



CITY OF  
**TOPEKA**

**A G E N D A**

## **TOPEKA PLANNING COMMISSION**

MONDAY, NOVEMBER 18, 2019  
6:00P.M.

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

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

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

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



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

# HEARING PROCEDURES

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

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

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

## Members of the Topeka Planning Commission

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

## Topeka Planning Staff

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

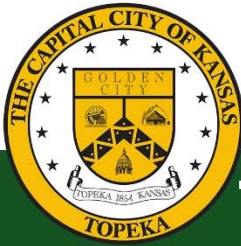


CITY OF  
**TOPEKA**

## **TOPEKA PLANNING COMMISSION**

**Agenda for Monday, November 18, 2019**

- A. Roll call**
- B. Approval of minutes – September 16, 2019**
- C. Declaration of conflict of interest/ex parte communications by members of the commission or staff**
- D. Public Hearings**
  - 1. Z19/08 by: Shamrock Valley Ventures, LLC** requesting to amend the district zoning map on property located at 921 SW 10th Avenue from O&I-2 Office and Institutional District to M-2 Multiple Family Dwelling District to provide for use of the property for one or more residential dwellings, including either a duplex or triplex. (Driver)
- E. Presentations**
  - 1. Land Use and Growth Management (LUGMP) 2040 Review** (Dan Warner)
  - 2. Development & Growth Management (DGM) Report** (Bill Fiander)
- F. Communications to the Commission**
- G. Adjournment**



CITY OF  
**TOPEKA**

**MINUTES**

## **TOPEKA PLANNING COMMISSION**

**Monday, September 16, 2019**

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

**Members present:** Katrina Ringler (Chair), Corey Dehn, Carole Jordan, Wiley Kannarr, Corliss Lawson, Ariane Messina (6)

**Members Absent:** Matt Werner, Brian Armstrong, Marc Fried (3)

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

**Roll Call** – Chairperson Katrina Ringler called the meeting to order with 6 members present for a quorum.

### **Approval of Minutes from August 19, 2019**

Motion by Mr. Kannarr to approve; **second** by Mr. Dehn. **APPROVED** (6/0/0)

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

Mr. Dehn explained that someone contacted him by phone about PUD19/02, but it was before he received his agenda packet and the caller was asking about process rather than content of the case.

**Public Hearing of Z19/07 by: Milk & Honey Coffee Company, LLC** requesting to amend the District Zoning Map on property located at 2200 SE 29th Street from O&I-2 Office and Institutional District to C-2 Commercial District to allow a coffee shop with drive-through service.

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

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

The applicants came forward to speak. Darlene Morgan provided some personal information about why she wants to open the coffee shop, and also stated that she has experience owning/operating small retail business. Co-owner Chris Hartman provided information about his background, stating he was CFO for Family Service & Guidance Center so has financial experience. Their dream is to provide a safe, welcoming place and perhaps encourage others to open businesses in East Topeka. Ms. Morgan stated that one person had been opposed to the re-zoning, but the person had since withdrawn his objections via an email to Ms. Driver. The email was provided as a handout to commissioners.

Ms. Jordan asked how long the building in question has been vacant and Mr. Hartman explained it's been approximately 2.5 years.

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

Mr. Dehn commented that he thought it was a good location for a coffee shop close to both residential and commercial, and it's good to see new businesses opening on the east side of town.

**DRAFT FOR APPROVAL**

Ms. Messina stated she has no concerns.

Ms. Ringler noted that although the Planning Commission is tasked with looking at requests with the long-term impact in mind, she feels that staff has addressed any concerns she might have by addressing the potential need to permit, provide site location buffering, etc.

Ms. Morgan stepped forward and noted that she and her partner are purchasing the building in hopes of having some sort of control over what might go in there if the business were to fail.

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

**APPROVAL** (6-0-0)

**Public Hearing of PUD19/03 Wanamaker West Development PUD by: Cook, NT & Flatt, DW & Strobel, Kenneth E Trust d/b/a CF&S PR**, requesting to amend the District Zoning Map for the subject property located at 6017 SW 30th Terrace from C-2 Commercial District and O&I2 Office and Institutional District **all to** PUD Planned Unit Development District (C-2 Commercial Use Group, with other specific uses limited to Self-Storage Type(s) I & II and Building, Construction, & Mechanical Contractors Office.)

Mr. Neunuebel presented the staff report and staff recommendation for approval.

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

Kevin Holland with Cook, Flatt & Strobel Engineers came forward representing the applicant. He noted that the piece of property has been for sale for some time. The owner is hoping to make it more usable by changing the zoning, and also notes that with the addition of the Club Carwash, there is now more traffic in the area. Mr. Holland noted that the "view" to the north is the back side of Hyvee and to the east is a car wash, so putting an office environment there likely isn't a good investment. The owners have worked with Kansas Commercial to determine how to make the property more marketable.

With no questions from commissioners, Ms. Ringler **opened the floor for public comment**. With nobody coming forward to speak, Ms. Ringler declared the **public comment period closed**.

Mr. Kannarr stated that he lives relatively close to the site and the proposed use seems accurate given the site location and its limitations. Mr. Dehn and Ms. Lawson both agreed that being right behind Hyvee with a site line to the back of the 2 story building is a challenge, and Ms. Messina noted the lack of frontage on a busy street.

**Motion** by Ms. Lawson to recommend to the Governing Body approval of the PUD Master Plan along with conditions listed in the Staff Report; **second** by Ms. Jordan. **APPROVAL** (6/0/0)

**PUD19/02 Sports Zone PUD by: T&J Land Co. LLC**, requesting to amend the District Zoning Map from R-1 Single Family Dwelling District with an existing Conditional Use Permit for "Outdoor Recreation Fields, Retail Sales, and Food Service" and existing Special Use Permits for "Private Membership Club with Golf Courses" and "Community Building with Alcohol Sales" **all to** PUD Planned Unit Development (I-1 Uses) on a 23 acre property located at 3907 and 3909 SW Burlingame Road.

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

Kevin Holland of Cook, Flatt & Strobel Engineers came forward representing the applicant. Mr. Holland provided some history on the property, stating that the owners had initially purchased it and built the SportZone when their children were young and participating in sports. He stated that approximately 250,000 people visit the complex each year. The owners wish to re-zone the property to expand the potential use and make it easier to sell if in fact they decide to do so at some point in the future. The rezoning will provide them with flexibility. They have broken the property down into three tracts that could potentially be sold

separately. Later it was noted that in order to do this, the property would need to be platted. The owners are aware of this.

Mr. Holland noted that the property to the west is not included in the PUD because most of it is in a flood zone and there's not a lot that can be done back there.

Mr. Holland noted that proposed uses have changed several times based on discussions with staff. He also noted that the road that makes up the north entrance is privately owned and maintained.

Ms. Ringer asked if there is an entrance/driveway directly into Tract C. Mr. Holland stated that there is not, but there could be. Currently it is a "field entrance" – he doesn't think it's an improved entrance.

Mr. Dehn asked if the three tracts could be sold separately. It was agreed that the land would need to be platted for this to happen. Zoning wouldn't change with the re-plat.

Ms. Ringler **opened the floor for public comment.**

**Margaret Masilionis** of 3901 SW Burlingame Road came forward to speak in opposition of the proposal. Ms. Masilionis expressed concerns about the Neighborhood Information Meeting, stating that there was no formal presentation. She asked questions about what was planned and was told there is no specific plan; she doesn't understand that and what might happen with the property concerns her. Ms. Masilionis stated that she submitted a letter to Ms. Driver on September 5. That letter was included as part of the agenda packet.

Ms. Masilionis talked about the traffic issues. There used to be a stop sign coming out of SportsZone just before cars crossed their frontage road but that has been replaced with a yield sign. This has made it more difficult for the people who live on the frontage road to get onto Burlingame when there is a lot of traffic coming and going on the site.

Ultimately, Ms. Masilionis is concerned about what will happen on the site as a result of the change, expressing concern about health and safety, as well as property values of the homes.

**John Palma** of 3905 SW Burlingame Road came forward to speak in opposition of the proposal. Mr. Palma spoke to the large amount of traffic generated by the SportsZone and the difficulty he has getting in and out of his property during events/high traffic times. He stated that the city required there be an entry to the south of the filling station, but it's not marked (no signage) and most people don't seem to know that it's an entry/exit for SportsZone. He said that there's a lot of truck traffic (semi/tractor trailer) using the north entrance, partly to service SportsZone, but mostly because there's a commercial driving school on the property. He stated that trucks are supposed to be prohibited from using that entrance. He said the church also uses the entrance right by his house, and they have even created a road from its parking lot to the SportsZone parking lot, increasing even more the number of people who use that entrance. He doesn't think that road was created with any approval from the city.

Mr. Palma stated he doesn't understand why the zoning needs to be changed if there are no current plans to use the property differently. He said they try to get along with the property owners and have tried to overlook the traffic problems, but worries that changing the zoning will simply justify the activity that is currently taking place even though it's not technically allowed.

**Julie Palma Ireland** came forward to speak in opposition of the proposal, explaining that she is Mr. Palma's daughter. Ms. Ireland pointed to the staff report condition #2 which recommends a note stating "access openings along SW Burlingame Road are existing for the existing uses only." She is concerned that the applicant is currently using the property for things not described or allowed, specifically White Line Commercial Driver License (CDL) Training, the address of which, when Googled, shows as 3907 SW Burlingame Road. She stated that the trucks are going in and out "all the time" and there's always at least

one truck parked right at the back property line of the residences. There's a sign there that says "Commercial Truck Parking". Ms. Palma stated there's a CDL renewal facility there. [when googled, it shows 3907 SW Burlingame Road as a Topeka CDL Test Drive location]. She stated that commercial trucks are not supposed to be using the north entryway, noting along with John Palma that the road is only 50' wide. Ms. Ireland stated that existing uses of the property (north entrance) include not only traffic from the Sportzone, but also the CDL driving school/test center, a dance school, a daycare, and the church. She noted the applicant stated that they have 250k people a year just at the SportZone, and most are using that one north entrance. Mr. Palma spoke to the difficulty of trying to exit his house on the frontage road and look not only for people who are exiting from the SportZone property, but also for cars which are turning in off Burlingame.

Ms. Ringler asked if there are signs stating no semis are allowed to use the north entrance, and Mr. Palma stated there are not.

**Robert Masilionis** of 5808 SW 26<sup>th</sup> Street came forward to speak in opposition of the proposal. Mr. Masilionis stated he is president of the Foster Cemetery at 3949 SW Burlingame Road and represents the cemetery board. He is concerned that there is no specific plan, he is concerned about traffic, and he is concerned about maintaining the peacefulness and safety of the cemetery. He spoke about the difficulty of turning off the frontage road to exit onto Burlingame. He suggested perhaps having one way in and another way out.

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

Ms. Ringler stated her understanding of the request is to open up potential possibilities for marketability in case the owners wish to sell the property in the future. Mr. Hall confirmed this and stated that changes to potential uses have taken place based on conversations between staff and the applicant. Mr. Hall stated that the applicant doesn't know what they're going to do with the property. While the city would prefer to have an idea of what's going to take place on the property, it's not required and a general zoning change allows for a wide range of potential uses. A PUD narrows down the potential uses.

Mr. Dehn asked if the driving school and daycare are allowed uses under the current zoning or covered by Conditional or Special Use Permits currently in place. Mr. Hall stated he's not certain; the driving school would be covered under the requested zoning, but that doesn't automatically accommodate truck traffic on the north entrance.

Ms. Ringler noted that the staff recommendations do not include allowing truck traffic on the north entrance; Mr. Hall noted that if the zoning were approved and trucks wanted to use that entrance, it would need to be approved and the City might require a traffic study. Mr. Hall noted that another entrance does exist – that being the one to the south.

Mr. Dehn asked if trucks would still be allowed in the parking lot and Mr. Hall stated he believed they would.

Mr. Kannarr asked if the same restrictions on trucks apply to buses, noting that with the sports complex he would anticipate a lot of bus traffic. Mr. Hall stated he's not certain but he doesn't think buses are restricted.

Mr. Holland returned to the podium and explained that over the years, delivery trucks bringing supplies have been necessary and he doesn't foresee a change in that. He also noted that some truck traffic is due to fields and trails that are located in the floodway. Ms. Ringler pointed to staff condition #2 which specifically prohibits semis. Mr. Holland stated he believes that wasn't referring to truck traffic at the current level but rather if it increases due to a change in use. He stated that the applicant doesn't believe there is significant truck traffic. Ms. Messina asked Mr. Holland what he determines to be "light" truck traffic and he stated perhaps 4 trucks a week. Tom Schmidlein, one of the owners, came forward to speak. He stated it's difficult for him to know which trucks are using the north vs. the south entrance. He explained that they added the

south entrance to assist with traffic flow and people, especially those using the fields to the rear of the property, have learned to use that because it's generally faster. He said that trucks are and always have been allowed to use the north entrance. Ms. Ringler asked if he's aware of condition #2 and he said he's not opposed to putting up a "no truck" sign. He said he's unable to protect the homeowners from traffic turning into the facility from Burlingame as it's an unmarked intersection.

Mr. Dehn asked if the SportZone is still in operation and Mr. Holland stated it is and there are no plans to change that.

Mr. Palma asked to speak again and stated that the south entrance is so obscure that people don't know to use it. He believes a sign would help.

Mr. Fiander explained that when Planning gets an application and staff sees there's an existing use that may not be conforming to the existing zoning, staff allows that use to continue if the applicant is applying for zoning that would allow it. He asked Planning staff if the current uses would be allowed under the proposed zoning. Mr. Hall reviewed the allowed uses with the proposed zoning, adding that there are conditions that must be met for change of use, including potentially needing to place a landscape buffer along the east property line.

Mr. Dehn asked if the landscaping buffer would be required to be 6'. Mr. Hall said he believed so and confirmed for Mr. Dehn and that the depth requirement could be increased.

Ms. Messina stated that she believes the proposal needs to be re-worked and brought back to the commission at a later date. Ms. Jordan agreed, as did Mr. Kannarr. He added that since the owner doesn't have a potential buyer at this time, it doesn't seem like it is ultra-time sensitive. He recommended they add a proposal for improved signage that would address part of the traffic problem. Ms. Lawson stated that she concurs.

Mr. Dehn stated that the car traffic is to be anticipated with such a facility, but he is concerned about the reported truck traffic. He suggested a larger landscaping buffer would be helpful if there is a use change.

Ms. Ringler stated that she too thinks it would be a good idea to take some more time to clarify some things. She thinks the north intersection is problematic.

**Motion** by Mr. Kannarr to defer to a future meeting so staff and the applicant can address issues raised; **second** by Ms. Lawson. **APPROVED** (6-0-0)

**ACZR19/01** - The proposal to the Topeka Planning Commission would amend the Topeka Municipal Code (TMC) Title 18 (Comprehensive Plan-Signs-Subdivisions-Zoning) as follows:  
Amendments to the Definitions in Chapter 18.55, Use Tables in Chapter 18.60, and Special Use Requirements in Chapter 18.225 to regulate Small Cell Wireless Facilities. Amendments to other chapters of TMC Title 18 may also be considered as needed to regulate Small Cell Wireless Facilities.

Mr. Hall reminded commissioners that he presented information at the June Planning Commission meeting. Provided in the September agenda packet was a memo from Mr. Hall, a document published by National League of Cities, and another document dealing with general design and aesthetic requirements. The latter was created and adopted by the City of Topeka & Shawnee County.

Mr. Hall spoke to the importance of the small cell wireless facilities (SCWFs) to provide for 5G wireless technology. They are relatively new and will complement rather than replace the towers used for 4G wireless technology. Currently our municipal code requires that almost all of these SCWFs have a CUP, and because of the sheer number of them needed, this is not practical. The FCC has time limits on how long a municipality can take to approve the SCWFs and gives very little leeway to prohibit or overly restrict their placement. Municipalities do have the ability to regulate appearance, and the Topeka/Shawnee County



document provides these regulations.

Mr. Hall noted that the recommended amendment does not codify all of the standards, and was written this way so changes could be made as technology changes and new standards and requirements are needed. Also noted was that the proposed amendment revises the definition of communication SCWFs so that it clearly excludes small cell facilities. It then adds a definition of small cell wireless facilities which is very specific and is consistent with the FCC order. Finally, the zoning matrix has been updated to include small cell wireless facilities. They would be permitted by right in every zoning district, and a paragraph would be added to TMC18.225.010 to specify how the SCWFs are to be handled.

Almost all of the SCWFs will be located in the right of way (ROW), so providers will need to enter into an agreement with the city separate and apart from the zoning decision. They will also be required to meet specific aesthetic requirements.

Mr. Hall presented staff's recommendation for approval and answered questions from commissioners.

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

**Motion** by Mr. Kannarr to recommend to the Governing Body approval of the amendments to the zoning regulations to regulate Small Cell Wireless Facilities; **second** by Mr. Dehn. **APPROVAL** (6/0/0)

#### **Communications to the Commission**

Mr. Fiander stated he is considering adding a "public comment" time to the end Planning Commission agendas. The only criteria would be that comment be relevant to Planning Commission business.

Mr. Fiander announced that the sign code update was approved by the Governing Body 9-1 with one amendment reducing the grace period for portable message signs from 2 years to 1 year.

Mr. Fiander presented Commissioner Carole Jordan with a framed certificate commemorating her 6 years of service to the Topeka Planning Commission, October 2013 – September 2019. Ms. Jordan stated she is proud of all the Planning Commission has accomplished and she is confident our planning process will carry Topeka into 2022 and beyond.

**With no further agenda items, meeting was adjourned at 7:47 PM**

## STAFF REPORT – ZONING CASE

### TOPEKA PLANNING DEPARTMENT

PLANNING COMMISSION DATE: Monday, November 18, 2019

---

**APPLICATION CASE:** Z19/8 By: Shamrock Valley Ventures LLC

**REQUESTED ACTION:** Zoning change from “O&I-2” Office and Institutional District TO “M-2” Multiple Family Dwelling District

**APPLICANT / PROPERTY OWNERS:** Shamrock Valley Ventures LLC/Casey McClenon

**STAFF:** Annie Driver, AICP – Planner

**PROPERTY LOCATION / PARCEL ID:** 921 SW 10<sup>th</sup> Avenue / PID: 0973604012007000

**PARCEL SIZE:** 0.17 acres / 7,405 sf

**STAFF 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 “O&I-2” Office and Institutional District TO “M-2” Multiple Family Dwelling District

**PHOTOS:** View of property from 10<sup>th</sup> Avenue on the south (January 2017 photo. The residence has been painted blue since the photo was taken):



View of property from southwest on Fillmore Street (January 2016 photo):



---

## **PROJECT AND SITE INFORMATION**

### **PROPOSED USE / SUMMARY:**

Re-model the existing 2,104 sf, two-story single-family residential. Previous uses of the building, single-family residential, offices, upholstery repair, and appliance repair (illegal use). The structure has also remained vacant since the zoning changed in 1992.

Currently, there is a zoning violation on the property for using the property and building as appliance repair shop with unenclosed outside storage, including storage in a shipping container. The applicants are correcting this violation by removing the equipment and outside storage. Further municipal court action on the zoning violation is pending action on the rezoning to "M-2" by the City Council. The proposed rezoning will allow the owner to use the property and renovate the structure for two or more apartments.

### **DEVELOPMENT / CASE HISTORY:**

The structure was constructed in 1910 as a single family residence. A zoning case in 1965 rezoned the property from "D" Multiple-Family Residential to "E" Multiple Family Residential as there was a trend at the time to rezone SW 10<sup>th</sup> Avenue to accommodate office uses as well as multiple-family residential uses along its frontages. ("E" zoning allowed offices and residential uses. In 1992, the "E" zoning district converted to either the "O&I-2" or "M-3" District based on the

land usage at that time.) The structure was used for a law office in 1992 at the time the zoning changed to "O&I-2".

**ZONING AND USE OF SURROUNDING PROPERTIES:**

North: "O&I-2" Office and Institutional District / vacant (A health clinic existed on the property until 2012.)

South: "R-2" Single Family Dwelling District / single family residence

West: "O&I-2" Office and Institutional District / office (residential structure with addition on west side)

East: "M-3" Multiple-Family Dwelling District / Single family residence and apartment buildings along the frontage of SW 10<sup>th</sup> Avenue.

## **DEVELOPMENT STANDARDS AND POLICIES**

**PURPOSE, USE STANDARDS:**

"M-2" District: *This district is established to provide for the use of attached dwelling units containing three or more dwelling units, designed and intended for individual dwellings, group or community living facilities, congregate living facilities, and including townhouse, condominium or cooperative division of ownership. The location of this district is further intended to provide a transitional use between the districts of lesser and greater intensity.*

**DIMENSIONAL STANDARDS:**

Minimum lot area: 7500 sf. The parcel is an existing lot of record and pre-dates this provision of the zoning code.

Maximum density: The "M-2" zoning allows 15 units per acre maximum. The density of three apartments in the building will be slightly higher at 18 units per acre. However, the proposed zoning is less intense than zoning of the immediate properties ("M-3"), which have historically been zoned for high density residential. "M-3" zoning allows a maximum of 30 units per acre. The density standards in Chapter 18.60 Dimensional Requirements may be updated in the future to address higher densities for multiple-family residential zoning.

Maximum height: 50 ft.

**OFF-STREET PARKING:**

"M-2" District: Two spaces per unit are required by Chapter 18.240 Off-Street Parking Regulations. The structure has parking off the rear accessible from the public alley. Gravel parking is allowed for single, two, and three family dwellings.

**COMPREHENSIVE PLANS:**

Historic Holliday Park Neighborhood Plan

---

## **OTHER FACTORS**

**SUBDIVISION PLAT:**

Lots 119, 117 and 6' of Lot 115, Young's Addition

<b>FLOOD HAZARDS, STREAM BUFFERS:</b>	Designated "Zone X Area of Minimal Flooding" (outside of 100-year and 500 – year flood plain)
<b>UTILITIES:</b>	The structure is served by existing utilities.
<b>TRAFFIC:</b>	No issues
<b>HISTORIC PROPERTIES:</b>	The subject property is not located within either Holliday Park historic district located on the west side of SW Fillmore and along SW Western.
<b>NEIGHBORHOOD MEETING:</b>	<p>The applicant conducted a neighborhood information meeting on Monday, October 28, 2019 located at the subject property. The applicant, City planning staff and 8 members of the public attended the meeting. Councilperson Hiller attended the meeting. Some key issues identified were land use compatibility, residential density, addition of apartments, occupancy limits, good tenant-landlord relations with the neighbors, and parking off –street. The applicant's meeting notes are attached.</p> <p>The property is within Historic Holliday Park NIA and adjacent to the Old Town NIA. The NIAs were notified of the zoning change and meeting. The NIA has not expressed opposition to the zone change.</p> <p>The zoning regulations allow up to five unrelated individuals to reside in a dwelling unit. The building code may require minimum room sizes and sanitary facilities, minimum number of windows per bedroom, etc., but does not directly regulate occupancy related to the number of people who may reside in a dwelling.</p>

---

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

<b>PUBLIC WORKS/ENGINEERING:</b>	No issues with rezoning
<b>FIRE:</b>	Modifications may be needed to convert the interior back to residential use. This will be reviewed with Building Permits for a Change of Use/Occupancy.
<b>DEVELOPMENT SERVICES:</b>	Modifications will be required for the conversion to a triplex per commercial building code. ADA compliance may be required for a triplex. Development Services will review construction plans when they are submitted for review as a part of the application for the building permit for a Change of Use/Occupancy. The owner is encouraged to discuss plans with Development Services staff prior to submittal for building permit.

---

## **KEY DATES**

<b>SUBMITTAL:</b>	October 4, 2019
<b>NEIGHBORHOOD INFORMATION MEETING:</b>	October 28, 2019
<b>LEGAL NOTICE PUBLICATION:</b>	October 23, 2019
<b>PROPERTY OWNER NOTICE:</b>	October 25, 2019

---

## **STAFF ANALYSIS**

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

**CHARACTER OF NEIGHBORHOOD:** The surrounding area is characterized by a mix of office and residential structures, built in the early 1900s for residential use, along the south frontage of SW 10<sup>th</sup> Avenue. The north frontage of SW 10<sup>th</sup> Avenue is comprised of large institutional uses (schools, churches) and parking lots. The proposed rezoning to “M-2” to allow conversion of the structure to a duplex or triplex is in character with the land use pattern along the frontage of SW 10<sup>th</sup> Avenue that contains high density residential and office zoning. The proposed zoning is consistent with the character of the neighborhood.

**THE ZONING AND USE OF PROPERTIES NEARBY:** The properties along the south frontage of SW 10<sup>th</sup> are zoned “O&I-2” Office and Institutional District and “M-3” Multiple Family Dwelling District and contain a mix of residential (multiple family and single family), office uses, and parking lots. The north side of SW 10<sup>th</sup> Avenue is zoned “O&I-2” Office and Institutional District and “M-3” Multiple Family Dwelling District and is comprised of large-scale institutional uses (school, churches) and parking lots. The proposed “M-2” Multiple Family Dwelling District is in keeping with the land use pattern and zoning of the surrounding frontage of SW 10<sup>th</sup> Avenue. The frontage was historically zoned “E” Multiple Family Residential, which allowed either multiple family or office uses. (“E” converted to either “O&I-2” or “M-3” in 1992 based on the land use of the property at that time.) Staff recommended the owner apply for the “M-2” zoning on the subject property instead of “M-3” zoning since “M-2” zoning is more reflective of the current pattern of land uses and density of the area. This is a small lot and “M-3” would allow more density than desirable (30 units per acre) on such a small parcel with limited off-street parking. The proposed “M-2” zoning is similar to the zoning of properties nearby.

**LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION:** The subject property has been zoned for offices since the 1960s, but the existing structure was built as a residence and has never been fully renovated to accommodate an office use. The structure was used as a law office in 1992, a rental management office in 2011, and most recently for appliance repair and unenclosed outside storage, which is prohibited in “O&I-2” zoning. The structure has also been vacant for some time. Considering the length of time the property has been un-used for office uses, there are likely other uses more suitable for the existing structure such as a duplex or triplex.

**CONFORMANCE TO COMPREHENSIVE PLAN:** The proposed rezoning is in conformance to the future land use map of the Historic Holliday Park Neighborhood Plan (2008). The plan designates the south side of SW 10<sup>th</sup> Avenue for “Office/Residential” uses. The current uses in the area include apartment buildings, surface parking, offices, and single family residences that were converted to duplexes or apartments. The purpose of this category is to recognize this transition and accommodate both office and residential at a moderate intensity on the edge of the single family

neighborhood with the interior of the neighborhood remaining for single-family dwellings. The proposed rezoning to allow conversion of the single family structure into a duplex or triplex is in conformance to the neighborhood plan.

**THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES OF WHICH IT HAS BEEN RESTRICTED:** The structure was constructed as a single family residence in 1910 and then rezoned in the 1960s to accommodate multiple family or offices. The proposed rezoning to accommodate a duplex or triplex is suitable considering its location on the exterior of the neighborhood and along the frontage of SW 10<sup>th</sup> Avenue where there is higher density housing, offices, parking lots, and institutional uses. The existing "O&I-2" zoning does not permit the residential structure to be used for its original residential purpose, nor does it allow it to be converted to two or more apartments. In more than 20 years, no one has taken full advantage of the office zoning by converting the structure to an office.

**THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES:** There would appear to be no detrimental effects upon nearby properties by rezoning to allow residential in the existing structure, which is comparable with the land use pattern along the frontage of SW 10<sup>th</sup> Avenue for higher density multiple-family residential uses and office uses. The property has space available for the addition of parking for a duplex or triplex off the rear and accessible from the public alley. The small size of the property (0.17 acres) and "M-2" zoning dimensional requirements limit the use of structure for any multiple – family building that allows a higher density than three units. The property is apparently not highly suitable for an office since it has never been developed as an office. Rezoning to allow two or more apartments may provide an impetus for remodeling the building as well as improving and cleaning the site. On the other hand, adjacent residents have expressed concerns about the building being converted to two or more apartments.

**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 existing zoning is a hardship upon the landowner as it restricts their ability to use the residential structure for its original purpose, and it also prohibits the owner from converting the building to two or more a apartments. The existing building has not been substantially converted or renovated into an office in the 20 years since the zoning change to allow offices. Since "M-2" zoning is comparable with the zoning and land uses of adjacent property along SW 10<sup>th</sup> Avenue, there would be no apparent harm to the public health, safety and welfare by rezoning to accommodate a duplex or triplex at this location. By allowing a remodel of the building for multiple residential units, the M-2 zoning may provide the owner with the economic incentive to invest in the property, improving its value and thus having a positive impact on adjacent property.

**AVAILABILITY OF PUBLIC SERVICES:** Utilities are available and already serve the property.

---

## **STAFF RECOMMENDATION:**

**RECOMMENDATION:** Based on the above findings and analysis Planning Staff recommends approval of the zoning reclassification from "O&I-2" Office and Institutional District TO "M-2" Multiple Family Dwelling 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 "O&I-2" Office and Institutional District TO "M-2" Multiple Family Dwelling District.

**Exhibits:**  
Aerial maps  
Zoning map  
Future land use map  
NIM Summary and Attendance

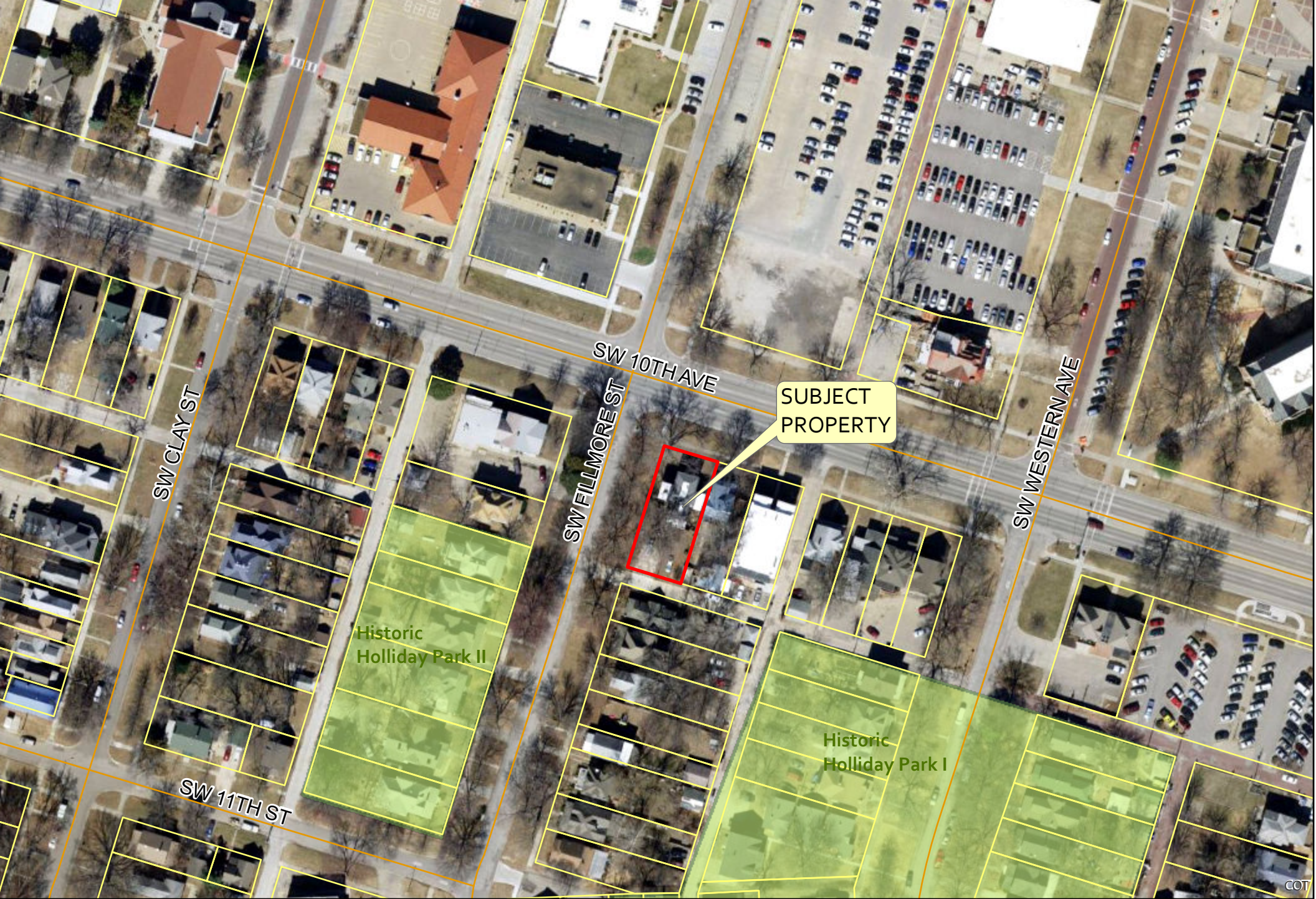




**Z19/8 - BY: SHAMROCK VALLEY VENTURES LLC**



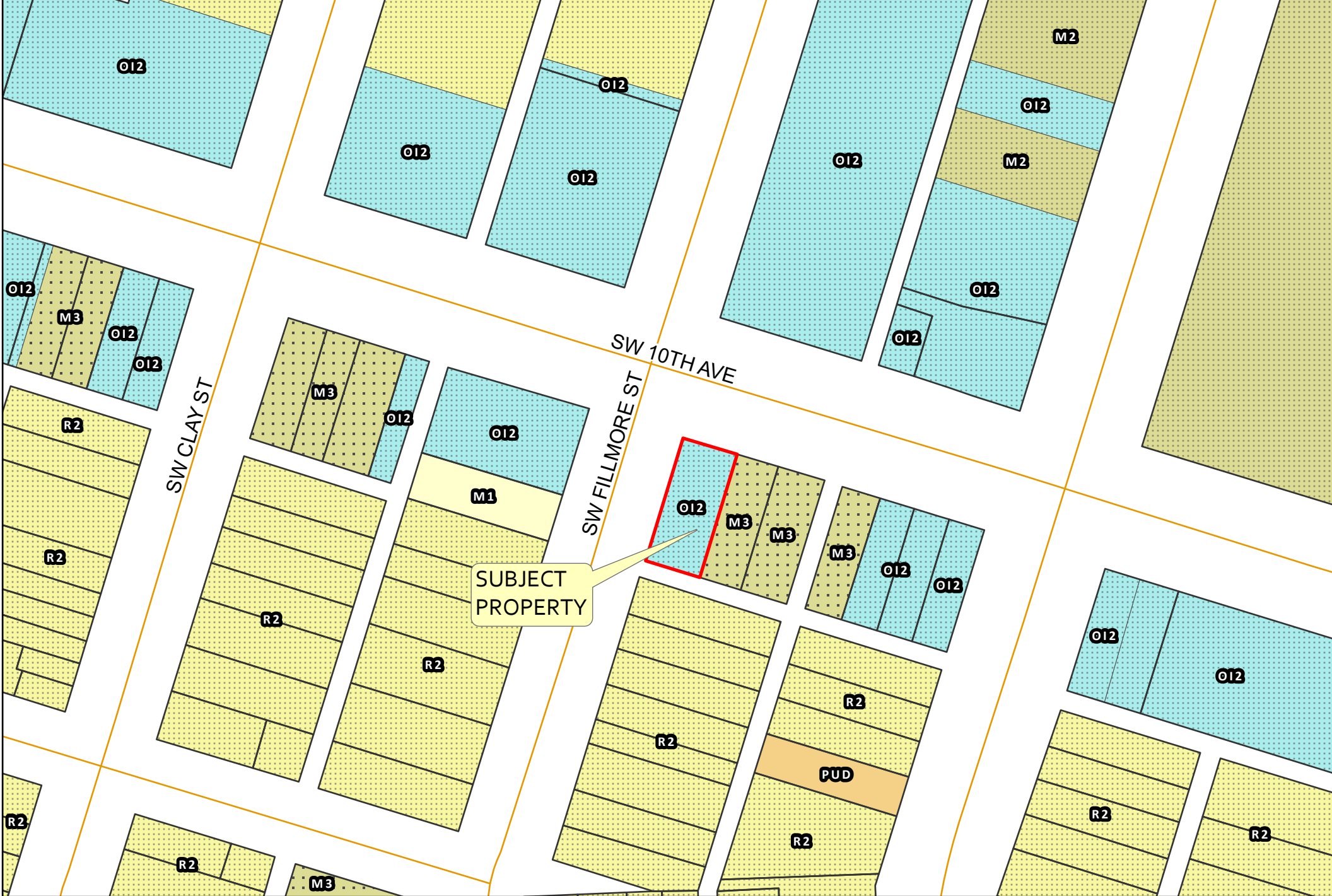




**Z19/8 - BY: SHAMROCK VALLEY VENTURES LLC**







**Z19/8 - BY: SHAMROCK VALLEY VENTURES LLC**





**Z19/8 - FUTURE LAND USE MAP  
(HISTORIC HOLLIDAY PARK/OLD TOWN  
NEIGHBORHOOD PLANS)**



# Shamrock Valley Ventures

## 921 SW 10<sup>th</sup> street Plan

- The situation is the current zoning is O-I2 office and institutional.
- We purchased the project and found out that the ideal usage for the project and current zoning were not aligned.
- We have been working with the City to find a usage that is a good fit for the district.
- We feel that M2 zoning is a residential format that is the best for our company and the districts expected usage.
- We are hosting this informational meeting to get community feedback and take any concerns into consideration.



Notes from the meeting 10-28-19

The meeting was attended by 10 neighbors and 2 city personnel along with Karen Hilliard City commissioner and the current owners.

The discussion was focused on the proposed zoning change and the effects on the area. There were concerns raised on population density with the new zoning. The owners plan revealed a plan for a duplex or triplex.

The site conform to either of these plans.

There was a suggestion to allow R2 zoning which is a duplex as a maximum. The owners feel this is an acceptable strategy. The neighbors as a group thought that density made sense.

Recommendation is to look to change the M2 zoning request to a R2 zoning.

Meeting was about 30 minutes and was very helpful.



## Neighborhood Information Meeting

## Sign in Sheet

## Shamrock Ventures LLC

**Date: Monday, October 28, 2019 at 5:30**

## 921 SW 10th Avenue (On-site)

[illegible]



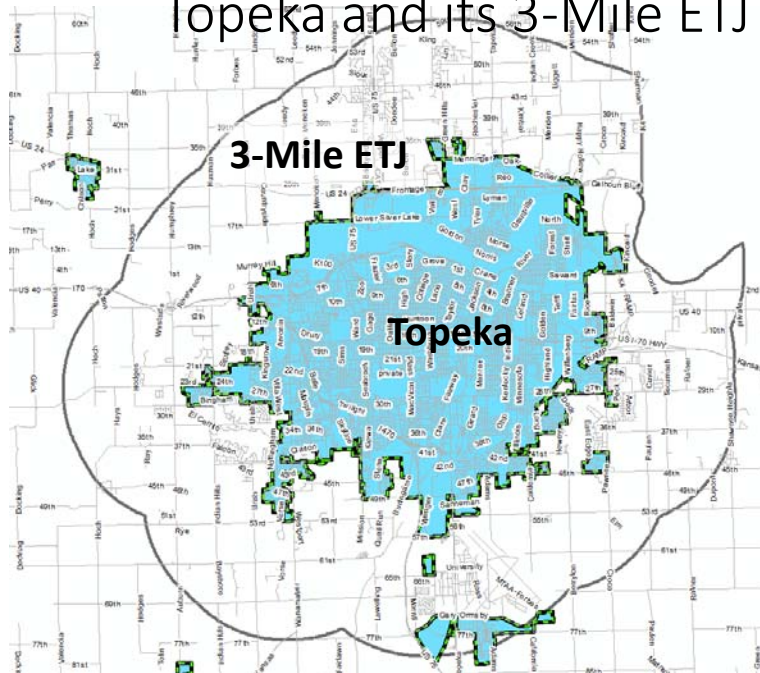


# Topeka, Kansas

Dan Warner, AICP

Comprehensive Planning Manager

## Topeka and its 3-Mile ETJ



Healthy Community



Resilient Economy

## 1940 Comprehensive Plan

- There has been a pronounced shifting of the population near the outskirts of Topeka and to the unincorporated areas in Shawnee County.
- It has caused depreciation of the value of residential property in the older parts of the city
- It has proceeded to the point that, unless checked, the economic structure of the entire community will be seriously endangered.

*Harland Bartholomew and Associates,  
Comprehensive Plan City of Topeka and Shawnee County (1940)*



Healthy Community



Resilient Economy

THE TOPEKA CAPITAL-JOURNAL Friday, October 20, 1995

“The two hearings...drew about 500 people.”

“Sounds like communism to me.”

THE TOPEKA CAPITAL-JOURNAL Friday, October 20, 1995

From Topeka Editor..... 298-1181  
Steve Swartz,  
State Editor..... 295-1194

# Topeka/Kansas

THE CAPITAL-JOURNAL Friday,

## Subdivision hearings emotionally charged

Members of planning commission hear little support for proposed regulations.

By BILL B. The Capital-Journal

“The American dream of home ownership is being regulated to death.”

“Planning Commission is a kangaroo court.”

“Selling off home sites has been part of my retirement plans for the past 50 years.”

“Sounds like communism to me.”

“Don't accuse me of having a closed mind.”



## 2012 EPA Workshop

- EPA Technical Assistance for Sustainable Communities Workshop
  - “Planning for Economic and Fiscal Health”
- Recommendation to update Comp Plan to **align land development and infrastructure policies with City’s economic and fiscal health goals.**



Resilient Economy



Livable Built Environment



## Best Practices / Lessons Learned

### Technical Advisory Team

- Developers
- Realtors
- Architects
- Engineers

Added credibility to recommendations outlined in the LUGMP.

### Public Engagement/Video

Detailed 5 Ws of policy changes outlined in the LUGMP in a format that allowed residents to understand why change was warranted.

### Policy/Rule Changes

- Min 20 acre lots
- Promote Infill Development

Lenient development standards allowed for sprawling growth while experiencing little population change.

### Track Progress

Defining measurable variables ensured accountable implementation that could be used to measure success of policy changes.



Accountable Implementation



Authentic Participation

"Identify specific locations for infill/redevelopment investment that support an economically sustainable footprint."

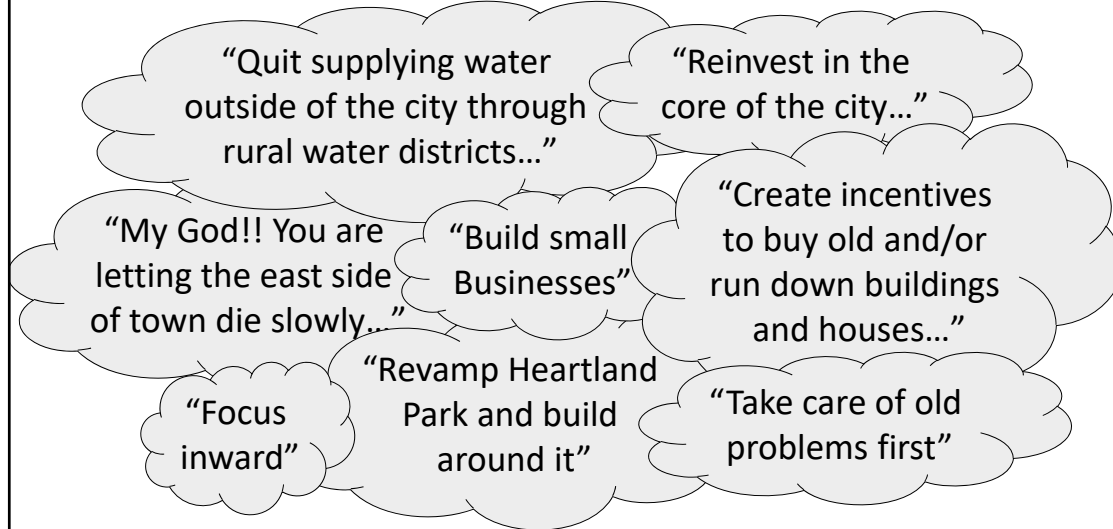


Authentic Participation



Resilient Economy

## *How can Topeka grow in an economically sustainable manner?*



Authentic Participation



Resilient Economy

## The Video

- How could we succinctly and effectively tell our story? The message is too important to lose people in the technical details.

**CITY4**



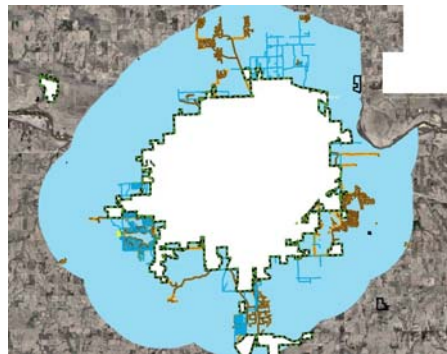
Accountable Implementation



Authentic Participation

## Policy/Rule Changes

- Adopted plat and utility rules concurrent with policy adoption
- Momentum in place – not helpful to wait



Accountable Implementation



Livable Built Environment

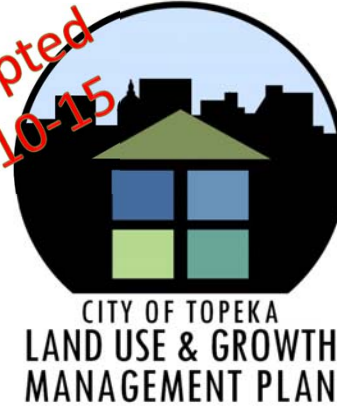


Resilient Economy

## Land Use and Growth Management Plan

- Compact Development
- Invest in Place/Add Value Where We Are
- Return on Investment

Adopted  
3-10-15



***“Fiscally responsible growth happens where Topeka has already invested.”***



Healthy Community

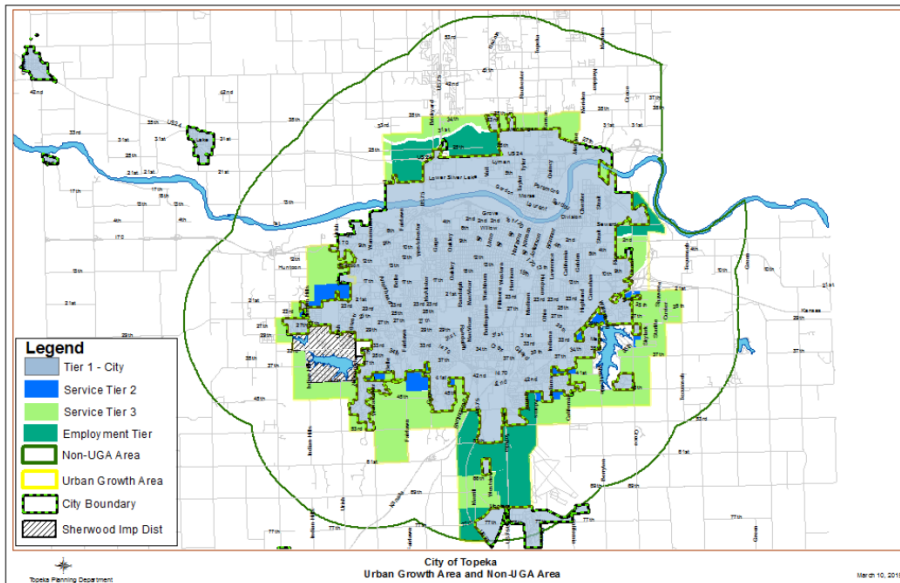


Livable Built Environment



Resilient Economy

## Land Use and Growth Management Plan



Adaption



Systems Thinking



Implementation



Resilient Economy

# How Did We Do?



Members of planning commission hear little support for proposed regulations.

"A previous plan, adopted in 2003, focused largely on growth through annexation"

"Focusing on internal growth, while annexing when and where opportunity presents, is a sound strategy"

## Editorial: Approach to growth an improvement

Posted: September 19, 2014 - 4:33pm

### By The Capital-Journal

Topeka's planning department is in the process of drafting a Land Use and Growth Management Plan that establishes as its priorities devoting resources to development within the city limits and doing more to make Topeka a place where people want to live.

A previous plan, adopted in 2003, focused largely on growth through annexation.

The proposed change is a good start, especially as annexation of population has proved difficult if not impossible. People established outside the city limits and receiving city water and sewer service see nothing to be gained, other than a city tax bill, through annexation. The Legislature in recent years also has passed laws that make annexation, particularly unilateral annexation, more difficult.



Accountable Implementation



Authentic Participation





3<sup>rd</sup> Quarter 2019

2019 YTD



Planning & Development Department - November 12, 2019



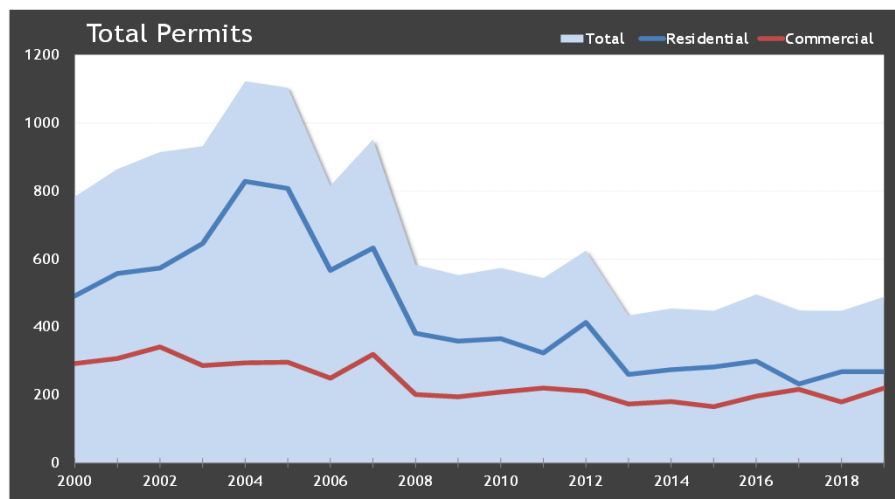
**2019  
Building Permits  
Projected = 488**

- Vs. 2018 Permits = 447

↑  
9.2%

- Vs. 5 yr. average = 458

↑  
6.5%





**2019  
Permit Value  
Projected= \$215.9M**

- Vs. 2018 = \$103.8M

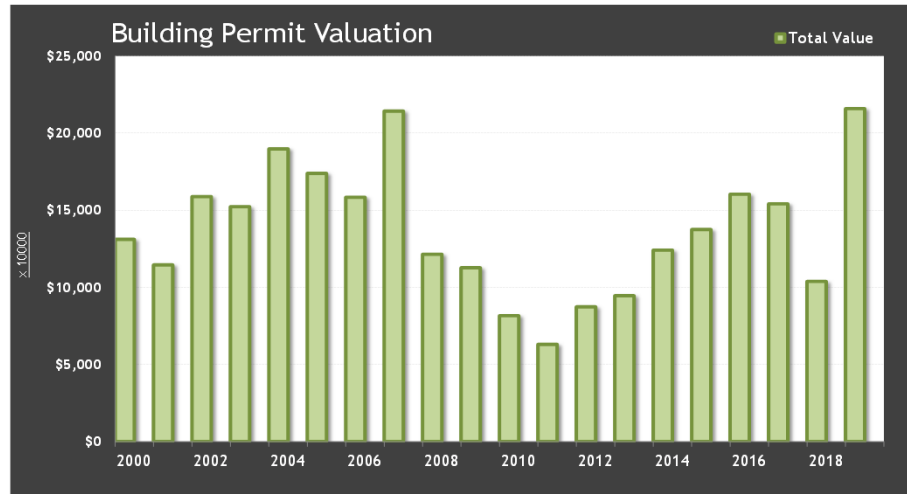


108%

- Vs. 5 yr. avg = \$136M



58.8%



2

2019 QUARTER 3

**Residential & Commercial Growth**



**2019  
Building Area  
Projected = 3.3M sq ft**

- Vs. 2018 = 1.9M sf

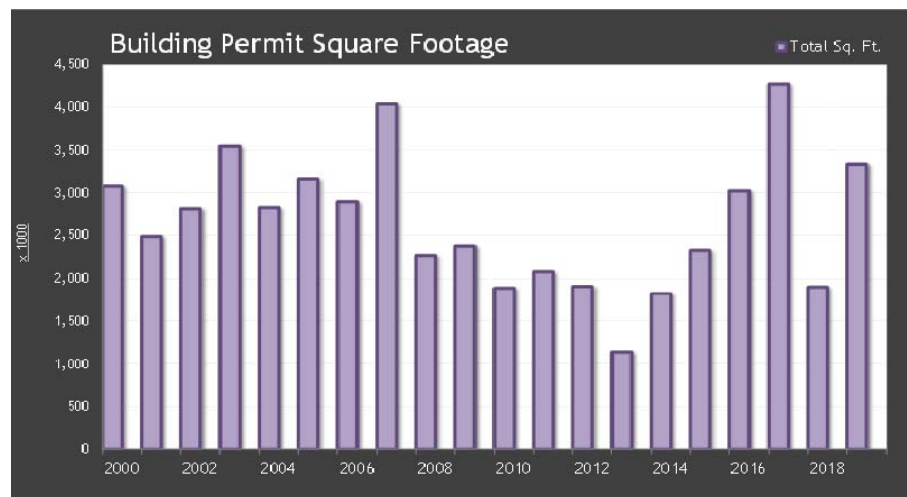


75%

- Vs. 5 yr. avg = 2.4M sf



38%



3

2019 QUARTER 3

**Residential & Commercial Growth**



**2019  
Commercial Permits  
Projected = 220**

- Vs. 2018 = 179

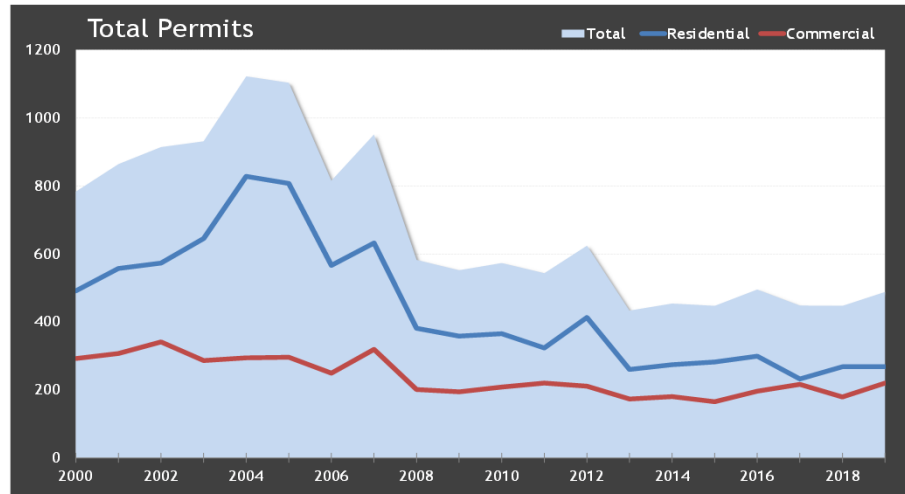


22.9%

- Vs. 5 yr. avg = 187



17.6%



4

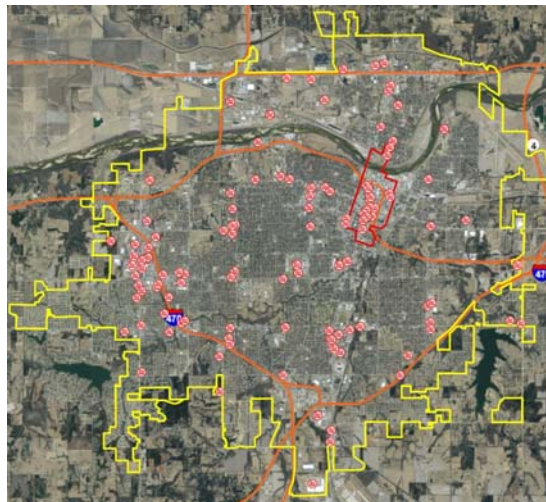
2019 QUARTER 3

Commercial Growth



**Downtown Share YTD  
Commercial Permits**

- Permits
  - 26 (16%)
- Permit Value
  - \$12,363,469 (8.5%)



5

2019 QUARTER 3

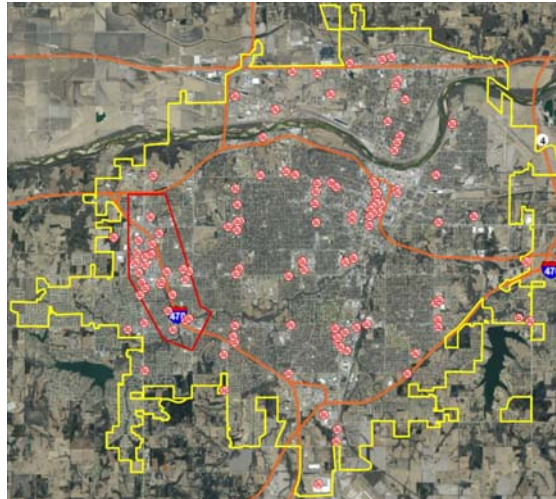
Commercial Growth





### I-470 Corridor Share YTD Commercial Permits

- Permits
  - 36 (22%)
- Permit Value
  - \$36,167,336 (25%)



6

2019 QUARTER 3

Commercial Growth

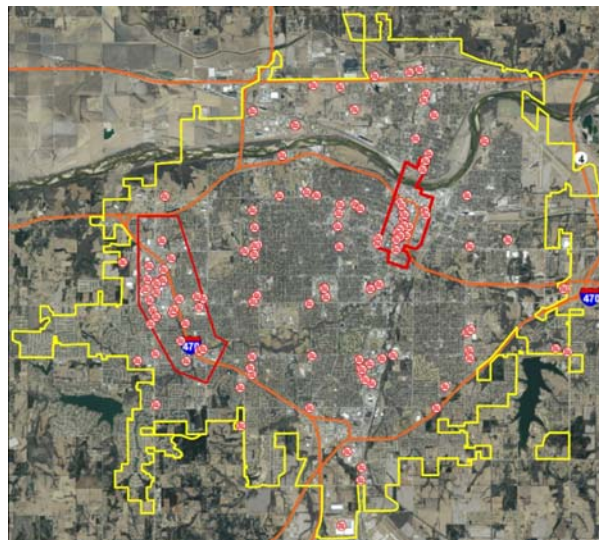


### Citywide

- Commercial Permits YTD = 165
- Total Value = \$146M

### Downtown and I-470 Share

- Commercial Permits YTD = 38%
- Total Value = 33%



7

2019 QUARTER 3

Commercial Growth



3<sup>rd</sup> Quarter 2019

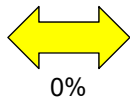


**Google  
“DGM Reports  
Topeka”**

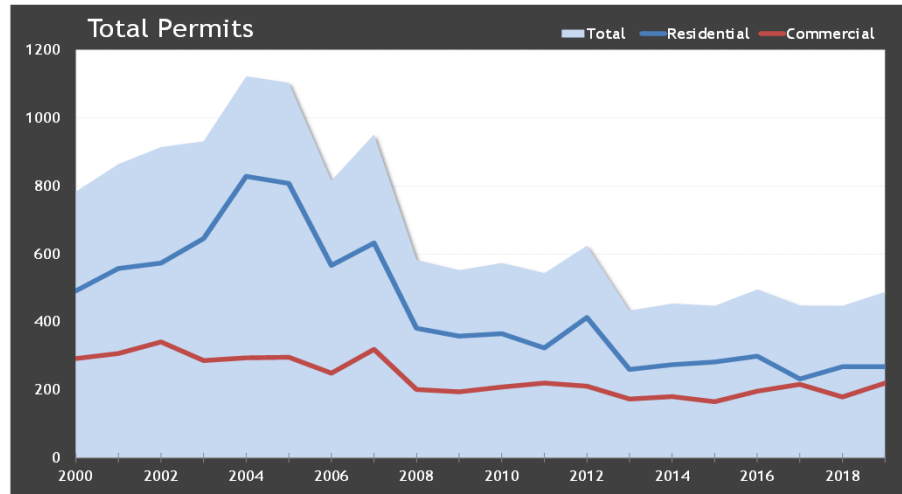
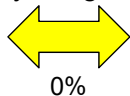


**2019  
Residential Permits  
Projected = 268**

- Vs. 2018 = 268



- Vs. 5 yr. avg = 269



8

2019 QUARTER 3

**Residential Growth**

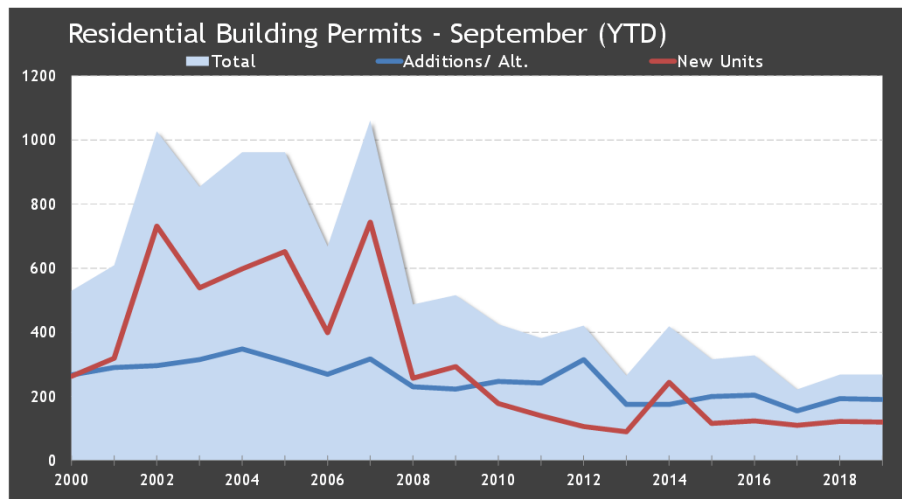


**2019 New Units  
Projected = 120**

- Vs. 2018 Units = 122



- Vs. 5 yr. average = 118



9

2019 QUARTER 3

**Residential Growth**



**2019 New Unit Share  
City = 54.2%**

- Vs. 2018 = 49.6%

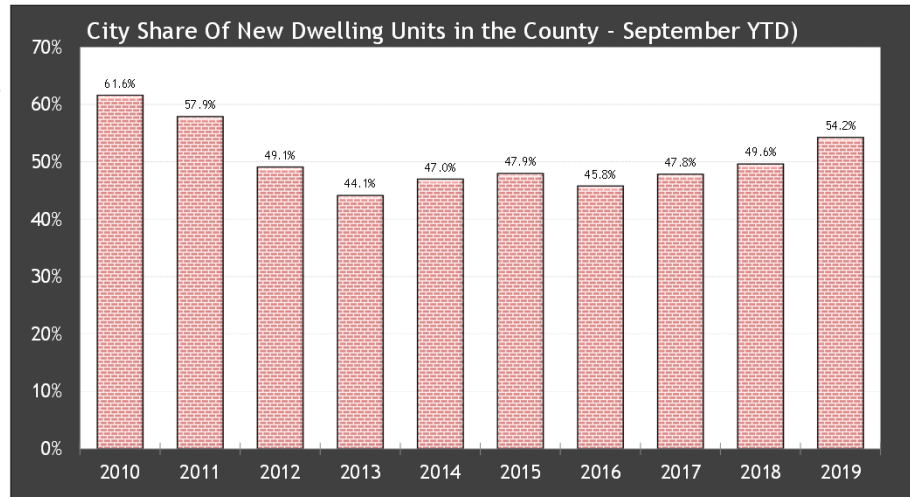


9.3%

- Vs. 5 yr. avg = 47.6%



13.9%



10

2019 QUARTER 3

Residential Growth



**Buildable Prime Vacant Lots (BPVL) = 000**

- BPVL
  - Single/Two-Family Lots Platted since 1970 w/ street access or approved benefit districts (City of Topeka)
  - Year Begin = 0.0 years of lot inventory
  - Year End = 0.0 years of lot inventory
- NOTES:
  - Laurens Bay = 204 BPVLs or 2.27 years
  - Homes Listed inventory = 2 months (local), 4.1 months (national), 6 months (balanced)

10a

2018 QUARTER 4

Residential Growth





## TOP 10 PERMITS (3<sup>rd</sup> Q)

1785 SW DUROW DR	WASHBURN UNIV-INDOOR ATHLETIC FACILITY	\$16,227,650
1 EXPOCENTRE DR	EXPOSITION HALL/LONDON ARENA – KANSAS EXPOCENTRE	\$12,941,406
2745 SW FAIRLAWN RD	MARRIOTT SPRINGHILL SUITES – WHEATFIELD VILLAGE	\$9,050,448
6135 SW 17 <sup>TH</sup> ST	TOPEKA ER AND HOSPITAL	\$6,500,000
1700 SW 7 <sup>TH</sup> ST	ST FRANCIS PHARMACY RELOCATION	\$2,500,000
3117 SW TOPEKA BLVD	MCDONALDS REBUILD	\$2,359,640
3316 SE 28 <sup>TH</sup> TER	EAST TOPEKA DENTAL	\$1,953,911
3251 NW LOWER SILVER LAKE	GLOBAL GRAIN – PHASE 2 - SILOS	\$1,520,741
534 S KANSAS AVE	SN PROPERTIES FUNDING ELEVATOR	\$1,239,916
2931 SW VILLA WEST DR	SW VILLA WEST PROFESSIONAL OFFICES SHELL	\$1,000,000

11

2019 YEAR TO DATE

## Washburn University Indoor Athletic Facility



12



## Exposition Hall/Landon Arena – SV Events Center



13

## Springhill Suites – Wheatfield Village



14

Topeka ER (17<sup>th</sup>/Arvonía)



15

McDonalds Rebuild (S. Topeka Blvd)



16