission and reception; (B) a high capacity signal transport medium that is connected to a central communications hub site; and (C) radio transceivers located at the hub's site to process or control the communications signals transmitted and received through the antennas to provide wireless or mobile service within a geographic area or structure.

Downtown	Any area of right-of-way within or adjacent to D-1/D-2/D-3 Downtown zoning districts OR classified “Downtown” in the City’s <u>Land Use and Growth Management Plan</u> .
Existing Structure	Means a structure that exists at the time an application to collocate wireless facilities on a structure is filed with an authority. The term includes any structure that is currently supporting or designed to support the attachment of wireless facilities, including, but not limited to, towers, buildings and water towers.
Ground Mounted Equipment	This type of equipment sits at ground level, such as along sidewalks. It is distinct from equipment mounted on existing infrastructure such as telephone poles or buildings. This equipment is similar to traffic control or telephone equipment cabinets.
Infrastructure Developer	Company or entity that invests in or builds out the basic physical and virtual systems of a community, including roads, utilities, internet and wireless networks, water, sewage, etc. These systems are considered essential for enabling productivity in the economy and require significant fiscal investments. Developers and investors can be from the public or the private sector.
Internet Service Providers	An internet service provider (ISP) is a company that provides customers with Internet access. Data may be transmitted using several technologies, including dial-up, DSL, cable modem, wireless or dedicated high-speed interconnects. Typically, ISPs also provide their customers with the ability to communicate with one another by providing Internet email accounts, usually with numerous email addresses at the customer’s discretion. Other services, such as telephone and television services, may be provided as well. The services and service combinations may be unique to each ISP
Mixed Use District	Any area of right-of-way within or adjacent to X-1/X-2/X-3 Mixed Use zoning districts OR classified “Mixed Use” in the City’s <u>Land Use and Growth Management Plan</u> .
Public lands, buildings, and facilities	Does not include any real property, structures or facilities under the ownership, control or jurisdiction of the secretary of transportation.
Public right-of-way	Means only the area of real property in which the authority has a dedicated or acquired right-of-way interest in the real property. It shall include the area on, below or above the present and future streets, alleys, avenues, roads, highways, parkways or boulevards dedicated or acquired as right-of-way. "Public right-of-way" does not include any state, federal or interstate highway right-of-way, which generally includes the area that runs contiguous to, parallel with, and is generally equidistant from the center of that portion of the highway improved, designed or ordinarily used for public travel.
Replacement	Includes constructing a new wireless support structure of comparable proportions and of comparable height or such other height that would not constitute a substantial modification to an existing structure in order to support wireless facilities or to accommodate collocation and includes the associated removal of the pre-existing wireless facilities, if any, or wireless support structure.
Residential Districts	Any area of right-of-way within R-1/R-2 Single Family Residential zoning districts

Search Ring	Means a shape drawn on a map to indicate the general area within which a wireless services support structure should be located to meet radio frequency engineering requirements, taking into account other factors, including topography and the demographics of the service area.
Small Cell Facilities	Means a wireless facility that meets both of the following qualifications: (A) Each antenna is located inside an enclosure of no more than six cubic feet in volume, or in the case of an antenna that has exposed elements, the antenna and all of the antenna's exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and (B) primary equipment enclosures that are no larger than 17 cubic feet in volume, or facilities comprised of such higher limits as the federal communications commission has excluded from review pursuant to 54 U.S.C. § 306108. Associated equipment may be located outside the primary equipment, and if so located, is not to be included in the calculation of equipment volume. Associated equipment includes, but is not limited to, any electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, cut-off switch and vertical cable runs for the connection of power and other services.
Small Cell Network	Means a collection of interrelated small cell facilities designed to deliver wireless service.
Substantial Modification	Means a proposed modification to an existing wireless support structure or base station that will substantially change the physical dimensions of the wireless support structure or base station under the objective standard for substantial change, established by the federal communications commission pursuant to 47 C.F.R. 1.40001.
Transmission Equipment	Means equipment that facilitates transmission for a wireless service licensed or authorized by the federal communications commission including, but not limited to, radio transceivers, antennas, coaxial or fiber optic cable and regular and backup power supply. "Transmission equipment" includes equipment associated with wireless services including, but not limited to, private, broadcast and public safety services such as wireless local area network services, and services utilizing a set of specifications developed by the institute of electrical and electronics engineers for interface between a wireless client and a base station or between two wireless clients, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul.
Utility Pole	Means a structure owned or operated by a public utility as defined in K.S.A. 66-104, and amendments thereto, a municipality as defined in K.S.A. 75-6102, and amendments thereto, or an electric cooperative as defined in K.S.A. 2018 Supp. 17-4652, and amendments thereto, that is designed specifically for and used to carry lines, cables or wires for telecommunications, cable, electricity or to provide lighting
Water Tower	Means a water storage tank or a standpipe, or an elevated tank situated on a support structure that was originally constructed for use as a reservoir or facility to store or deliver water.
Wireless facility	Means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including, but not limited to:

	<p>(A) Equipment associated with wireless services such as private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul; and</p> <p>(B) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies and comparable equipment, regardless of technological configuration. Does not mean any wired connections from a wireless support structure or base station to a hub or switching location.</p>
Wireless infrastructure provider	Means any person that builds or installs transmission equipment, wireless facilities or wireless support structures, but that is not a wireless services provider.
Wireless services	Means "personal wireless services" and "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities or any fixed or mobile wireless services provided using wireless facilities.
Wireless services provider	Means a provider of wireless services.
Wireless support structure	Means a freestanding structure, such as a monopole, guyed or self-supporting tower or other suitable existing or alternative structure designed to support or capable of supporting wireless facilities. "Wireless support structure" shall not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service