



CITY OF
TOPEKA

A G E N D A

TOPEKA PLANNING COMMISSION

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

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

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

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

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



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

HEARING PROCEDURES

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

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

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

Members of the Topeka Planning Commission

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

Topeka Planning Staff

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

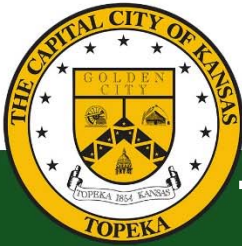


CITY OF
TOPEKA

TOPEKA PLANNING COMMISSION

Agenda for Monday, September 16, 2019

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



CITY OF
TOPEKA

MINUTES

TOPEKA PLANNING COMMISSION

Monday, August 19, 2019

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

Members present: Katrina Ringler (Chair), Brian Armstrong, Corey Dehn, Marc Fried, Wiley Kannarr, Matt Werner (6)

Members Absent: Carole Jordan, Corliss Lawson, Ariane Messina (3)

Staff Present: Bill Fiander, Planning & Development Director; Dan Warner, Comprehensive Planning Manager; Annie Driver, Planner; Bryson Risley, 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 July 15, 2019

Motion by Mr. Fried to approve; **second** by Mr. Armstrong. **APPROVED** (6/0/0)

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

Mr. Armstrong announced that he would recuse himself from consideration of item D.2.

Public Hearing of CPA19/01 by the City of Topeka amending the text and map of the City of Topeka's Comprehensive Plan updating the **Central Park Neighborhood Plan**. The area affected by the amendment is bounded by SW Washburn Avenue to the west, SW Huntoon and SW 13th Streets to the north, SW Topeka Boulevard to the east and SW 17th Street to the south.

Mr. Warner introduced Bryson Risley. Mr. Risley presented information about the neighborhood plan then stood for questions.

Mr. Armstrong asked about sanitary sewer projects in alleys and whether the alleys would be paved upon completion of the projects. Mr. Risley explained that as far as materials go, the plan is to return the alley to its current status; if it's currently paved it will remain paved, gravel alleys will remain gravel, etc.

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

Chris Deister came forward to speak. Mr. Deister did not provide his home address, but he does not live within the boundaries of Central Park. He suggested that part of the plan include working to get the electrical lines buried as improvements are made. He believes this should be done throughout the city.

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

Mr. Warner explained that electrical lines will not be addressed with this project. The City does not control the power lines through this neighborhood; they are the property of Westar.

Ms. Ringler stated that she believes the plan is well written and any questions she had from the previous presentation were addressed this evening.

Motion by Mr. Armstrong to recommend approval of the Central Park Neighborhood Plan to the Governing Body as an element of the City's Comprehensive Plan; **second** by Mr. Fried. **APPROVAL** (6-0-0)

DRAFT FOR APPROVAL

Mr. Armstrong left the room and Ms. Ringler called the next case.

Public Hearing of Z19/06 by Martinek & Flynn Wholesale, Inc. requesting to amend the district zoning map on property at 2046 SW Van Buren from M-1 Two Family Dwelling District TO C-4 Commercial District to allow parking and truck storage associated with the adjacent business.

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

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

Angela Sharp with Bartlett & West came forward representing the applicant. She noted that the owners were also in attendance and available for questions.

Ms. Sharp pointed out that the project is an in-fill type development in keeping with the Land Use and Growth Management Plan. She also noted that Martinek & Flynn is a long-standing business in Topeka.

Regarding drainage, Ms. Sharp stated that they will be analyzing the drainage with the parking lot that is planned to be installed to assure there is no detrimental effect to downstream property owners.

Patrick DeLap came forward to speak, stating he is an owner within 200 feet of the subject property. Mr. DeLap stated a neighbor to the east has concerns about water run-off.

Mr. DeLap stated that in 2006 a request was made to re-zone to C-4 the property located on the SE corner of SW Roby Place and the applicants, Mr. Martinek & Mr. Flynn, anticipated making improvements to the property. The anticipated parking lot was never built and therefore the landscaping that would have been required was not put into place. Mr. DeLap stated that his property, which is located across the street, is devalued because of the state of the property. He asked that as a condition of approval of the current proposal, the owners be required to do what they anticipated doing 13 years ago.

Ms. Sharp returned to the podium to respond to Mr. DeLap's concerns. She stated that the owners of the subject property had anticipated building a parking lot on the property that was the subject of the 2006 zoning case, but it proved to be economically unfeasible. If at some point in the future they decide to put a parking lot or there, they will install landscaping as required by the City of Topeka.

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

Ms. Ringler asked staff to respond to Mr. DeLap's concerns about the earlier zoning case. Mr. Fiander explained that if there is no action, then there's nothing for the City to enforce unless inaction causes another violation, i.e. a property maintenance issue. Re-zoning a property allows but does not require the owner to use the property for allowed uses within that zoning district.

Ms. Ringler noted that the current case in front of the commission is the same in that it allows for use as a parking lot, but also for other uses if the property owner so chooses. Mr. Fiander agreed and noted that this is a "straight zoning" with no conditions or requirements other than those within the proposed zoning district.

Mr. Fried asked if drainage and landscaping are addressed when the building permit (parking lot permit) is applied for. Ms. Driver explained that drainage is indeed reviewed within the permit review process. Planning will address landscaping, potentially screening, setbacks, etc. when a plan for the parking lot is submitted.

Motion by Mr. Fried to recommend to the Governing Body approval of the reclassification of the property from M-1 Two Family Dwelling District to C-4 Commercial District; **second** by Mr. Dehn.

Mr. Kannarr noted that while he is somewhat disturbed by the comments Mr. DeLap made, ultimately the question is whether or not it's appropriate for the subject property to be zoned C-4, which is what is surrounding it.

Ms. Ringler stated she agrees. Ultimately the re-zoning of a property is not tied to promises or plans for what may be done with the property in the future; there's an indication that the applicant is going to use it as a parking lot, but they are not required to do so.

Upon a roll call vote, the **motion** was **APPROVED** (5-0-1 with Mr. Armstrong abstaining)

Mr. Armstrong returned to his seat and Ms. Ringler called the next case.

P19/09 Mix Lot Subdivision #4 by: F & M Wims; F & I Rogge; W & G Wasson; and B & J Harkin requesting a design variance for a minor plat in accordance with TMC 18.30.040 of the Subdivision Regulations to the provision of TMC 18.40.110 (b) requiring that the minimum depth of lots in subdivisions shall be 110 feet, with affected lots being located at and adjacent to 2626 SE 33rd Terrace.

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

Mr. Fried asked about the building that appears to be on the property line, and Mr. Neunuebel stated that the proposed new property line will correct that.

Mr. Werner and Mr. Armstrong noted that 4 property owners will be affected by the request and 3 will in effect lose property. The asked if all 4 owners are in agreement with the proposal, and Mr. Neunuebel explained that they are, and are all applicants for the plat.

Mr. Fried asked if the shed on the property is in the utility easement. Mr. Neunuebel explained that it is. He added that property owners are not specifically banned from placing structures in utility easements but must understand that if access is needed, the building must be removed at their own expense.

Ms. Ringler invited the applicant or representative to speak if they wish.

Danny Stebbins of Stebbins Surveying came forward representing the applicants. He explained that the building Mr. Fried had asked about is a shed that will be removed because it is dilapidated. This application came about because a survey was done last year and the property owners found that the property lines were not where they had believed them to be.

Motion by Mr. Dehn to approve the requested design variance related to the requirement that the minimum depth of lots in subdivisions shall be 110 feet; **second** by Mr. Kannarr. **APPROVED** (6-0-0)

Communications to the Commission

Mr. Fiander explained that the sign code update went before the Governing Body as a discussion item at their August 13 meeting. He anticipates it going before them as an action item at their September 10 meeting.

Mr. Fiander noted that September will be Ms. Jordan's last meeting on the Commission as she will have served two full terms.

With no further agenda items, meeting was adjourned at 6:41PM

Z19/07

Milk & Honey Coffee Company LLC

STAFF REPORT – ZONING CASE

TOPEKA PLANNING DEPARTMENT

PLANNING COMMISSION DATE: Monday, September 16, 2019

APPLICATION CASE: Z19/7 by: Milk & Honey Coffee Company LLC

REQUESTED ACTION: Zoning change from "O&I-2" Office and Institutional District TO "C-2" Commercial District

APPLICANT / PROPERTY OWNERS: Milk & Honey Coffee Company LLC

STAFF: Annie Driver, AICP – Planner

PROPERTY LOCATION / PARCEL ID: 2200 SE Powell / PID: 1320903005035000

PARCEL SIZE: 0.49 acres

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 "C-2" Commercial District.

PHOTOS: Looking from NE corner of site at subject building:



Looking towards the northwest property:



Looking toward property on the east side:



Looking toward north:



PROJECT AND SITE INFORMATION

PROPOSED USE / SUMMARY:

Re-use the existing 1,460 sf vacant bank building for a coffee shop with drive-through window.

The use is classified as a "Restaurant, Drive through establishment" in TMC 18.60 and thus requires the "C-2" zoning rather than the more restrictive "C-1" zoning. ("C-1" zoning does not permit drive-through restaurants) The applicant has indicated 30 percent of their business is anticipated to come from the drive-through window.

DEVELOPMENT / CASE HISTORY:

Z77/42 – Rezoned to "E" Multiple Family Dwelling District in 1977 ("E" zoning converted to "O&I-2" in 1992 with the zoning code update that change all use classifications). Bank constructed in 1978 and used as bank to until shortly after 2016.

The site was annexed into the City in 1950 and was zoned "A" Single Family Dwelling District at the time until 1977 when it was rezoned for the bank.

ZONING AND USE OF SURROUNDING PROPERTIES:

North: "R-1" Single Family Dwelling District / Residential Dwellings

South: "C-2" Commercial District / undeveloped land

West: "C-4" Commercial District / Supermarket and gas pumps; fast food restaurant

East: "O&I-2" Office and Institutional District / Insurance office

DEVELOPMENT STANDARDS AND POLICIES

PURPOSE, USE STANDARDS:

"C-2: District: *This district is established to provide for those commercial activities which serve a major segment of the total community population. In addition to a variety of retail goods and services, these centers may typically feature a number of large traffic generators that require access from major thoroughfares. The extent and range of activities permitted are in the moderate to medium intensity range with a ground floor area limitation and a prohibition on outside sales and storage of supplies, materials, products, and equipment.*

Uses permitted in "C-2" District: *Retail stores and service establishes; Brew pub; Restaurants, including fast food drive-throughs; Check cashing/pay day loans; Drive – through restaurants; Health care facilities; Hotel/Motels; Liquor Stores; Pawn shops/second hand shops; Pharmacy (including drive-throughs); Theaters; Tobacco sales; Automobile Service Stations, Type I and II; Automobile Car Washes.*

Uses involving outside storage of vehicles, machinery, products and outside storage associated with lawn, garden, and home improvement

centers are not permitted in "C-2" zoning. Drinking establishments (bar/tavern) requires a CUP in "C-2" zoning.

DIMENSIONAL STANDARDS:

Front/Rear building setbacks: 25'
Side building setbacks: 10'
The maximum building coverage is 50%
The maximum building size is 50,000 sf.
The maximum building height is 50 ft.

OFF-STREET PARKING:

"C-2: District": Per TMC18.240.010 Off-Street Parking Regulations - Change of Use, vehicle parking is required for "drive-through restaurant establishments" at a rate of 1 stall per 85 sf of (Net Floor Area) with at least 5 stacking spaces at the window. The site has 16 parking stalls. Based on a drive-through window being located on the south side of the building and access provided from SE Powell, the site has the required stacking.

A bicycle rack is recommended by staff because the use increases the intensity of the site and increases the parking requirement under the zoning code.

The bike rack is not required by TMC 18.240 Off-Street Parking Regulations unless new automobile parking stalls are added to the site.

A Parking Lot Plan is needed at the time of building permit application submittal as indicated in TMC 18.240.040. Said plan shall show the full extent of the area to be used for off-street parking including angle and dimension of vehicular parking and stacking spaces, aisles and drives; type of surfacing; radius of curb return; width of curb opening; identify protective curbing; direction of traffic flow; drainage pattern and method of collection; sidewalks, bicycle parking, and type and height of screening and parking area trees.

OTHER DESIGN GUIDELINES AND CONSIDERATIONS:

Full compliance with TMC 18.235 Landscape Regulation is not required because there is not an expansion to the building or parking lot by at least 50 percent. However, a Landscape Plan is required because the residential zone buffer is required along the north property line under TMC 18.235.060(d). A landscaped buffer, planted with a combination of evergreen species, which will grow to at least six feet in height and spaced in a manner to provide an impervious visual barrier, not to exceed six-foot spacing between plants. Staff further recommends providing additional street trees adjacent to SE 29th Street.

SIGNAGE:

Signage will be permitted subject to Tittle 18 Division 2 Sign Code for C-2 zoning. All signs require a sign permit through Development Services Division.

COMPREHENSIVE PLANS:

Land Use and Growth Management Plan 2040 (LUGMP): The property sits on the east edge of a *Commercial Node*.

OTHER FACTORS

SUBDIVISION PLAT:

Lot 2, Block A, Park Valley Subdivision #2

FLOOD HAZARDS, STREAM BUFFERS:

Designated "Zone X Area of Minimal Flooding" (outside of 100-year and 500 – year flood plain)

UTILITIES:

City water located along SE 29th with a service line to the building. City sanitary sewer is located at the northeast corner of the site with a public manhole. Connection to the main is typically at 5 ft. from the manhole. There appear to be no public storm sewer adjacent to the property.

TRAFFIC:

The City's Traffic Engineer reviewed the request and made the following comments for where the ideal access should be placed. A Traffic Impact Analysis is not required for the change of use and no roadway improvements are needed. Access to the site will be taken from the existing access openings on Powell and 29th. Without improved channelizing and site flow, the site has room for approximately 6 vehicles to stack before impacting 29th if the drive-through comes off of Powell, as recommended. At the pre-application meeting the applicant demonstrated a proposed improved circulation for vehicles entering from 29th by locating the order screen such that cars would have to travel around the building to get in line. This allows for at least one additional vehicle to queue, assuming vehicular access from Powell is high, which is not likely to be the case.

A parking lot plan submitted as part of the Building Permit shall identify how these requirements are met and is needed for review by Traffic Engineering prior to approval of the Building Permit.

HISTORIC PROPERTIES:

Not applicable

NEIGHBORHOOD MEETING:

The applicant conducted a neighborhood information meeting on Thursday, August 22, 2019. The applicants, City staff and Councilman Emerson attended the meeting. The applicant's meeting report is attached. The applicant has also include several letters of support and supplemental information about their business they included with the rezoning application. As of the date of this report, Planning staff received an email and had a conversation with the neighboring business owner south of SE 29th Street who opposes the zone change.

The question was raised about "Sexually Oriented Businesses (SOBs)" under the "C-2" zoning. Topeka's zoning regulations do not specifically regulate SOBs. Retail sales of adult books, magazines, and/or "toys and devices" is in the category "retail sales/service" and is thus an allowed use under "C" zoning districts (Zoning Matrix, TMC 18.60.010).

A "Drinking Establishment" requires a Conditional Use Permit (CUP) in C-2/C-3 zoning and is allowed in C-4 zoning. The City does regulate public nudity under TMC 9.45.110 "*making it unlawful for any person to knowingly or intentionally appear in a state of nudity in a public place.*" Therefore, a "club" or "drinking establishment" with employees or patrons in the defined "state of nudity" is prohibited anywhere in the city limits of Topeka. (Ord. 19965, adopted 8-18-2015)

Another question was raised about use of the property for a liquor store (allowed in "C-2" zoning) and about the proximity of the property to a church, school or school yard. Kansas Statute restricts the use of property for "Retail Liquor Stores" located within 200' of a church building, school or school yard. The nearest church building or school property appears to be greater than 200' from the subject property based on GIS mapping. A liquor store requires an application for a retail liquor store license. Planning would verify the zoning requirements at such time this application is received by the City Clerk.

REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES

PUBLIC WORKS/ENGINEERING:	Water and sanitary sewer connections will be reviewed at the time of Building Permit Application. The applicant's property has two access openings along SE Powell and SE 29 th Street. No new access is proposed.
FIRE:	New development will be required to ensure adequate access and hydrants for effective emergency response and reviewed at the time of Building Permit Application.
DEVELOPMENT SERVICES:	Modifications are required to the interior including providing a public ADA accessible restroom. 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.

KEY DATES

SUBMITTAL:	August 2, 2019
NEIGHBORHOOD INFORMATION MEETING:	August 22, 2019
LEGAL NOTICE PUBLICATION:	August 21, 2019
PROPERTY OWNER NOTICE:	August 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: The surrounding area is characterized by heavy commercial uses, including large commercial building footprints and large commercial signs located at the intersection of SE California and SE 29th Street. At the north side of the intersection of SE California and SE 29th lies a 120,000 sf supermarket, vehicle parking, and gas pumps; drive-through fast food restaurant. South of SE 29th intersection lies a commercial shopping center with 163,000 sf used by retail tenants. This commercial zoning and land uses transition down to office and institutional uses as going east along SE 29th Street, eventually transitioning to single family residential uses with frontage on SE 29th. The proposed "C-2" zoning on the subject property is compatible with the character of the area since it is located between the heavy commercial district zoning and office and institutional zoning and it still provides for a zoning transition between uses.

THE ZONING AND USE OF PROPERTIES NEARBY: The property to the west is zoned "C-4" Commercial District and contains a large scale supermarket; the land to the south is zoned "C-2" Commercial and "O&I-2" Office and Institutional District and contains a 1.6 acre vacant site and medical clinic. The land to the north is zoned "R-1" Single Family Dwelling District and includes single family residences fronting along the east side of SE Powell. The property immediately to the east is zoned "O&I-2" Office and District and contains an insurance office. Further east, the remaining properties along SE 29th Street are zoned "R-1" and contain either institutional uses (i.e. church) and single-family residences. The "C-2" zoning on the subject is compatible with the zoning and uses of property nearby since it is a relatively small site and building and transitions to "O&I-2" zoning on the east and is directly across from similar "C-2" zoning on the south.

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The subject property has remained zoned for office and institutional uses since zoned in 1977. The bank was constructed in 1978 and used as a bank until 2016. The building has been vacant and unused since 2016. The previous owner expressed difficulty finding a tenant under the current zoning.

CONFORMANCE TO COMPREHENSIVE PLAN: The subject property is located within a *Commercial Node* as described by the Land Use and Growth Management Plan - 2040. The LUGMP – 2040 encourages a "nodal" commercial development pattern over a "strip" commercial development pattern. "Nodal" commercial areas are ideal because the uses are concentrated at the "node" of the arterial intersection where the roadways are better designed to handle the traffic flow from commercial uses that are high traffic generators (i.e. shopping centers, supermarkets, conveniences stores/gas pumps). "Strip" commercial areas are those commercially zoned areas with commercial lots "stripped" along the arterial street each lot taking direct access on the arterial.

The subject property is located within a commercial node and the existing zoning steps down in intensity from heavy "C-4" commercial zoning to "O&I" office zoning and is a transition from the commercial uses to lower density urban residential uses along SE 29th. A "C-2" zoning on this property will continue the transitional land use pattern as there is existing "O&I-2" zoning immediately to the east and similar "C-2" zoning on the undeveloped property directly south. This proposed zoning still provides for a gradual transition in land uses away from the intersection of SE California and SE 29th. The "O&I-2" zoning to the east of the subject property will inhibit further "stripping" out of commercial zoning along SE 29th. The proposed rezoning of the subject property to "C-2" is in conformance to the Comprehensive Plan.

THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES OF WHICH IT HAS BEEN RESTRICTED: The subject property is still suitable as zoned for office and institutional uses since it contains a building for a bank with drive-

up window, which is allowed under the current zoning. However, the existing bank building has remained vacant for at least two years and the longer it lies vacant the less likely it will be viable for another office use. The existing building is also relatively small (1,460 sf) potentially making it less than suitable for other office uses.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES:

There are potential detrimental effects to nearby property resulting from a change in zoning to "C-2". Generally speaking, the C-2 District allows uses with higher traffic generation and longer operating hours than the former bank. Commercial uses typically have incompatible hours with residential uses and create negative impacts from lighting generated by late-evening or early-morning vehicles and noises from garage trucks or delivery vehicles to the site, which are not generally compatible with single family in direct proximity. "C-2" zoning also allows automobile-oriented uses such as, car washes, automobile service stations and repair shops that have characteristics making them potentially incompatible directly next to residential neighborhoods. However, these uses would ultimately require significantly more changes to the site (i.e. new construction, expanding the building), which would not be approved without satisfying all site plan review and Landscape Plan requirements for new construction on a site.

Staff believes the change of use to the building can be designed to mitigate against these effects by providing a substantial landscape buffer along the north side (i.e. adjacent to residential) and orienting the drive-through on the south side so it has less of an impact on residential to the north. Under the residential buffer requirement of the TMC 18.235 a fence and landscaping is required along the length of the north property line that may also be designed as a noise reducing buffer. The applicant has indicated the drive-through window will be located on the building's south facing side as required by Traffic Engineering. These physical changes can be reviewed as part of the building permit for the change of use. Ultimately, the positive outcome of having a well-maintained, lighted, and occupied building should outweigh any negative effects that may occur.

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 hardship imposed upon the individual landowner is the longer length of time the building sits vacant or unoccupied and is not being maintained, the more it becomes less marketable for another office use. The gain to the public health, safety and welfare arise from investments being made in the building to help attract and keep viable occupants, which is an overall benefit to the City and neighborhood. A building lying empty and dark detracts more from to the neighborhood than a building that is occupied and actively used on a daily basis.

AVAILABILITY OF PUBLIC SERVICES: Utilities are available and 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 "C-2" Commercial District.

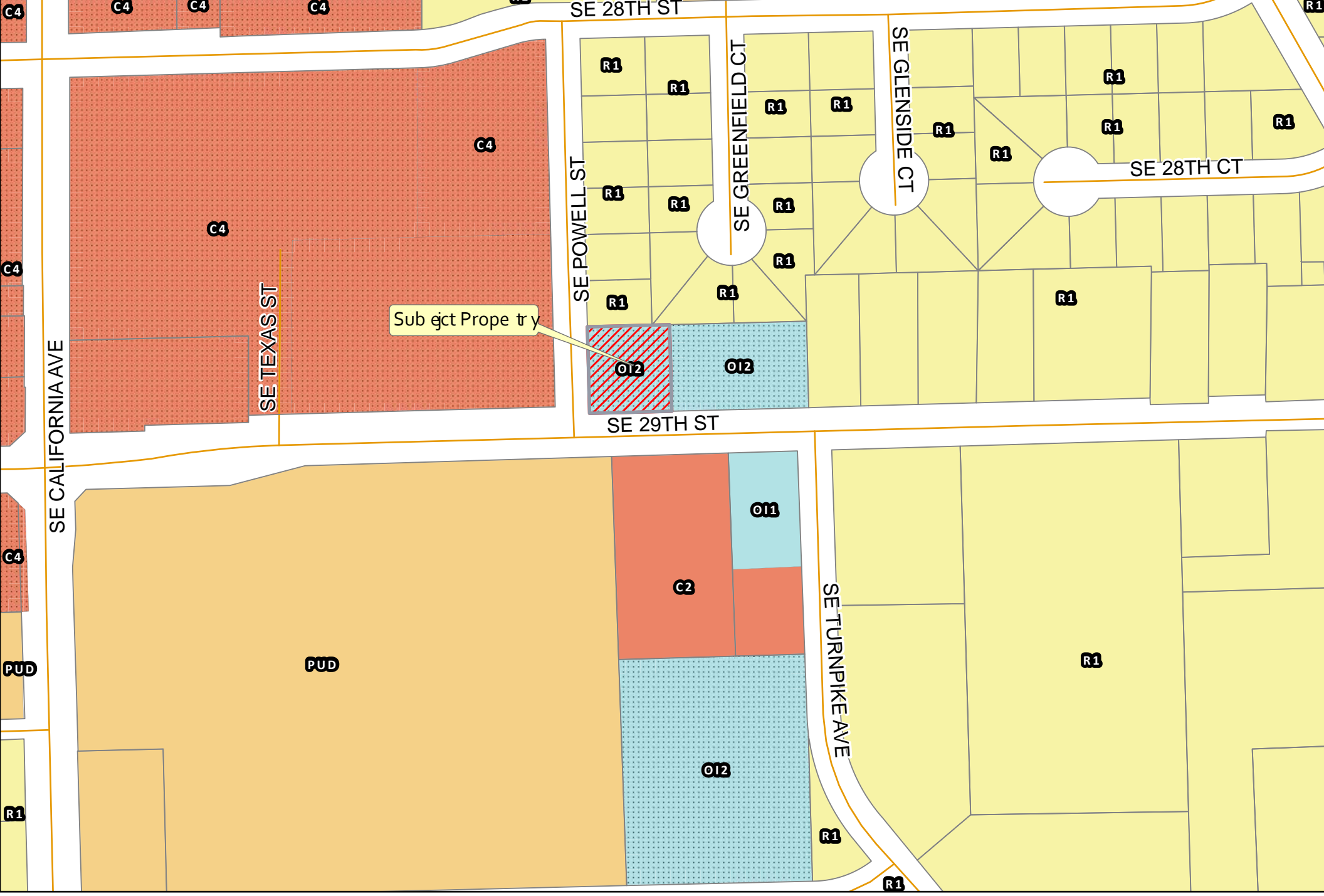
RECOMMENDED MOTION: Based on the findings and analysis in the staff report I move to recommend to the Governing Body approval of the reclassification of the property from "O&I-2" Office and Institutional District TO "C-2" Commercial District.

Exhibits:
Aerial map
Zoning map
Future land use map
NIM Summary and Attendance
Public Testimony



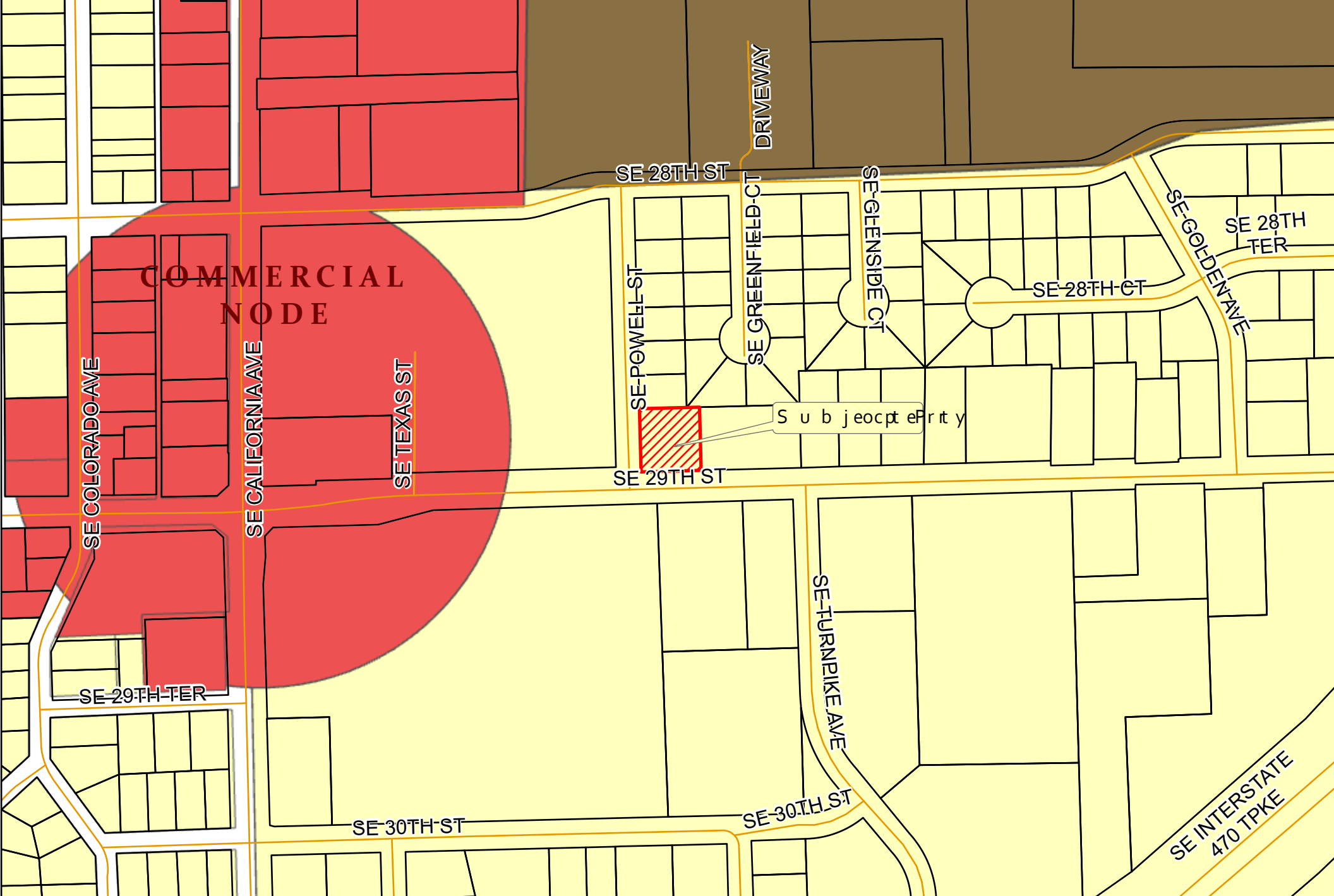
Z19/7 BY: MILK AND HONEY COFFEE CO. L.L.C.





Z19/7 BY: MILK AND HONEY COFFEE CO. L.L.C.





COMMERCIAL
NODE

SE COLORADO AVE

SE CALIFORNIA AVE

SE TEXAS ST

SE 28TH ST

SE POWELL ST

SE GREENFIELD CT

SE GLENSIDE CT

SE 28TH CT

SE GOLDEN AVE

SE 28TH
TER

SE 29TH ST

SE 29TH TER

SE 30TH ST

SE 30TH ST

SE TURNPIKE AVE

SE INTERSTATE
470 TPKE

Subject Property



Dear Sir or Madam;

I am the eye doctor across the street from 2200 SE 29th St. My address is 2211 SE 29th St. I invested in this location partly because it is in a professional building-compatible neighborhood. There is an insurance office across the street, and residential areas are east on both sides of 29th street.

I object to the proposed rezoning of 2200 SE 29th from O&I-2 to C-2 commercial for the following reason:

"According to the Coffee Shop Owners Survey of 232 coffee shop business owners conducted in April of 2019, between 50% – 74% of independent coffee shops will fail in the first five years." -source <https://foodtruckempire.com/coffee/fail-rates/>

My concern is that if Darlene and Chris fail to make a go of the coffee shop, there will be severe financial pressure on them, due to the need to pay the mortgage, insurance, maintenance, and property tax on the property. Those expenses continue whether the shop is open or out of business. I have been told that they have a potential buyer for the coffee shop if it fails. However, we all know that without a written contract, words like that are often empty promises.

Because of these financial pressures noted above, If the coffee shop failed, there is a high likelihood that Darlene and Chris would sell the building. After selling a property, the seller has no control over who the future owners will be. The buyers could resell the property to anyone offering a good price. After the sale, Darlene and Chris would have no control over whose hands the property winds up in.

I checked with Annie Driver, a planner in the department, about this, and it is a fact that rezoning this property to C-2 commercial would make it possible for there to be an adult store there, selling pornography and sex toys, with accompanying signage. It could also become a liquor store, a smoke shop, or a pawn shop, to name a few undesirable businesses. Any of these would plainly harm this part of southeast Topeka.

Mr. Ackerman, in his letter supporting the coffee shop, stated that allowing Milk and Honey Coffee Company to move into this location would be a way of continuing to revitalize East Topeka. I agree. However, I respectfully point out that if this location later becomes one of the undesirable businesses mentioned above, that will move East Topeka in the opposite direction, contributing to its decay, not its revitalization.

I know that many well-meaning people have signed petitions or written letters in support of a coffee shop at that location. I am not opposed to a coffee shop. If it could be rezoned Coffee-C2, I would be in favor. However, that can't be done, and I therefore urge the planning commission to deny the requested zoning change. Leave this pleasant office and residential neighborhood as it is.

-Dr. Kyle Dotson, Optometrist

Annie Driver

RECEIVED

From: docdot2 docdot2 <docdot2@cox.net>
Sent: Thursday, August 22, 2019 12:23 PM
To: Annie Driver
Subject: comments regarding rezoning proposal on SE 29th Street

AUG 22 2019
TOPEKA PLANNING
DEPARTMENT

Follow Up Flag: FollowUp
Flag Status: Flagged

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.

Dear Sir;

This is regarding the proposed rezoning of 2200 SE 29th Street from office and industrial to C-2 commercial.

I am the eye doctor across the street: Dr. Kyle Dotson, 2211 SE 29th Street.

I vigorously oppose this rezoning, because it is out of keeping with the surrounding businesses, which are offices, such as mine and the Becker-Lassen insurance agency. As you know, this area borders on a residential area as well.

If the property is rezoned to commercial, there is no limitation on what type of business could occupy the premises.

It could end up being an adult bookstore, a liquor store, or a smoke shop, to name a few. This would harm my practice, and make my location less desirable for a professional office.

Please do not change the zoning on 2200 SE 29th Street.

-Dr Kyle Dotson, Optometrist

785-266-3240

8-22-19

Neighborhood Public Meeting for Milk & Honey Coffee Co., LLC

Location: Highland Park United Methodist Church - 2914 SE Michigan Ave.

5:30 p.m.

The meeting was held as part of the process to change zoning at the designation location of 2200 SE 29th St. from O&I2 to C2 to accommodate the potential coffee shop, Milk & Honey Coffee Co.

Approximately 30 residents were sent flyers to notify them of the public meeting.

First to arrive was Bob Lassen of Becker-Lassen Insurance Co., located just east of the coffee shop. Mr. Lassen asked owners, Chris Hartman and Darlene Morgan of our background and experience to own a coffee shop.

Chris explained his 20+ years of experience as the CFO of Family Service and Guidance Center where he was in charge of food service.

Darlene explained her background experience in running a licensed home-based business called Burritos on the Go, LLC which she solely handled for almost 3 years before moving from the home to the Shawnee Heights Area where she would no longer have the licensed kitchen.

Mr. Lassen also asked about the menu. We explained the light fare items - sandwiches, homemade breakfast sandwiches, scones and breakfast burritos, which was one of Darlene's specialties.

Mr. Lassen stated he appreciated the light menu, knowing his appetite is not as strong as once before and he would be a customer of the sandwiches. His office is adjacent to the coffee shop.

Soon after, Dale Cushinberry arrived. Mrs. Cushinberry introduced herself and picked up a coffee shop flyer and spoke to Chris about the intentions of the shop. Upon learning that Chris and Darlene would be the owners of the property, she stated her support and told us she didn't drink coffee, but did like milk and water. Annie Driver approached Mrs. Cushinberry as she was leaving to make sure she understood the meaning of the meeting. Mrs. Cushinberry told Annie she did understand and had nothing against the coffee shop going into the designated location. Mrs. Cushinberry lives on 29th street - just east of Becker-Lassen Insurance. Dale left before the actual meeting began. As she was leaving she stated she came to find out what it was all about and got her information and was fine with it.

The remaining persons in attendance were:

Kevin Conard of Blue Jazz Coffee Co. They will be the coffee provider to Milk & Honey

Tony and Allison Emerson - City Council member to the district where the coffee shop is located; Allison is an administrative assistant at Shawnee Heights High School.

Rick and Penny Kloos of Gods Storehouse. Rick's mom lives in the district within 3 miles of the coffee shop and he and his wife live on Berryton Road near SE 45th Street.

Annie Driver, City of Topeka Planning Department

Mike Hall, City of Topeka Planning Department

Darlene Morgan, owner of Milk & Honey Coffee Co.

Chris Hartman, owner of Milk & Honey Coffee Co.

Annie brought the meeting to order by explaining the reason for the meeting and to let everyone know the process of a business going through a zoning change.

Darlene began to explain the mission of the shop. She explained how this was something that had actually been considered for months. First beginning with trying to access another location in the same area, but having no success in reaching the owner or the property manager of California Crossing.

She also explained how a food truck was considered, but did not feel like the right choice for her and Chris considering how much more they wanted to do for the community.

The location of the shop came up in a conversation with Kevin Conard a couple months ago. After which, contact was made with the realtor of the former Bank of America building at 2200 SE 29th; soon after a meeting was scheduled where Darlene and Chris were able to meet the owner as well.

More information was given as to the hours and the hopes of providing a safe haven for the community. Darlene explained how she and Chris want to get the community involved in the coffee shop by giving them a place where there can be ministry, mentoring and tutoring. She explained how there is intentions of getting the nearby high schools - Highland Park High and Shawnee Heights High - and their students to help them feel a sense of ownership in the coffee shop by letting them have a place where they can display their artwork. Highland Park has drop down ceilings where the art students have done beautiful artwork painted on the drop down ceiling panels. This idea is hoped to be utilized as well. Darlene provided samples of the letters of support written on behalf of changing the zoning and the conversations she and Chris have had with the community.

Chris spoke about the location and how we came to wanting to stay on the East side of town to help the revitalization of East Topeka. Chris spoke about how we have already established a contract to purchase the building from the owner who lives in Florida. Chris explained how it's important that we show the community and City of Topeka we want to invest in our town and by purchasing the building we have better control of what goes into our neighborhood.

Bob Lassen discussed a concern brought to his attention by a nearby business owner. The business owner sent an email to the city stating concerns about 'what if' we sold the building and an adult shop, smoke shop or liquor store went into the building. Mike Hall and Annie spoke up to let Mr. Lassen know that an adult shop could likely not go into the building since there was a church close by. Apparently, according to City

zoning, you cannot have an adult type business within so many feet of a church. Chris noted that, even if the coffee shop didn't work out, as property owners and residents of the community, we would be very scrupulous in who we would even consider selling the property to, though we consider this a worst case kind of 'what if' situation. Kevin Conard spoke up on behalf of Chris and Darlene stating that should something happen to us, he would have stake in the shop and would seriously consider taking it over. Kevin reassured the group that he has many customers and knows many people in the SE area of town who are and have been waiting a long time for a coffee shop in this area. Annie asked Kevin what other coffee shops provided his Blue Jazz coffee. Kevin mentioned, World Cup, Topsy Carrot, downtown BP station, and Fellowship Bible Church at Hi-Crest and 10th and Urish Rd. Mike Hall asked what brought us to this side of town and if we considered any other locations.

Chris spoke and stated this was something we both felt strongly about when it came to finding a location that was near where we lived and would be beneficial to the SE side of town where there are currently no coffee shops in the area. Chris explained that there are some open areas near 29th and Croco but none had the drive through which is a benefit to the coffee shop.

Darlene explained how the location of the shop is ideal to serving both Shawnee Heights and Highland Park. As well as the residents east of Croco. The opening of 29th Street will help residents travel the direction of the shop and easily get back on 29th to California Ave where they can still access I-70 quickly.

Chris also mentioned the Senior Citizen Center which is a block north of the coffee shop. The center has residents who ride their scooters up the block through Dillons parking lot to get to McDonalds to sit and drink coffee. Milk and Honey will be a more convenient place for the senior citizen and Chris and Darlene have full intentions of welcoming them to come and sit as long as they wish in the shop.

Allison asked if we would provide a senior discount - Darlene spoke up and stated we would consider placing a large coffee pot on a counter with a jar where the seniors could grab their coffee and place money in the jar and could pay for coffee at a reduced cost.

Darlene spoke about how she grew up in Oakland, is a graduate of Highland Park High and now lives in the Shawnee Height District. How having a shop that is convenient and close to home is important to her since she has three girls at home. Darlene also mentioned she wants to see the two schools - Highland Park and Shawnee Heights - come together as a community. The location of the building will offer a perfect location, especially with 29th street widening.

Chris mentioned we had considered the building at the corner of 29th and California that has the caboose, but the property manager was never available to meet with us, nor very good at returning calls. Once a meeting was arranged to see the building, the property manager cancelled at the last minute and never was able to be reached again. Chris and Darlene both expressed the interest to revitalize East Topeka and they want to be the trailblazers who are not afraid to open a small local shop on the east side of town. Chris and Darlene hope to be the trendsetters that will encourage other owners to occupy vacant buildings.

Chris and Darlene asked if there were any more questions.

Allison Emerson asked what might be our opening date if all went well. Chris replied that if all the 'stars aligned' we anticipated opening in November. He explained we have already met with architects and engineers to get as built plans and an idea of the costs involved to do minor renovations to bring the building up to code for a coffee shop. Chris and Darlene have also met with a local graphic artist on the branding and logo artwork for the shop.

Chris explained how spending money on the coffee shop while things are still uncertain may seem risky at this point but it is something we believe in and have much faith in. Chris explained he is using his retirement to invest into the coffee shop - that is how strongly he feels about opening it.

One last comment came from Darlene stating that it would help the community if we came in and opened a shop knowing we would have security cameras installed and this would benefit the neighborhood.

There were no other questions and the meeting ended shortly after 6:30 p.m.. Many of the attendants stayed to visit and spend time talking casually.

Personal Editorial

Vacant buildings are difficult to see in Topeka. It is far better to give local businesses a chance to occupy a vacant building than to have one sit for a period of time. We cannot always think about the 'What If's' when it comes to allowing a Topeka resident to start a new business. But those 'what if' questions can come from the alternate end as well - what if the building is left vacant and people use it illicitly? What if the vacant building is used as a gathering place for drug interactions? What if the vacant building is used for loitering. A neighbor who lives close to the potential location of the coffee shop stated they saw people sleeping in the enclosed trashcan area a few times. It is far better for a local resident to try and create establishment than to bring in more chain businesses or have a building sit for a period of time.

While meeting people to discuss the coffee shop, many Topeka residents have expressed how difficult it is to open a business in Topeka due to so many restrictions. It causes people to be apprehensive to start a business. Many residents are hoping the City of Topeka reconsiders how starting a business is so difficult and perhaps rethink the rules to make it easier on entrepreneurs. As a Capital city we should want to encourage more entrepreneurship. Our town is filled with several creative and inspiring people - young and old.

Chris and I are on board to change the mindset of many Topeka residents and encourage more development, reuse of buildings and revitalization in uncommon areas - especially East Topeka.

We have many good things going on Downtown, East and North Topeka and it is inspiring to see people wanting to do more and who are not afraid to take the necessary steps to open up shops in our town. We have several locally owned

businesses in town and should be fortunate more people are wanting to invest in Topeka. Let's keep the trend going. We can stop and say 'what if' all day long, but what if we don't let someone follow a dream of wanting to bring communities together? Local business help people garner more friendships, create camaraderie and support one another? As a Capital city we should want to help people start businesses here in our town. It will bring nothing but good to the residents living here as well as the people visiting.

Our Capitol building is absolutely beautiful - let's trust the people who surround the Capital City and want to beautify Topeka.

Thank you for your time - we look forward to seeing you at the September 16th meeting.

Sincerely -

Darlene Morgan

Neighborhood Information Meeting

Sign in Sheet

Milk and Honey Rezoning 2200 SE 29th Street

Date: Wednesday, May 29, 2019 at 5:30 pm

Highland Park United Methodist Church 2914 SE Michigan Ave

[illegible]

To Whom it May Concern:

I am writing a letter of support of a new coffee shop that will be owned by Chris Harman and Darlene Morgan on 220 SE 29th street. I live on Tidewater street by Lake Shawnee and work at Shawnee Heights Middle School. There used to be a coffee shop near my house but it has gone out of business due to poor management. Many people in the community were sad to see the coffee shop go because now we have to drive 15 to 20 minutes if we want to buy a cup of coffee or to drive to McDonalds. My colleagues and I have had many conversations about how there needs to be a coffee shop on this side of town. The people in the community would support this local shop, many teachers drive 20 minutes across town just to enjoy a Starbucks in the morning. I am very excited about this new business and I know many people in the community will be as well. Please contact me at stockwellwithersk@usd450.net if you have any further questions.

Thank you,
Karen Stockwell-Withers

Milk & Honey

coffee co.



Owners: Darlene Morgan & Chris Hartman

Location: East of 29th and California

Hours of Operation: Monday thru Saturday
6 a.m. to 7 p.m.

Blue Jazz Coffee, WiFi & Camaraderie

Anticipated Menu

Breakfast - Sausage, Egg & Potato Burritos, Bagels, Toasted Breakfast Sandwiches, Pastries, etc.

Lunch - Light fare Sandwiches (Ham, Turkey, Roast Beef), Salads, Daily Specials

Snacks - Cookies, Chips, Fruit Cups, Yogurt

Currently there are no true coffee shops east of Washburn Ave. Our potential location offers easy access from east and west of California Ave. with a convenient drive through and options for both inside and outside seating. There is ample parking and easy handicap access to the seating area. This shop will also offer a ministry, mentoring and tutoring to the community, high school or even college students who live on the side of town and need a place to sit and study. Our location would be able to reach students at Highland Park, Shawnee Heights and the new Washburn Tech campus.

*If you would like to support this coffee shop, please contact Darlene or Chris. We would welcome a letter prior to our Planning Commission meeting on September 16, stating you would support a coffee shop on this side of town and rezoning the location intended for our shop. Or sign a petition we have available! Thank you!

Darlene Morgan (HPHS and Washburn U. graduate, three kids in Shawnee Heights schools), 785-250-3684, darlenemorgan2017@outlook.com

Chris Hartman (Washburn U. graduate, two kids graduated from THS), 785-640-0111, chartman889@gmail.com

The Milk & Honey Coffee Co.

Currently there are no true coffee shops east of Washburn Ave. other than the few downtown. People are relegated to fast food coffee on our side of town. There has been talk about how nice it would be to have a place that provides a higher standard of coffee. There are even Facebook posts about it. The potential location offers easy access from east and west of California Ave. with a convenient drive through and options for both inside and outside seating. There is ample parking and easy handicap access to the seating area. This shop will also offer a ministry to the community, reaching some of the high school or even college students who live on the side of town who need a place to sit and study. With its location at 2200 SE 29th Street, we would be able to reach students at Highland Park, Shawnee Heights and the new Washburn Tech campus.

It is our intention to be open from 6:00 am to 7:00 pm Monday through Saturday. Closed Sundays and all major holidays. We are already working with a local coffee roaster for our coffee and equipment. We will keep our price points simple and below a traditional coffee shop like Starbucks. We also intend to offer fresh food – sandwiches, breakfast burritos, homemade pastries, etc. While we do not expect to go head to head with a fast food company like McDonald's, we expect to be locally sourced, healthier and fresher.

We are currently working with the property owner on either a long-term lease with purchase options or an outright purchase of the building. He has been extremely amenable to our suggestions and our intent to open the coffee shop. We have also been walking the surrounding neighborhood discussing our intentions with the residents and so far, we have received very positive feedback.

We will utilize any avenues of first-time business grants and loans for women and minorities from Go Topeka, City of Topeka as well as State and Federal grants of a similar nature. Additional start-up funding can come from Chris' retirement plan until the business is fully operational. Our next step is a meeting with the City Zoning and Planning and Development staff on Tuesday, July 30th at 2:00 pm at 620 SE Madison.

Darlene Morgan (HPHS and Washburn U. graduate, three kids in Shawnee Heights schools), 785-250-3684, darlenemorgan2017@outlook.com

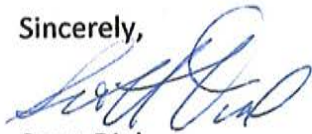
Chris Hartman (Washburn U. graduate, two kids graduated from THS), 785-640-0111, chartman889@gmail.com

To Whom It May Concern:

I am writing a letter in support of a coffee shop owned by Chris Hartman and Darlene Morgan which would be located at 220 SE 29th St. I grew up across the street from Highland Park High School, currently live by Lake Shawnee, and I'm an elementary principal in the Shawnee Heights School District. I understand the community dynamics and feel that a coffee shop on the east side of town would be a big addition. Multiple staff members and families that attend Tecumseh South Elementary would agree with me as needing a local coffee shop is a popular conversation.

Feel free to call, text, or email me if you want to discuss it further.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott Dial", is written over the word "Sincerely,".

Scott Dial

dials@usd450.net

785-249-9371

July 30, 2019

To Whom It May Concern,

This letter is in complete support of the coffee shop to be located at 2200 SE 29th Street in Topeka, KS.

I am a business owner in this area who works from home. I often drive across town to work from a coffee shop because there are no options in our area. A place on this side of town would be popular and is needed.

Sincerely,

Beth Jessop

Beth Jessop 785-331-7790

To Whom it may concern

My name is Kristen Powell and I live just east of Lake Shawnee. I am writing today in support of rezoning to allow for a coffee shop to be opened at 2200 SE 29th street in Topeka, KS. I understand the shop would be owned by Darlene Morgan and Chris Hartman. I believe this type of business is missing for our community and it would be very well received by local residents and would generate good business for this area. I have personally been wishing we had such a local shop on our side of town so I don't have to drive 20 minutes across town for a decent cup of joe! Please support this endeavor and help build up the east side of Topeka!

I am happy to be contacted for further questions.

Sincerely,

 7/29/19

Kristen Powell, PharmD

785-806-6326

July 28, 2019

To Whom It May Concern,

I am writing a letter in support of a coffee shop to be located at 2200 SE 29th St. I understand it will be owned by Darlene Morgan and Chris Hartman. Southeast Topeka is in need of more locally owned businesses and a small coffee shop would be a welcome addition to the area.

Sincerely,

A handwritten signature in blue ink that reads "Kim Pentico". The signature is written in a cursive style with a large, stylized "K" and "P".

Kim Pentico

4438 SE Gemstone Ln

Topeka, KS 66609

To Whom it May Concern,

My name is Marley Baum. I am writing a letter in support of a coffee shop to be located at 2200 SE 29th St. I understand it will be owned by Darlene Morgan and Chris Hartman.

I have lived in SE Topeka area for the past 15 years. While my family and I love all the SE side of town has to offer, it is missing access to good food and coffee. My husband and I enjoy early morning coffee dates. It would be wonderful to not have to drive across town to enjoy our coffee together. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Marley Baum". The signature is fluid and cursive, with a long horizontal flourish at the end.

Marley Baum
3331 SE Tecumseh Rd
7852133834

July 24, 2019

To Whom It May Concern,

I am writing a letter in support of a coffee shop to be located at 2200 SE 29th St. I understand it will be owned by Darlene Morgan and Chris Hartman. Southeast Topeka has needed a small coffee shop for several years and I feel it would be strongly supported and generate good business for this area. I hope that the city will make the necessary changes to allow this to happen.

Sincerely,

A handwritten signature in black ink that reads "Vicki Claassen". The signature is written in a cursive style with a large, stylized 'V' and a long, sweeping underline.

Vicki Claassen
5033 SE Ratner Rd
Berryton, KS
785-379-9912

Carol A Mammoliti

3211 SW 33rd Ct
Topeka, KS 66614
carolammoliti@gmail.com

July 24, 2019

ATTENTION: Members of the Topeka City Planning Commission-

I am writing today in favor of a proposed coffee shop in the location of 2200 SW 29th Street, owned by Darlene Morgan & Chris Hartman. The SE area is moving forward, with the addition of a WalMart and the renovation of the Dillons store – the time is ripe for this area to have a unique coffee shop. I understand that the proposed business includes a drive-through, which is brilliant, as most of us opt for a place where we can grab a good cup of Joe and scoot on quickly to our destination. My daughter and her family live near Lake Shawnee, so I am frequently in the area visiting. She has mentioned numerous times, how she wished there was a coffee shop near her. I believe this business would be a most welcomed addition.

My hope is that this is just the beginning of what SE Topeka will become.

Thank you for your time and consideration.

Sincerely,



Carol Mammoliti

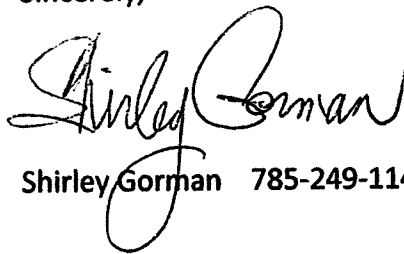
To Whom It May Concern:

This letter is in support of a new start-up coffee shop planned to be located at 2200 SE 29th Street in Topeka, KS.

Darlene Morgan and Chris Hartman will be the owners of this proposed new business. A coffee shop has been desperately needed in Southeast Topeka ever since Ice & Olives closed their retail business and their adjoining coffee/breakfast shop near SE 29th & Croco Road several years ago. The owner of Ice & Olives retired, and no one has stepped forward until now to open a coffee shop in this area.

I have been a resident of Southeast Shawnee County for 20 years, and have watched several areas develop such as Rock Fire, Rolling Heights, Stone Crest, etc. Without a doubt, this would be a popular and much needed asset to the neighborhood.

Sincerely,

A handwritten signature in black ink, appearing to read "Shirley Gorman". The signature is fluid and cursive, with the first name "Shirley" written in a larger, more prominent script than the last name "Gorman".

Shirley Gorman 785-249-1149

July 2019
To whom it May Concern,

I am writing this letter to express my support for a possible new business to be located @ 2200 So. 29th Street.

I do understand it will be owned & operated by Darlene Morgan & Chris Hartman.

Personally, I would like to see a coffee shop on our side of town so we have a choice other than McDonalds. I would like to see something other than Mexican eateries or mundane businesses that don't add a warmth to our side of town. I think the smell of freshly brewed coffee or freshly baked bread are the best aromas.

California @ 29th should be another destination where people can get coffee other than Mamamaker or down town. We have many great people out here, who work & operate their businesses. We are proud & what

better way to get to know more
of us, than to share a great
cup of coffee.

Claudia James
2421 S. Oakwood Drive

Milk & Honey Coffee Co.

Owners: Darlene Morgan & Chris Hartman

3941 SE Howey Rd., Topeka, KS 66609

We the undersigned support the use of the vacant bank building at 2200 SE 29th St. as a coffee shop with a drive through. We also support the opening of a coffee shop in Southeast Topeka. We understand that the business would not open earlier than 6 a.m. nor close later than 7 p.m. and that it will be closed on Sundays to allow its owners and employees time with their families.

We encourage the City of Topeka zoning board and City Council to approve the needed coding changes to allow this coffee shop to operate at the designated location.

NAME	ADDRESS	PHONE	EMAIL
Don Decker	2810 SE Powell St.	785-267-1772	1
J. M.	3440 SE Walnut Dr.	620-755-1097	derkfor3@gmail.com
Karni Mead	3440 SE Walnut Dr.	308-991-1454	karniynmead@gmail.com
Justin Simpson	2826 SE Powell	785-817-8616	jsimpson@captrucking
L. S. S.	2834 SE Powell	785-215-8381	
Kayla Simpson	2826 SE Powell St.	785-409-2821	Kayla b 215@gmail.com
Ethan Steenbock	2826 SE Powell St.	785-608-0535	Steenbockethan@gmail.com
Laura Lignads	2801 SE Greenfield	602-741-1262	lfanning200@gmail.com
Audrey Hamilton	4415 SE Idaho Ct.	785-256-1487	audreyhamilton87@gmail.com
Phil Hamilton	4415 SE Idaho Ct.	(785) 550-7032	phil'sjhautes@gmail.com
Miranda Chavez-Hazim	3605 SE Colorado Ave	(785) 250-5571	chavezhazim@yahoo.com
Sawab Hazim	3605 SE Colorado Ave	(785) 250-5570	sawabhazim@yahoo.com
Chuck	2644 SE Waters Edge Dr.	785-267-0768	chuck@er.net
Shirley Gorman	3931 SE Howey Rd.	785-249-1149	zzgorm@hotmail.com
Marilyn Barm	3331 SE Tecumseh Rd.	785-213-3834	mpowell35@yahoo.com
Chris M. Phillips	3112 SE Silverleaf Ct.	785-817-5511	bphillips6@cox.net
Joyce Chiles	2644 SE Waters Edge Dr.	785-267-0768	-

Milk & Honey Coffee Co.

Owners: Darlene Morgan & Chris Hartman

3941 SE Howey Rd., Topeka, KS 66609

We the undersigned support the use of the vacant bank building at 2200 SE 29th St. as a coffee shop with a drive through. We also support the opening of a coffee shop in Southeast Topeka. We understand that the business would not open earlier than 6 a.m nor close later than 7 p.m. and that it will be closed on Sundays to allow its owners and employees time with their families.

We encourage the City of Topeka zoning board and City Council to approve the needed coding changes to allow this coffee shop to operate at the designated location.

NAME	ADDRESS	PHONE	EMAIL
Kristin Chiles	3937 SE Howey Rd.	785-806-7037	Kchiles55@yahoo.com
James M. Gorman	3931 SE Howey Rd.	785-230-6078	mike@gormanninc.com

PUD19/03

Wanamaker West Development

STAFF REPORT – PLANNED UNIT DEVELOPMENT TOPEKA PLANNING DEPARTMENT

PLANNING COMMISSION DATE: Monday, September 16, 2019

APPLICATION INFORMATION

APPLICATION CASE
NUMBER/NAME:

PUD19/03 By: Wanamaker West Development

REQUESTED ACTION /
CURRENT ZONING:

Rezoning from "C-2" Commercial District and "O&I-2" Office and Institutional District 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.)

APPLICANT/
PROPERTY OWNER:

Wanamaker West Development / Cook, N T & Flatt, DW & Strobel, Kenneth E Trust D/B/A C F & S PR

APPLICANT REPRESENTATIVE:

Mr. Kevin Holland, CFS Engineers

CASE PLANNER:

J. Neunuebel, Planner II

PROPERTY ADDRESS:
&
PARCEL I.D:

6017 SW 30th Terrace
1441701001009000

PHOTOS:



Center portion of heavily-wooded subject property viewed from north side of SW 30th Terrace



Facing east along north property line with recently-constructed carwash in background



Facing north along east property boundary with rear of Hy-Vee building located on north side of SW 30th Terrace. (SW 30th Terrace itself is not visible in photo due to topography / differences in grade elevations.)

PARCEL SIZE(S):

2.11 Acres

RECOMMENDATION:

APPROVAL subject to conditions in the staff report

RECOMMENDED MOTION:

Based on the findings and analysis in the staff report I move to recommend to the Governing Body **APPROVAL** of the PUD Master Plan along with conditions.

PROJECT AND SITE INFORMATION

PROPOSED USE / SUMMARY:

Development in accordance with the C-2 commercial zoning use group, with other specific uses limited to Self-Storage Type(s) I and II, along with Building, Construction & Mechanical Contractor Office. The PUD Master Plan does not include proposed structures or building footprints. Future development of the site will require review and approval of a Site Development Plan pursuant to the PUD Master Plan. The applicant is seeking approval of the PUD Master Plan with the intent of increasing the marketability of the vacant property that is presently for sale.

DEVELOPMENT / CASE HISTORY:

The subject site is undeveloped and heavily wooded in the western portion of the property. The entire property was rezoned in 1997 from PUD with multi-family use to O&I2 Office and Institutional. The eastern 2/3 of the property was also subsequently rezoned in 2007 from O&I2 Office and Institutional District to C-2 Commercial District.

ZONING AND CHARACTER OF SURROUNDING PROPERTIES:

One third of the subject property is zoned O&I-2 Office & Institutional, and the balance is zoned C-2 Commercial. Zoning and land uses adjacent to the site are as follows:

Adjacent and north: C-4 commercial district with the backside of the Hy-Vee grocery market. Immediately north of the O&I2 office and institutional portion of the property, on the north side of SW 30th Terrace, is vacant property also within the O&I2 district.

Adjacent and west: Continuation of the O&I2 office and institutional district, with vacant property immediately to the west of the site and beyond that is a dental clinic located on SW Villa West Drive also within the O&I2 district.

Adjacent and east: C-2 Commercial District with recently-opened Club Carwash, with single-family residences to the east of SW Wanamaker Road within the R-1 Single-Family Dwelling District.

Adjacent and south: The City of Topeka's corporate boundary coincident with the south property line of the site with Unincorporated Shawnee County zoning designation of RR-1 Residential Reserve. The adjoining 50-acre property is generally vacant although there is a single-family residence located approximately 200 feet south of the subject site, while an associated outbuilding is located approximately 40 feet south of the subject site.

COMPLIANCE WITH DEVELOPMENT STANDARDS AND GUIDELINES

BUILDING SETBACKS:

Future buildings to be constructed on the site shall adhere to C-2 Commercial building setbacks as follows: Front setback – 25 feet; Rear setback – 25 feet; and Side setback – 10 feet.

DENSITY & DIMENSIONAL STANDARDS:

Density & dimensional standards for the C-2 Commercial district apply to future development on the site in compliance with the following standards: 10,000 sq. ft. minimum lot area; maximum building coverage of 50%; minimum lot width of 50 feet; and maximum building size of 50,000 sq. ft. (Potential Self-Storage facilities will not be subject to this maximum building size.)

TRANSPORTATION AND ACCESS:

SW 30th Terrace is designated as a local street, with the city's long-range plans anticipating its extension to the west, joining with SW Villa West Drive, also a local street which currently terminates south of SW 29th Street (approximately 400 feet to the west of the subject site). SW 30th Terrace and SW Villa West Drive together comprise a designated bikeway within the Topeka Bikeway Master Plan and will provide connection between SW Wanamaker Road and SW 29th Street, enabling bicyclists to bypass the busy intersection of these two arterial roadways. A sidewalk is completed within the adjacent public right-of-way for a distance of approximately 2/3 of the subject site's north property boundary.

The proposed PUD Master Plan notates the need to complete SW 30th Terrace to a point adjacent to the west property line of the subject property as required by the City of Topeka Public Works Department upon development of the site.

OFF-STREET PARKING:

Required off-street parking is determined by specific land use and not by the particular zoning district. The amount and placement of off-street parking will be determined during future Site Development Plan review and approval process.

DESIGN STANDARDS:

Building elevations will be subject to the City's Non-Residential Design Standards, although storage buildings may be exempted from the doors and windows requirements of the design standards as notated on the PUD Master Plan. Staff is recommending that the PUD Master Plan be further notated to require that any outside storage areas including types of materials and/or merchandise be identified during the Site Plan review and approval process, along with appropriate screening (See proposed Condition #2, Page 7).

LANDSCAPING:

The PUD Master Plan will be subject to the City's landscape requirements, with the PUD Master Plan also indicating that a mix of evergreen trees, shrubs, and deciduous trees shall be provided within 20 ft. landscape setback along the street frontage and adjacent to residential properties.

SIGNAGE:

The PUD Master Plan requires that each sign shall be approved by separate sign permit application pursuant to the City's sign regulations.

OTHER FACTORS

SUBDIVISION PLAT:

The property is platted as part of the Wanamaker West Subdivision No.2.

UTILITIES:

City sanitary sewer and water service are generally available to the property, although a sewer line will need be installed or extended from Wanamaker Road public right-of-way approximately 400 feet to the east.

**FLOOD HAZARDS, STREAM
BUFFERS:**

None

HISTORIC PROPERTIES:

None

**NEIGHBORHOOD INFORMATION
MEETING:**

The applicant conducted a neighborhood information meeting on Wednesday, August 28th, at 5:30 p.m. City Council Member Aaron Mays attended the meeting, along with the applicant and City staff, and there were no other attendees.

**ADDITIONAL COMMENTS AND
CONCERNS:**

None

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

Public Works /Engineering:

No issues identified.

Water Pollution Control:

No issues identified.

Fire Department:

No issues identified.

Development Services:

No issues identified.

KEY DATES

SUBMITTAL:

July 19, 2019

**NEIGHBORHOOD INFORMATION
MEETING:**

August 28, 2019

LEGAL NOTICE PUBLICATION:

August 26, 2019

**PROPERTY OWNER NOTICE
MAILED:**

August 23, 2019

STAFF ANALYSIS

CHARACTER OF THE NEIGHBORHOOD:

The proposed PUD Master Plan is compatible with the existing and desired future character of the neighborhood which includes a mix of uses including commercial and office uses, as well as low-density residential uses. The required Site Plan review and approval process, along with other PUD Master Plan provisions ensure that development impacts on surrounding properties, if any, will be mitigated.

ZONING AND USE OF NEARBY PROPERTIES: The proposed zoning and potential uses are compatible with the zoning and use of nearby properties. The parcels adjacent to the subject property are classified C-4 Commercial, O&I-2 Office & Institutional, and RR-1 Residential. The standards of the PUD Master Plan help ensure development will be compatible with current and future development on surrounding properties.

LENGTH OF TIME THE PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER THE PRESENT CLASSIFICATION: The subject property is vacant and has never been developed. (A carwash was recently constructed on an adjacent property that also had been vacant and undeveloped.)

SUITABILITY OF USES TO WHICH THE PROPERTY HAS BEEN RESTRICTED: The applicant's purpose for a change in zoning is premised on the current zoning not providing for a suitable range of uses. The existing O&I-2 zoning applies to one-third of the 2.1-acre parcel and C-2 zoning applies to the other two-thirds of the property. Under its current zoning all of the property may be developed for office, a medical clinic and other related medical uses, and limited residential or institutional uses. The two-thirds of the property zoned C-2 may also be developed for retail, restaurant, auto repair, and other uses, however; the property may not be well-suited for some of the permitted C-2 uses because it is located on a presently dead-end street, and the property is not easily visible from Wanamaker Road. The applicant is speculating that self-service storage (termed *Self-Storage Types I and II* in the Zoning Matrix, TMC 18.60.010) and contractor offices (*Building, Construction, & Mechanical Contractor Office* in the Zoning Matrix) have marketable development potential at this location. From the many inquiries the City gets regarding storage and contractor offices, it would appear there is local demand for these uses and the proposed PUD Master Plan provides for them. The relatively small size of the property (2.11 acres) limits its development potential under either the current or proposed zoning.

CONFORMANCE TO THE COMPREHENSIVE PLAN:

The Topeka Land Use and Growth Management Plan 2040 (LUGMP) includes the subject property and adjacent properties as Office within the future land use map. Office uses within the LUGMP are often intended to serve as a suitable transitional use between commercial centers and residential neighborhoods. The effect of the PUD conditions (e.g. limited uses, screening, landscaping, building design, etc.) would be to serve as a suitable transition to the low-density residential area located immediately to the south within unincorporated Shawnee County. The newly-constructed carwash located immediately to the east of the site also reduces any transitional benefit that may be derived from an office use in subject location. Lastly, office uses are not precluded on the site pursuant to the proposed PUD Master Plan.

THE EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES:

The proposed PUD Master Plan will provide for development currently provided for within the O&I2 and C-2 zoning districts, in addition to uses comprising Self-Storage Types I and II, and Building, Construction & Mechanical Contractor Office. The PUD also includes provisions that will ensure that there are few, if any, negative impacts on surrounding properties as a result of any permitted use.

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: Approval of the proposed zoning change to PUD will allow a vacant property to be utilized for additional potential uses that are in demand within the city and region. Denial of the zone change may result in the property continuing to remain vacant and not enable increased utilization of existing infrastructure along SW 30th Terrace and within the area.

AVAILABILITY OF PUBLIC SERVICES:

All essential public roadways, utilities, and services are currently present and available within the area.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

The Wanamaker West Development PUD Master Plan establishes developments standards and guidelines as indicated. The property is part of the "Wanamaker West Subdivision No.2." A re-plat is not required.

STAFF RECOMMENDATION

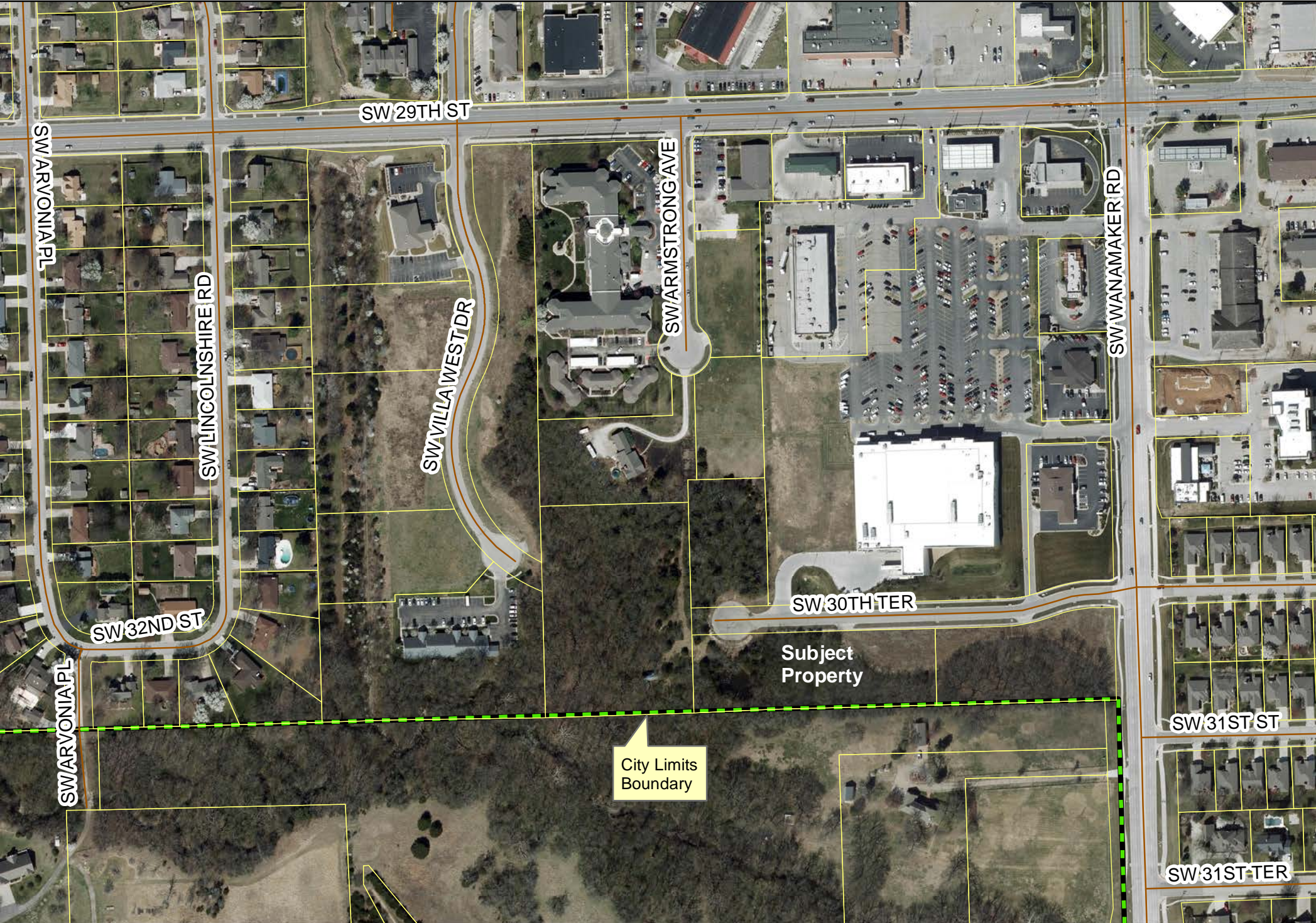
Based upon the above findings and analysis, Planning staff recommend **APPROVAL** of the PUD Master Plan, **subject to:**

1. Use and development of the site in accordance with the **Wanamaker West Planned Unit Development Master Plan** as recorded with the office of the Shawnee County Register of Deeds.
2. Add new General Notes No.6 that indicates: "Outdoor storage shall be limited to operable & licensed vehicles, and materials incidental to the operation of a contractor's shop or office. Outdoor storage areas shall be effectively and compatibly screened from view from other properties or public right-of-ways."
3. Under Fencing & Landscaping Notes add: "Parking and drives shall be set back a minimum of 5 feet from the property line at SW 30th Street. Fencing along SW 30th Street shall be set back behind the property line and a minimum of 5 feet behind the edge of the sidewalk. Shrubs and/or trees may be required between the fence and sidewalk as part of an approved Site Development Plan."

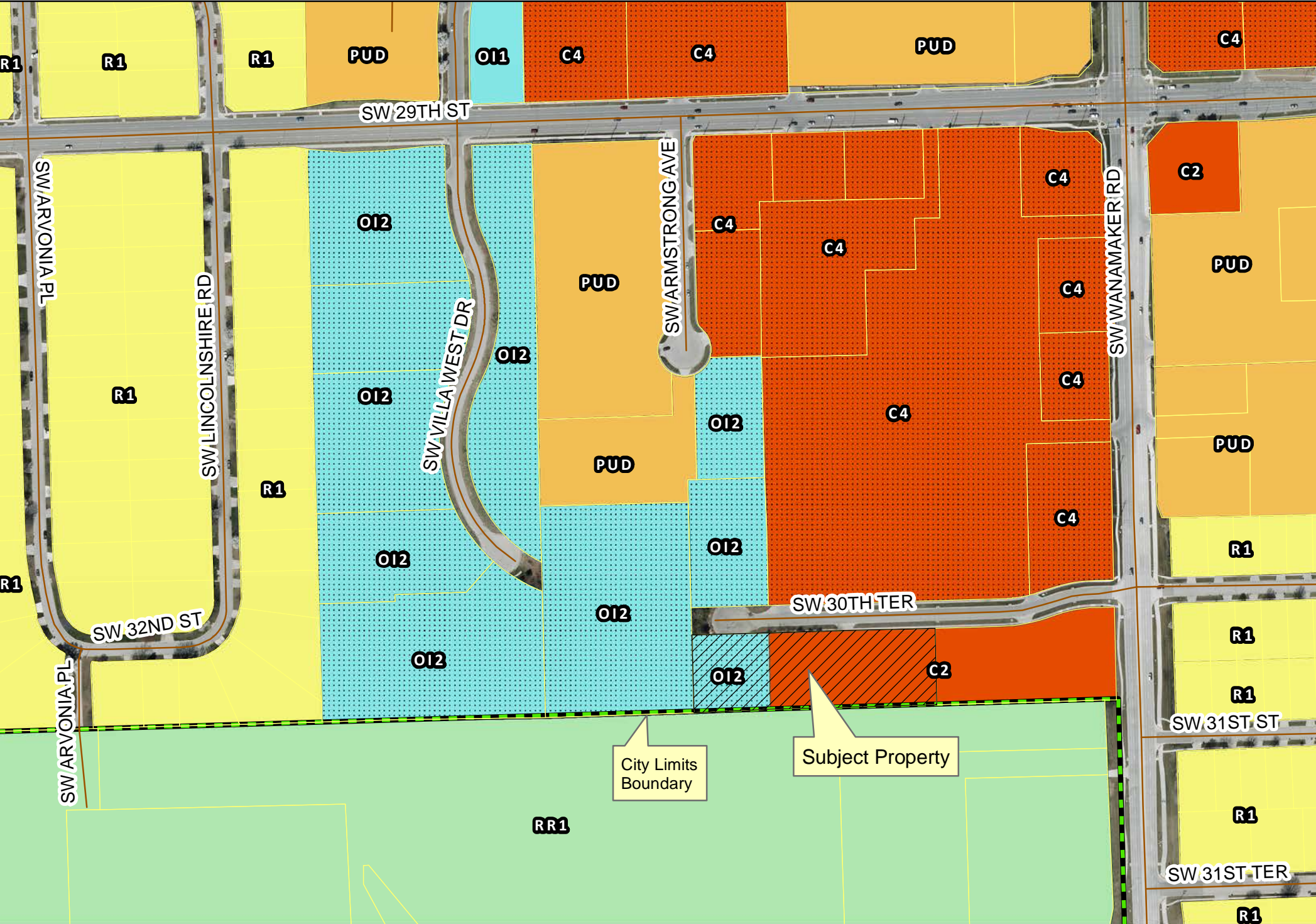
PLANNING COMMISSION MOTION: Based on the findings and analysis in the staff report I move to recommend to the Governing Body **APPROVAL** of the PUD Master Plan along with conditions.

ATTACHMENTS:

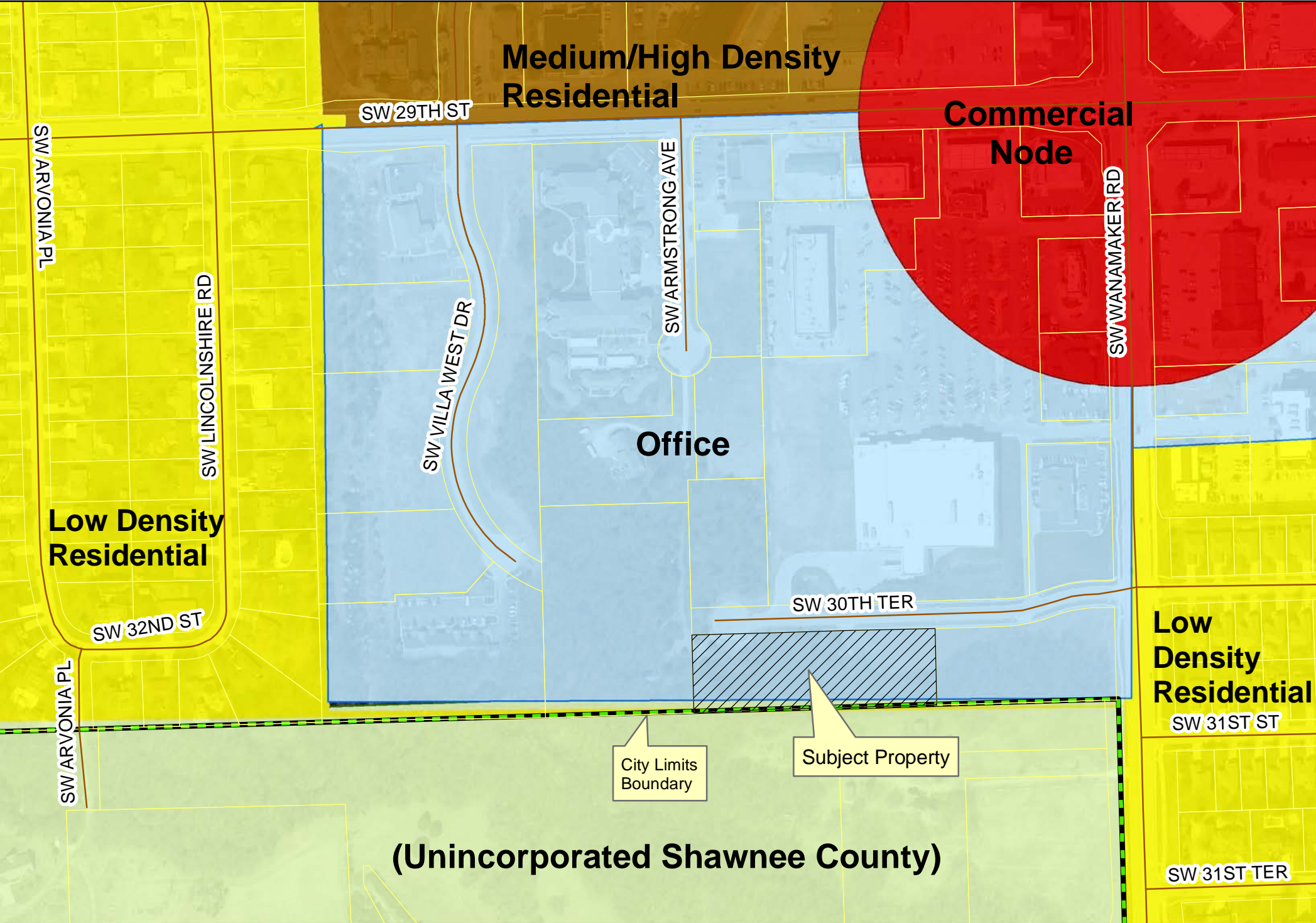
Aerial Map
Zoning Map
Future Land Use Map
PUD Master Plan (1 Sheet)



PUD19/03 by: Wanamaker West Development
Aerial Map



PUD19/03 by: Wanamaker West Development
Zoning Map



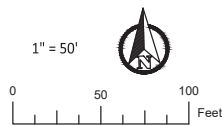
**PUD19/03 by: Wanamaker West Development
Future Land Use Map**

PROPERTY OWNER:

COOK, N T & FLATT, DW & STROBEL, KENNETH E TRUST D/B/A C F & S PRTNSHIP
PROPERTY ADDRESS
6017 SW 30TH TER
TOPEKA, KS 66614

DATE:

AUGUST 22, 2019



DESCRIPTION

LOTS 3, 4, AND 5, BLOCK "B", WANAMAKER WEST SUBDIVISION NO. 2, IN THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 12 SOUTH, RANGE 15 EAST OF THE 6TH P.M., IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS.

PERFORMANCE OBJECTIVE

TO PROVIDE FOR DEVELOPMENT IN ACCORDANCE WITH THE C-2 ZONING CLASSIFICATION AND LIMITED STORAGE USES IN A MANNER COMPATIBLE WITH SURROUNDING ZONING AND LAND USE.

GENERAL NOTES

- THE STANDARDS APPLICABLE TO THE BASE ZONING OF C-2 SHALL APPLY UNLESS OTHERWISE STATED.
- NO BUILDING PERMITS SHALL BE ISSUED UNTIL A SITE PLAN REVIEW APPLICATION PURSUANT TO TMC 18.190.060(C), FOR DEVELOPMENT MEETING THE APPLICABILITY CRITERIA IN TMC 18.260.030 HAVE BEEN REVIEWED AND APPROVED BY THE PLANNING AND DEVELOPMENT DIRECTOR AND OTHER CITY DEPARTMENTS PRIOR TO SUBMITTAL FOR BUILDING PERMITS. THE SITE PLAN SHALL ADDRESS OFF-STREET PARKING AND CIRCULATION, FIRE PREVENTION, LANDSCAPING, EXTERNAL LIGHTING, BUILDING ARCHITECTURAL ELEVATIONS, STORMWATER MANAGEMENT AND RELATED EASEMENTS, COMPATIBILITY WITH ADJACENT DEVELOPMENT, UTILITIES, ETC.
- NO BUILDING PERMITS SHALL BE ISSUED UNTIL STORMWATER MANAGEMENT PLANS ARE MET AND APPROVED, INCLUDING GRANTING OF ANY NECESSARY STORMWATER MANAGEMENT EASEMENTS.
- PURSUANT TO TMC 18.190, THE APPLICANT MUST RECORD THE PUD MASTER PLAN WITH THE SHAWNEE COUNTY REGISTER OF DEEDS WITHIN SIXTY (60) DAYS UPON APPROVAL OF THE GOVERNING BODY. FAILURE BY THE APPLICANT TO RECORD THE PLAN WITHIN THE PRESCRIBED TIME PERIOD AND PROVIDE THE PLANNING DEPARTMENT WITH THE REQUIRED NUMBER OF COPIES OF THE RECORDED PLAN WITHIN NINETY (90) DAYS OF THE DATE OF ACTION BY THE GOVERNING BODY SHALL RENDER THE ZONING PETITION NULL AND VOID.
- ALL REGULATIONS OF TITLE 18, TOPEKA MUNICIPAL CODE APPLY UNLESS STATED OTHERWISE HEREIN.

UTILITY NOTES

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

CIRCULATION, PARKING & TRAFFIC NOTES

- ALL IMPROVEMENTS REQUIRED BY THE CITY TRAFFIC ENGINEER SHALL BE COMPLETED BY THE DEVELOPER PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY. IMPROVEMENTS SHALL INCLUDE THE CONSTRUCTION OF SW 30TH TERRACE TO A POINT ADJACENT TO THE WEST LOT LINE OF LOT 5 AS REQUIRED BY CITY OF TOPEKA PUBLIC WORKS DEPARTMENT.
- A 40 FT. SIGHT TRIANGLE, MEASURED FROM THE FACE OF CURB EXTENDED, SHALL BE MAINTAINED AT ALL ENTRANCES; NO OBSTRUCTIONS GREATER THAN (30) INCHES ABOVE GRADE OF ANY ADJACENT STREET OR ENTRANCE MAY BE PLACED WITHIN THIS AREA.
- ALL NEW DRIVES, STREETS, PARKING AREAS, APPROACHES AND WALKS SHALL BE CONSTRUCTED TO CITY OF TOPEKA STANDARDS.
- ALL DRIVES, LANES & PRIVATELY OWNED ACCESS WAYS PROVIDING ACCESSIBILITY TO STRUCTURES, BUILDINGS AND USES WITHIN THE PLANNED UNIT DEVELOPMENT SHALL BE CONSIDERED AND SERVE AS MUTUAL RIGHTS OF ACCESS TO OWNERS, TENANTS, INVITED GUESTS, CLIENTS, EMPLOYEES, CUSTOMERS, SUPPORT AND UTILITY PERSONNEL AND EMERGENCY SERVICE PROVIDERS, INCLUDING LAW ENFORCEMENT, FIRE PROTECTION AND AMBULANCE SERVICES. ALL ACCESS WAYS PROVIDING GENERAL ACCESSIBILITY TO, AND CIRCULATION AMONG, THE USES WITHIN THE PLANNED UNIT DEVELOPMENT SHALL BE MAINTAINED AT ALL TIMES IN GOOD SERVICEABLE CONDITION WITH THE MAINTENANCE OF SAID ACCESS WAYS BEING THE RESPONSIBILITY OF THE OWNER(S).

SIGNAGE NOTES

- EACH SIGN SHALL BE APPROVED BY SEPARATE SIGN PERMIT APPLICATION.
- NO PORTABLE OR TEMPORARY SIGNS ARE PERMITTED OTHER THAN REAL ESTATE SIGNS RELATING TO THE LEASE OR SALE OF THE PROPERTY.
- TMC 18, DIVISION 2 SIGNS SHALL GOVERN ALL OTHER SIGNS UNLESS SPECIFICALLY STATED HEREIN.

FENCING & LANDSCAPING NOTES

- LANDSCAPING SHALL BE PROVIDED CONSISTENT WITH TMC 18.235 LANDSCAPE REGULATIONS. THE SPECIFIC POINTS, TYPES AND QUANTITIES SHALL BE APPROVED BASED ON THE LANDSCAPE PLAN SUBMITTED AT THE SITE DEVELOPMENT PLAN REVIEW STAGE. "AN ATTRACTIVE MIX OF EVERGREEN TREES, SHRUBS, AND DECIDUOUS 'LARGE' TREES SHALL BE PROVIDED ALONG THE PROPERTY'S STREET FRONTAGES WITHIN THE 20 FT. LANDSCAPE SETBACK AND WHERE THE BUILDING AND/OR DEVELOPED AREA IS IMMEDIATELY ADJACENT TO RESIDENTIAL PROPERTIES.
- THE CARE, MAINTENANCE, AND OWNERSHIP OF COMMON OPEN SPACE, PARKING AREAS, UTILITIES, PRIVATE STREETS, ACCESS WAYS, STORMWATER MANAGEMENT EASEMENTS, FENCING, AND LANDSCAPING SHALL BE THE RESPONSIBILITY OF THE OWNERS. ALL LANDSCAPING SHALL BE INSTALLED PURSUANT TO PHASING SCHEDULE AND PROPERLY MAINTAINED. IF ANY PORTION OF THE LANDSCAPED MATERIAL DIES, IT SHALL BE REPLACED BY THE NEXT PLANTING SEASON.
- FENCING WITHIN 25 FEET OF THE PERIMETER OF THE SITE SHALL CONFORM TO THE FOLLOWING: 1) A MAXIMUM HEIGHT OF 6 FEET; AND 2) MATERIALS CONSISTING OF EITHER DECORATIVE CHAIN LINK IN BLACK OR DARK GREEN (USE OF SLAT INSERTS PROHIBITED), DECORATIVE VINYL, DECORATIVE METAL, BRICK OR STONE MASONRY, OR DECORATIVE SPLIT-FACED CONCRETE MASONRY UNITS (CMU).

BUILDING NOTES

- BUILDING ELEVATIONS TO BE APPROVED AT THE TIME OF SITE DEVELOPMENT PLAN REVIEW.
- STORAGE BUILDINGS MAY BE EXEMPTED FROM THE DOORS AND WINDOWS REQUIREMENTS OF THE NON-RESIDENTIAL BUILDING DESIGN STANDARDS OF TMC CHAPTER 18.275 PROVIDED ELEVATIONS ARE PROPERLY SCREENED BY ATTRACTIVE FENCING AND/OR LANDSCAPING.

PROJECT DATA

SITE AREA: 2.11 ACRES
CURRENT ZONING: OI-1, C-2
PROPOSED ZONING: PLANNED UNIT DEVELOPMENT (PUD) WITH C-2 USE GROUP, WITH OTHER SPECIFIC USES LIMITED TO SELF-STORAGE TYPE(S) I AND II AND BUILDING, CONSTRUCTION, & MECHANICAL CONTRACTOR OFFICE.
MINIMUM LOT AREA: 10,000 SF
MAXIMUM BUILDING COVERAGE RATIO: 85%

BOOK _____ PAGE _____
DATE _____ TIME _____

RECORDED WITH THE SHAWNEE COUNTY REGISTER OF DEEDS

REBECCA J. NIOCE, REGISTER OF DEEDS

CERTIFICATION OF PUD MASTER PLAN APPROVAL

THIS PLANNED UNIT DEVELOPMENT (PUD) MASTER PLAN HAS BEEN REVIEWED AND APPROVED IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 18.190 OF THE COMPREHENSIVE ZONING REGULATIONS OF THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS AND MAY BE AMENDED ONLY AS PRESCRIBED IN TMC 18.190.070 OF AND AS SET FORTH ON THIS DOCUMENT OR AS MAY SUBSEQUENTLY BE APPROVED AND RECORDED.

BILL FIANDER, PLANNING & DEVELOPMENT DIRECTOR

DATE

OWNER'S CERTIFICATE

KU ENDOWMENT, OWNER, AGREES TO COMPLY WITH THE CONDITIONS AND RESTRICTIONS AS SET FORTH ON THE MASTER PUD PLAN.

IN TESTIMONY WHEREOF, THE OWNERS OF THE ABOVE DESCRIBED PROPERTY, KU ENDOWMENT, HAS SIGNED THESE PRESENTS THIS _____ DAY OF _____, 2019.

MONTE SOUKUP, MANAGING MEMEBER
KU ENDOWMENT

STATE OF KANSAS) ss
COUNTY OF SHAWNEE) ss
BE IT REMEMBERED THAT ON THIS _____ DAY OF _____, 2019, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, CAME MONTE SOUKUP, MANAGING MEMBER, KU ENDOWMENT, WHO IS PERSONALLY KNOWN TO BE THE SAME PERSON WHO EXECUTED THE WITHIN INSTRUMENT OF WRITING, AND SUCH PERSON DULY ACKNOWLEDGED THE EXECUTION OF THE SAME.

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

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

OWNER'S CERTIFICATE

CF&S PARTNERSHIP, OWNER, AGREES TO COMPLY WITH THE CONDITIONS AND RESTRICTIONS AS SET FORTH ON THE MASTER PUD PLAN.

IN TESTIMONY WHEREOF, THE OWNERS OF THE ABOVE DESCRIBED PROPERTY, CF&S PARTNERSHIP, HAS SIGNED THESE PRESENTS THIS _____ DAY OF _____, 2019.

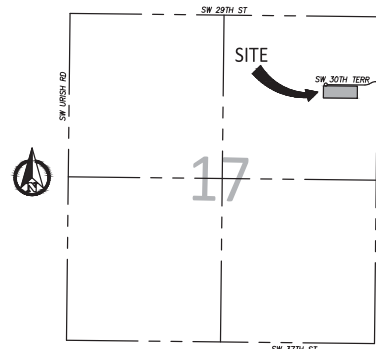
STEVE FLATT, MANAGING MEMBER
CF&S PARTNERSHIP

STATE OF KANSAS) ss
COUNTY OF SHAWNEE) ss
BE IT REMEMBERED THAT ON THIS _____ DAY OF _____, 2019, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, CAME STEVE FLATT, MANAGING MEMBER, CF&S PARTNERSHIP, WHO IS PERSONALLY KNOWN TO BE THE SAME PERSON WHO EXECUTED THE WITHIN INSTRUMENT OF WRITING, AND SUCH PERSON DULY ACKNOWLEDGED THE EXECUTION OF THE SAME.

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

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____



VICINITY MAP
NO SCALE

PUD 19 / 03

PLANNED UNIT DEVELOPMENT (PUD) MASTER PLAN

WANAMAKER WEST DEVELOPMENT



2930 SW Woodside Dr., Topeka, KS 66614
P: 785-272-4706 F: 785-272-4736

J:\2019proj\190209\190209_CADD\Planning_Zoning_and_Legal_Survey\190209_PUD.dwg

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

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

PLANNING COMMISSION DATE: Monday, September 16, 2019 2019

<u>APPLICATION CASE NO</u>	PUD19/02 By: T&J Land Company LLC (Sports Zone PUD)
REQUESTED ACTION / CURRENT ZONING:	Rezone from "R-1" Single Family Dwelling District with Special Use Permits (SUP) for " <i>Community Building and alcohol sales</i> " and " <i>Private Membership Club and Golf Course</i> " and a Conditional Use Permit (CUP) for " <i>Outdoor Recreational Uses, Retail Sales, and Food Service</i> " ALL TO "PUD" Planned Unit Development Master Plan (O&I-2, I-1; plus Outdoor Recreation, Type I and II and Indoor Recreation Type I uses, and any other uses allowed by existing CUP #CU97/7 which is to remain in effect.) The existing SUPs (SP65/18 and SP89/13) will expire with approval of this PUD Master Plan.
APPLICANT / PROPERTY OWNER:	T&J Land Company LLC
APPLICANT REPRESENTATIVE:	Kevin Holland, P.E. - Cook, Flatt, and Strobel Engineers
PROPERTY ADDRESS & PARCEL ID:	3909 / 3907 SW Burlingame Road / PID: 1462301003008000 and 1462301003003010
PARCEL SIZE:	23 acres
STAFF:	Annie Driver, AICP, Planner
RECOMMENDATION:	Based upon the above findings and analysis Planning Staff recommends <u>APPROVAL</u> of this proposal, subject to conditions listed on Pgs. 10
RECOMMENDED MOTION:	Based on the findings and analysis in the staff report, I move that the Topeka Planning Commission forward to the Governing Body a recommendation of <u>APPROVAL</u> subject to conditions listed on Pgs. 10
PHOTOS:	View of front of north building (Knights of Columbus building)



View separating houses on east side from subject property



View of north end of Knights of Columbus building



Apartments adjacent to site



Church north of the site



Sports Zone Complex from south side



Residential east of the site and adjacent to east property line



PROJECT AND SITE INFORMATION

PROPOSED USE / SUMMARY:

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

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

DEVELOPMENT / CASE HISTORY:

1960 – Annexed and subsequently zoned for single family dwellings

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

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

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

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

ZONING AND CHARACTER OF SURROUNDING AREA:

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

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

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

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

PUD MASTER PLAN ELEMENTS (PROPOSED):

PARKING, CIRCULATION &

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

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

LANDSCAPE:

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

BUILDING AND STRUCTURE:

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

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

SIGNAGE:

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

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

OTHER FACTORS

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

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

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

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

HISTORIC PROPERTIES: Not Applicable

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

REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES

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

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

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

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

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

METROPOLITAN TOPEKA TRANSIT
AUTHORITY (TMTA):

None

KEY DATES

SUBMITTAL:	July 19, 2019
NEIGHBORHOOD INFORMATION MEETING:	August 26, 2019
LEGAL ADVERTISING:	August 23, 2019
PROPERTY OWNER NOTICE MAILED:	August 21, 2019

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

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

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

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

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

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

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

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

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

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

AVAILABILITY OF PUBLIC SERVICES:

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

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

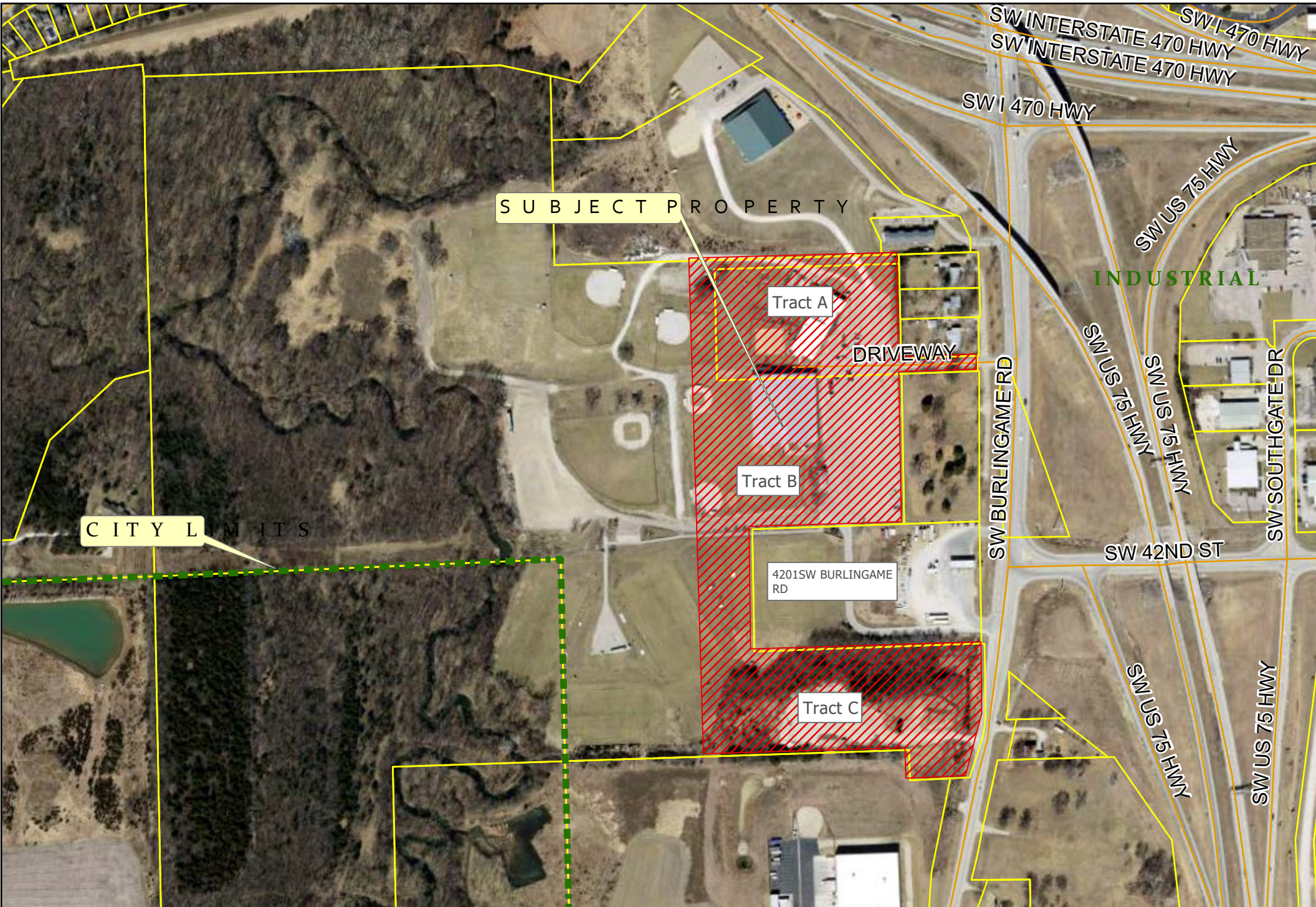
The Master PUD Plan establishes development standards and guidelines as stated herein.

STAFF RECOMMENDATION

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

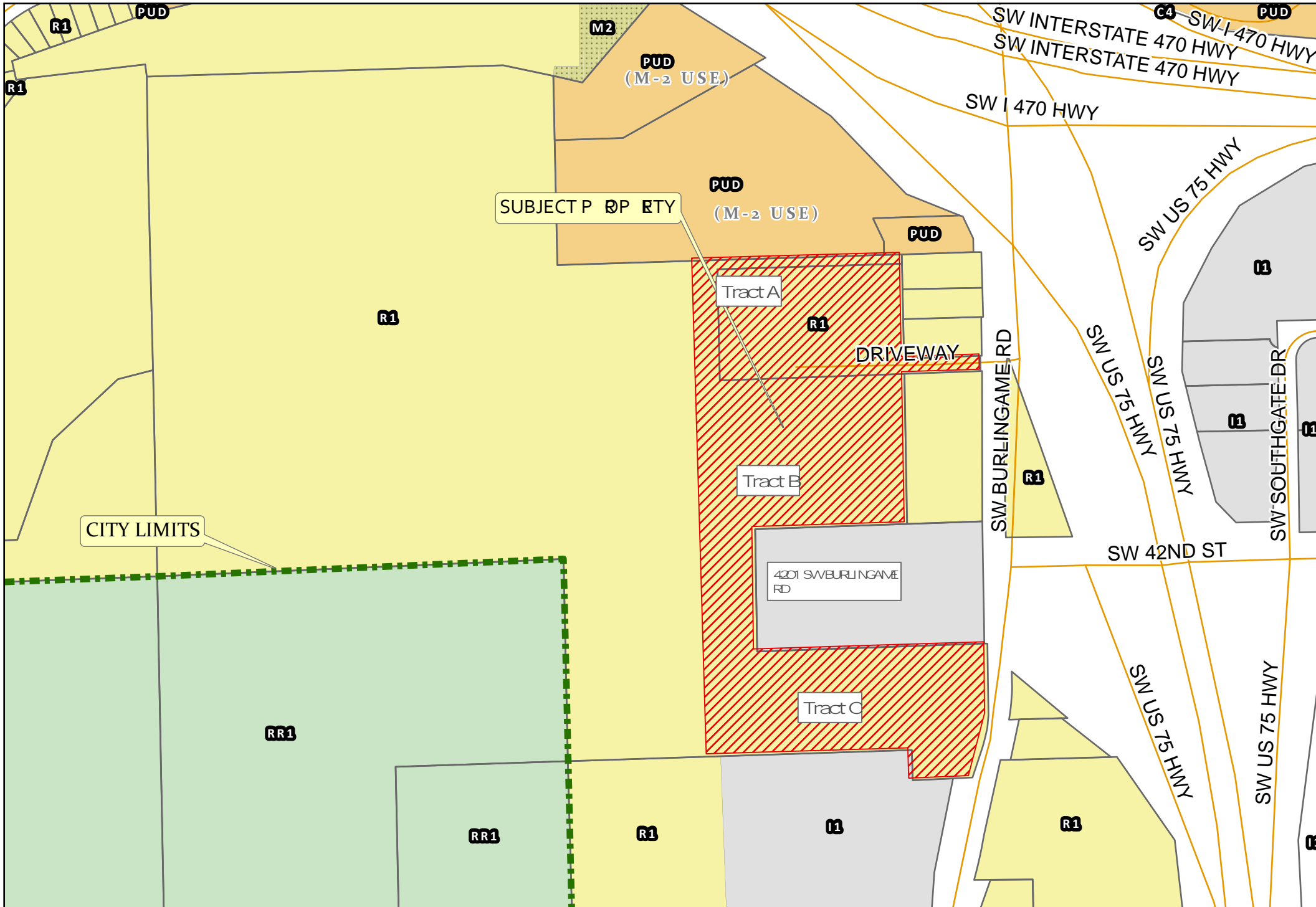
1. Use and development of the site in accordance with the **Planned Unit Development Master Plan for Sports Zone** as recorded with the Office of the Shawnee County Register of Deeds.
2. Revising note #4 under Circulation, Parking, and Traffic to rather state: *"Access openings along SW Burlingame Road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

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



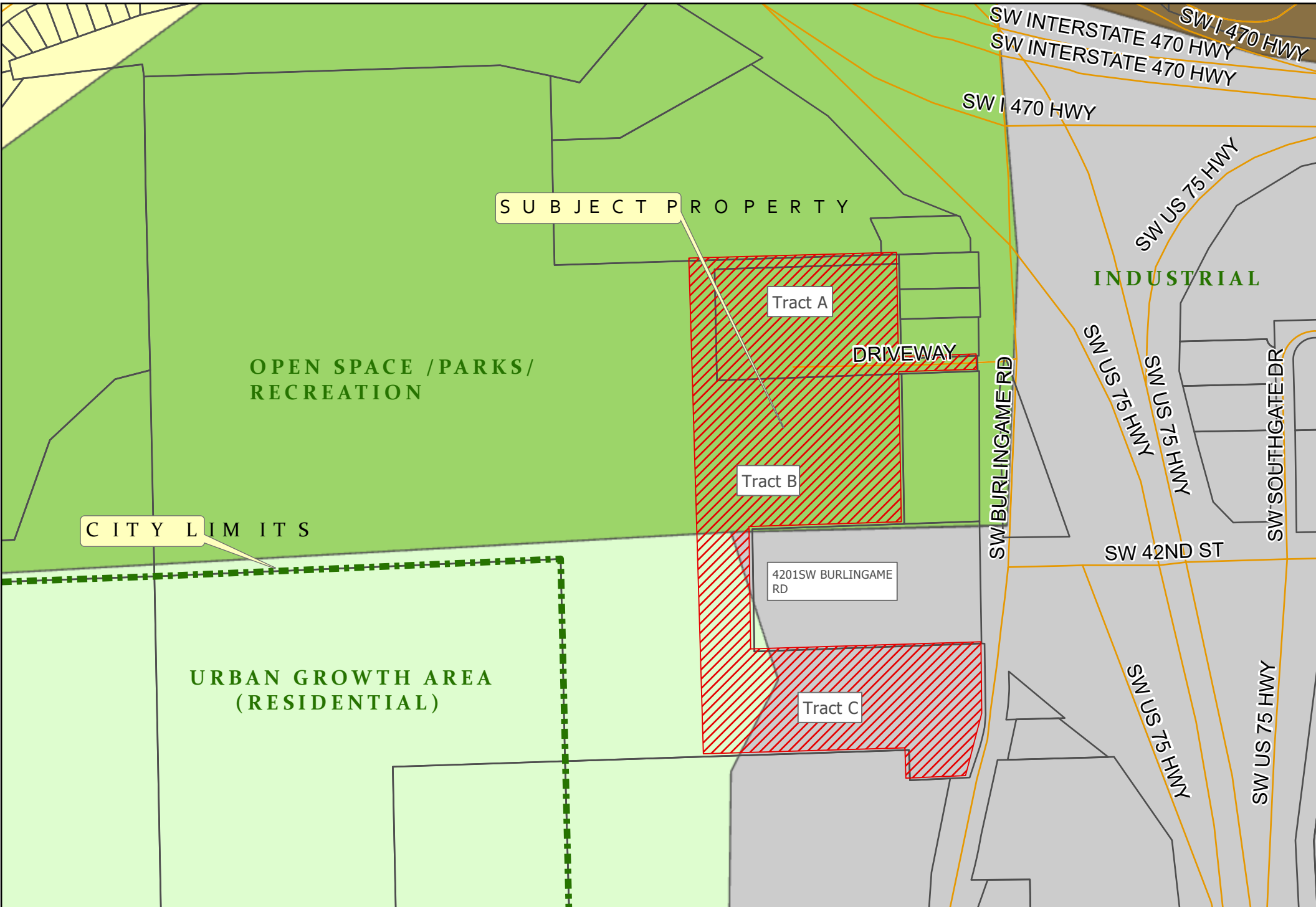
PUD19/02 SPORTS ZONE (T&J LAND CO. LLC)





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

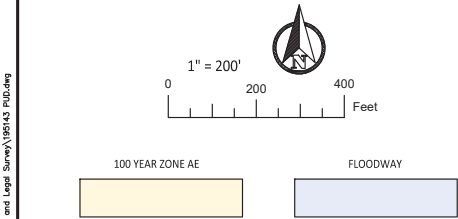
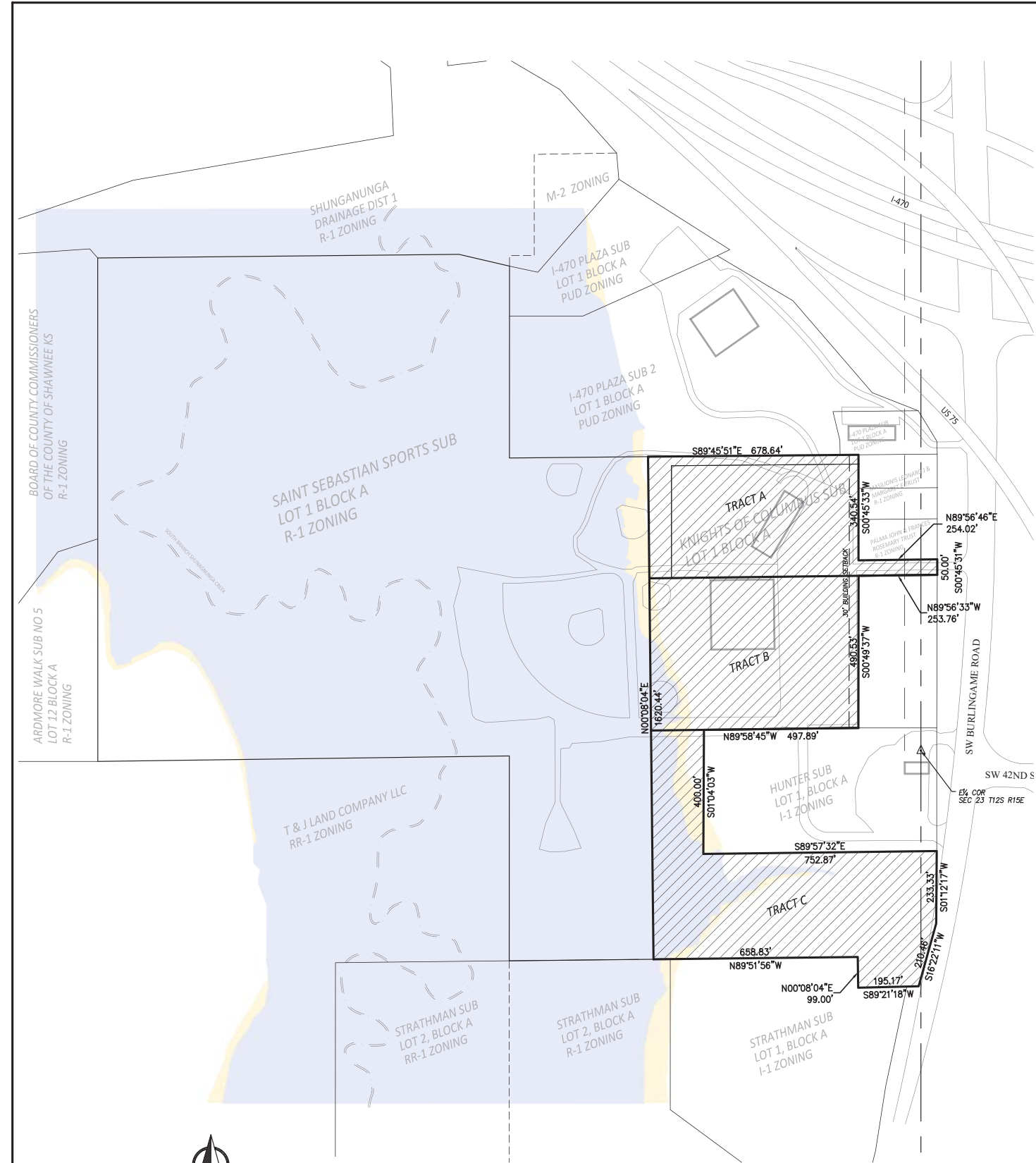




PUD19/02 SPORTS ZONE (T&J LAND CO. LLC) - FUTURE LAND USE MAP



J:\2019\proj\1815143\CD\Grading, Zoning and Legal Survey\1815143_PUD.dwg



SPORTS ZONE COMPLEX

MASTER PLANNED DEVELOPMENT PLAN

CFS
ENGINEERS
cfse.com

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

DESCRIPTION

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

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

PERFORMANCE OBJECTIVE

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

GENERAL NOTES

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

UTILITY NOTES

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

CIRCULATION, PARKING & TRAFFIC NOTES

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

SIGNAGE NOTES

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

LANDSCAPING NOTES

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

BUILDING NOTES

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

BOOK
DATE

PAGE
TIME

RECORDED WITH THE SHAWNEE COUNTY REGISTER OF DEEDS

REBECCA J. NIOCE, REGISTER OF DEEDS

CERTIFICATION OF MASTER PUD PLAN APPROVAL

THIS PLANNED UNIT DEVELOPMENT (PUD) MASTER PLAN HAS BEEN REVIEWED AND APPROVED IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 18.190 OF THE COMPREHENSIVE ZONING REGULATIONS OF THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS AND MAY BE AMENDED ONLY AS PRESCRIBED IN TMC 18.190.070 OF AND AS SET FORTH ON THIS DOCUMENT OR AS MAY SUBSEQUENTLY BE APPROVED AND RECORDED. THIS APPROVED AND RECORDED MASTER PUD PLAN FOR SPORTS ZONE REPLACES THE SPECIAL USE PERMITS (#SP65/18 AND SP#89/13) COVERING THIS PORTION OF THE PROPERTY.

BILL FIANDER, PLANNING DIRECTOR

DATE

OWNER'S CERTIFICATE

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

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

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

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

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

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

PROJECT INFORMATION

CURRENT ZONING: R-1;

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

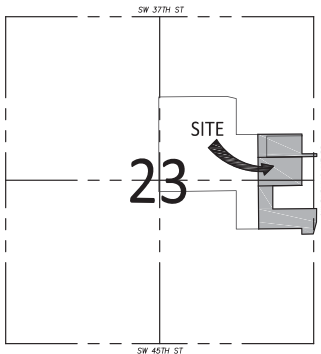
- USE GROUP: INDOOR RECREATION, TYPE I AS WELL AS ACCESS TO THE OUTSIDE RECREATIONAL USES ON THE ADJACENT PROPERTY; AND "O&I-2" OFFICE AND INSTITUTIONAL DISTRICT USES PLUS ENCLOSED WAREHOUSING AND STORAGE FACILITY; IN ADDITION TO ANY OTHER ALLOWED USES UNDER THE EXISTING CONDITIONAL USE PERMIT #CU97/7.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

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

- USE GROUP: INDOOR RECREATION TYPE I AS ALLOWED UNDER THE EXISTING CONDITIONAL USE PERMIT CU#97/7; "O&I-2" OFFICE AND INSTITUTIONAL DISTRICT PLUS:
 - ENCLOSED WAREHOUSING AND STORAGE FACILITY
 - AGRICULTURAL PRODUCT SALES AND STORAGE
 - CONTRACTOR YARDS
 - MACHINERY EQUIPMENT REPAIR AND RESTORATION
 - SELF-STORAGE TYPE I AND II
 - TRUCK FREIGHT TERMINAL
 - WAREHOUSE, STORAGE, DISTRIBUTION FACILITIES
 - WELDING, TINSMITING & MACHINE
 - LIGHT MANUFACTURING/PROCESSING TYPE I
- MAXIMUM HEIGHT: 60 FT.
- MAXIMUM BUILDING SIZE: 50,000 SF
- FRONT BUILDING SETBACK: 30' AS MEASURED FROM ADJOINING PROPERTY TO THE EAST.
- OTHER: "O&I-2" DIMENSIONAL STANDARDS AND SETBACKS UNLESS STATED OTHERWISE.

TRACT C: (I.E. SOUTH PORTION)

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



VICINITY MAP
NO SCALE

PUD ____ / ____

Memorandum

To: Annie Driver

From: Kevin Holland

Date: September 3, 2019

Re: Sportszone Complex Public Meeting

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

ATTENDANCE SIGN-IN SHEET

Sportszone PUD

	Name	Address	Phone	Email
1	Gary Souder	1942 SW 8th	231-3909	G.Souder@58ccglobal.net
2	Marshall Maslin	3701 SW Burlingame	266-8658	ljmasil@cox.net
3				
4	MARVIN STEES	911 SE ADAMS	233-8008	MARVINS@CAPITALCITYOIL.COM
5	Rex Allen	8414 SE Stanley Rd	836-3090	allenrf55@gmail.com
6	Barbara Allen	8414 SE Stanley Rd	836-3090	
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				
26				
27				
28				
29				
30				
31				
32				
33				
34				
35				
36				
37				
38				
39				

RECEIVED

SEP 05 2019

TOPEKA PLANNING
DEPARTMENT

Annie Driver

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

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

Annie

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

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

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

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

Thank you for your help and assistance in this matter.

Matt Masilionis AIA / NCARB

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

www.rmta.biz

DATE 5 September 2019

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

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

Dear Ms. Driver,

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

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

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

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

2. GENERAL SITE HISTORY (and current Zoning issue)

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

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

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

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

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

Margaret Masilionis
3901 Burlingame Road, Topeka KS 66609

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Traffic circulation system.

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

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

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

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

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

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

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

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

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

SUMMARY

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

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

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

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

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

Sincerely,

Margaret Masilionis
785-266-8658 H

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

ATTACHMENT "A"

NOTICE OF NEIGHBORHOOD MEETING INFORMATION

NOTICE OF NEIGHBORHOOD INFORMATION MEETING

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

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

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

Project Information

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

Name of Owner: T & J Land Company LLC

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

Location of Development: 3909 and 3907 SW Burlingame Road

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

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

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

Council District: Council District #5 - Mike Padilla

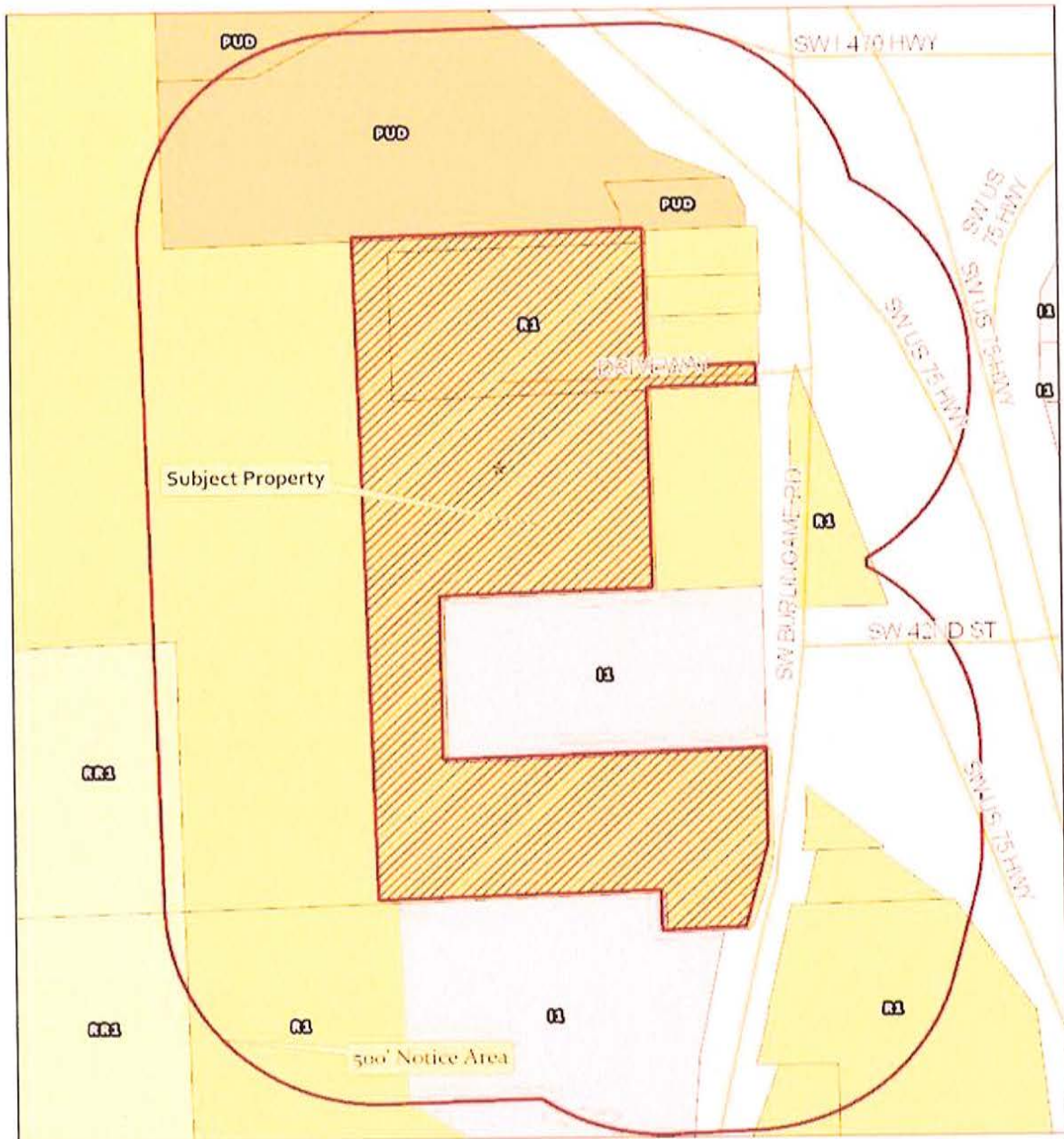
Planning Commission Public Hearing: Tentative - Monday, September 16, 2019 at 6:00 pm City Council Chambers

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

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

Notice Mailed: August 6, 2019

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



* Meeting Location:
Sports Zone
3909 SW Burlingame Road

Notice Mailed: August 6, 2019

ATTACHMENT "B"

Topeka Neighborhood Meeting Requirements Process

City of Topeka

Citizen Participation Process

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

GOALS:

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

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

➤ *Minimum notification criteria for projects:*

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

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

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

Steps in the Citizen Participation Process:

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

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

A. Notice shall include:

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

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

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

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

3. Neighborhood Information Meeting:

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

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

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

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

TYPES OF PROJECTS REQUIRING A MEETING:

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

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

Minimum Notification Area:

(may be adjusted for some projects):

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

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

GOALS:

For the Applicant:

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

For the Neighborhood:

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

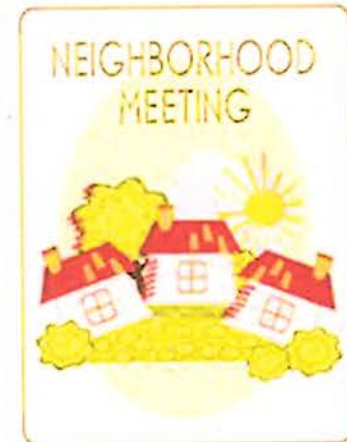
For the City:

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

CITY OF TOPEKA'S

Citizen Participation Process:

A Guide to Neighborhood Information Meetings for Applicants and Citizens



Contact:

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

Step 1: Set the meeting

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

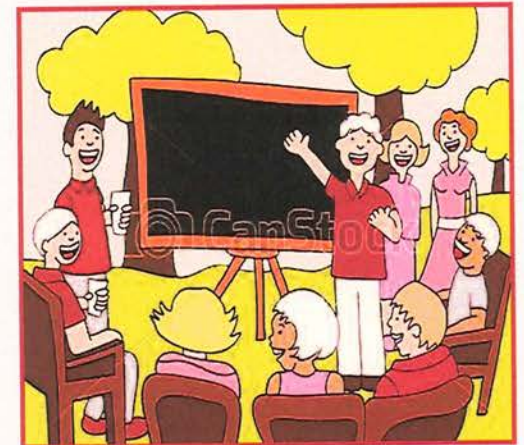


Step 2: Prepare the Meeting

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

Step 3: Report of Meeting

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



ATTACHMENT "C"

Topeka Municipal Code Applicable Documentation

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

RESIDENTIAL

**MOST
RESTRICTIVE
ZONING**



OS-1 OPEN SPACE DISTRICT:

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

RA-1 RURAL AGRICULTURE DISTRICT:

Repealed by Ord. 19602

RR-1 RESIDENTIAL RESERVE DISTRICT:

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

R-1 SINGLE FAMILY DWELLING DISTRICT:

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

R-2 SINGLE FAMILY DWELLING DISTRICT:

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

R-3 SINGLE FAMILY DWELLING DISTRICT:

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

R-4 SINGLE FAMILY DWELLING DISTRICT:

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

M-1 TWO FAMILY DWELLING DISTRICT:

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

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

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

M-1a LIMITED MULTIPLE FAMILY DWELLING DISTRICT:

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

M-2 MULTIPLE FAMILY DWELLING DISTRICT:

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

M-3 MULTIPLE FAMILY DWELLING DISTRICT:

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

OFFICE, COMMERCIAL, INDUSTRIAL

O & I - 1 OFFICE AND INSTITUTIONAL:

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

O & I - 2 OFFICE AND INSTITUTIONAL:

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

O & I - 3 OFFICE AND INSTITUTIONAL:

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

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

C-1 COMMERCIAL DISTRICT:

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

C-2 COMMERCIAL DISTRICT:

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

C-3 COMMERCIAL DISTRICT:

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

C-4 COMMERCIAL DISTRICT:

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

C-5 COMMERCIAL DISTRICT:

Converted to D-1 downtown district. Ordinance 20062

I-1 LIGHT INDUSTRIAL DISTRICT:

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

I-2 HEAVY INDUSTRIAL DISTRICT:

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



**LEAST
RESTRICTIVE
ZONING**

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

OTHER

DOWNTOWN MIXED USE DISTRICT:

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

D-1 DOWNTOWN MIXED USE DISTRICT:

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

D-2 DOWNTOWN MIXED USE DISTRICT:

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

D-3 DOWNTOWN MIXED USE DISTRICT:

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

HL HISTORIC LANDMARK OVERLAY DISTRICT:

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

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

HD HISTORIC OVERLAY DISTRICT:

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

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

PUD PLANNED UNIT DEVELOPMENT DISTRICT:

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

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

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

MS-1 MEDICAL SERVICE DISTRICT:

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

U-1 UNIVERSITY DISTRICT:

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

MIXED USE DISTRICT:

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

X-1 MIXED USE DISTRICT:

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

X-2 MIXED USE DISTRICT:

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

X-3 MIXED USE DISTRICT:

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

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

Chapter 18.70

R-1 SINGLE-FAMILY DWELLING DISTRICT

Sections:

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

18.70.010 Purpose – Intent.

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

18.70.020 Regulations generally.

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

18.70.030 Principal, special, and conditional uses.

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

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

18.70.040 Density and dimensional requirements.

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

18.70.050 Other regulations.

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

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

18.70.060 Development alternatives.

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

Chapter 18.190

PUD PLANNED UNIT DEVELOPMENT DISTRICT

Sections:

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

18.190.010 Purpose – Intent.

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

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

18.190.020 Regulations generally.

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

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

18.190.030 Use regulations.

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

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

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

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

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

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

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

Cross References: Planning department, TMC 2.30.090.

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

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

(a) Size of Parcel.

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

(2) Less Than One Acre.

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

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

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

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

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

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

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

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

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

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

(e) Access.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Traffic circulation system.

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

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

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

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

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

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

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

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

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

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

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

In Testimony Whereof:

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

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

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

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

Notary Public

My Commission Expires: _____

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

Certification of Master PUD Plan Approval:

(Planning Director's Name) (Date)

Secretary to Planning Commission

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

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

Notary Public

My Commission Expires: _____

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

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

18.190.060 Planned unit development approval by the governing body.

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

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

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

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

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

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

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

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

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

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

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

18.190.070 Amendments to planned unit development plans.

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

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

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

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

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

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

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

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

18.190.080 Planned unit development plan variance procedures.

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

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

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

Cross References: Planning commission, Chapter 2.65 TMC.

Chapter 18.165

I-1 LIGHT INDUSTRIAL DISTRICT

Sections:

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

18.165.010 Purpose – Intent.

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

18.165.020 Regulations generally.

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

18.165.030 Principal, special, and conditional uses.

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

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

18.165.040 Density and dimensional requirements.

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

18.165.050 Other regulations.

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

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

18.165.060 Development alternatives.

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

Chapter 18.210

ACCESSORY USES

Sections:

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

18.210.010 Accessory uses.

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

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

18.210.020 Permitted uses.

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

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

(10) Private garages and carports.

(11) Private greenhouses or conservatories.

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

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

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

(15) Signs as regulated by Chapter 18.20 TMC.

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

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

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

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

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

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

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

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

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

(4) A child's playhouse.

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

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

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

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

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

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

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

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

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

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

Cross References: Planning department, TMC 2.30.090.

18.210.030 Accessory regulations.

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

18.210.035 Home occupations.

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

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

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

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

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

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

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

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

Cross References: Planning department, TMC 2.30.090.

18.210.040 Fences.

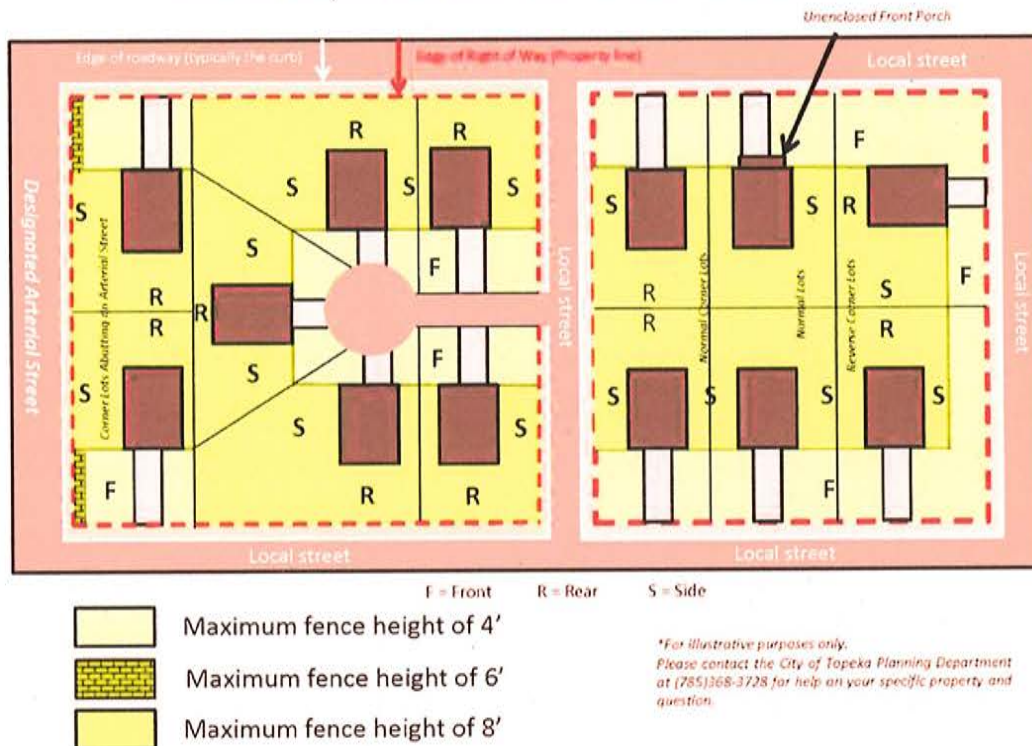
(a) Location and Height. Fences and hedges shall be subject to the following location and height requirements:

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

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

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

Fence Height Limit Diagram* (for "R" and "M" zoning districts)



(b) Hazards. Notwithstanding subsection (a) of this section, no fence shall be constructed:

- (1) Upon determination by the city engineer that the proposed fence constitutes a traffic hazard;
- (2) The location of the fence creates a site obstruction, such as within a site distance triangle, as prohibited by Chapter 12.20 TMC, Public Traffic Hazards; or
- (3) In such a manner or design as to be hazardous or dangerous to persons or animals.

(c) Construction Methods and Materials. Fences in all districts shall be constructed of normally used fencing materials such as chain link, wood slats, masonry, iron, vinyl, or other materials typically supplied by vendors of fencing materials. The finished side of the fence shall face the street.

(d) The following shall constitute exceptions to the requirements of subsection (a)(1) of this section:

- (1) Fences located in or upon parks and/or recreational facilities; provided, however, this exception shall not apply to recreational facilities which are accessory to a single-family dwelling.
- (2) Fences located in or upon public use facilities or public utility facilities, such as electrical substations or pumping stations, shall be limited to eight feet in height unless the planning director determines that additional height, not to exceed 10 feet, is necessary for public health and safety.

(e) Fences in X districts shall comply with TMC 18.185.070. (Ord. 20062 § 33, 4-18-17.)

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

18.210.050 Cargo containers.

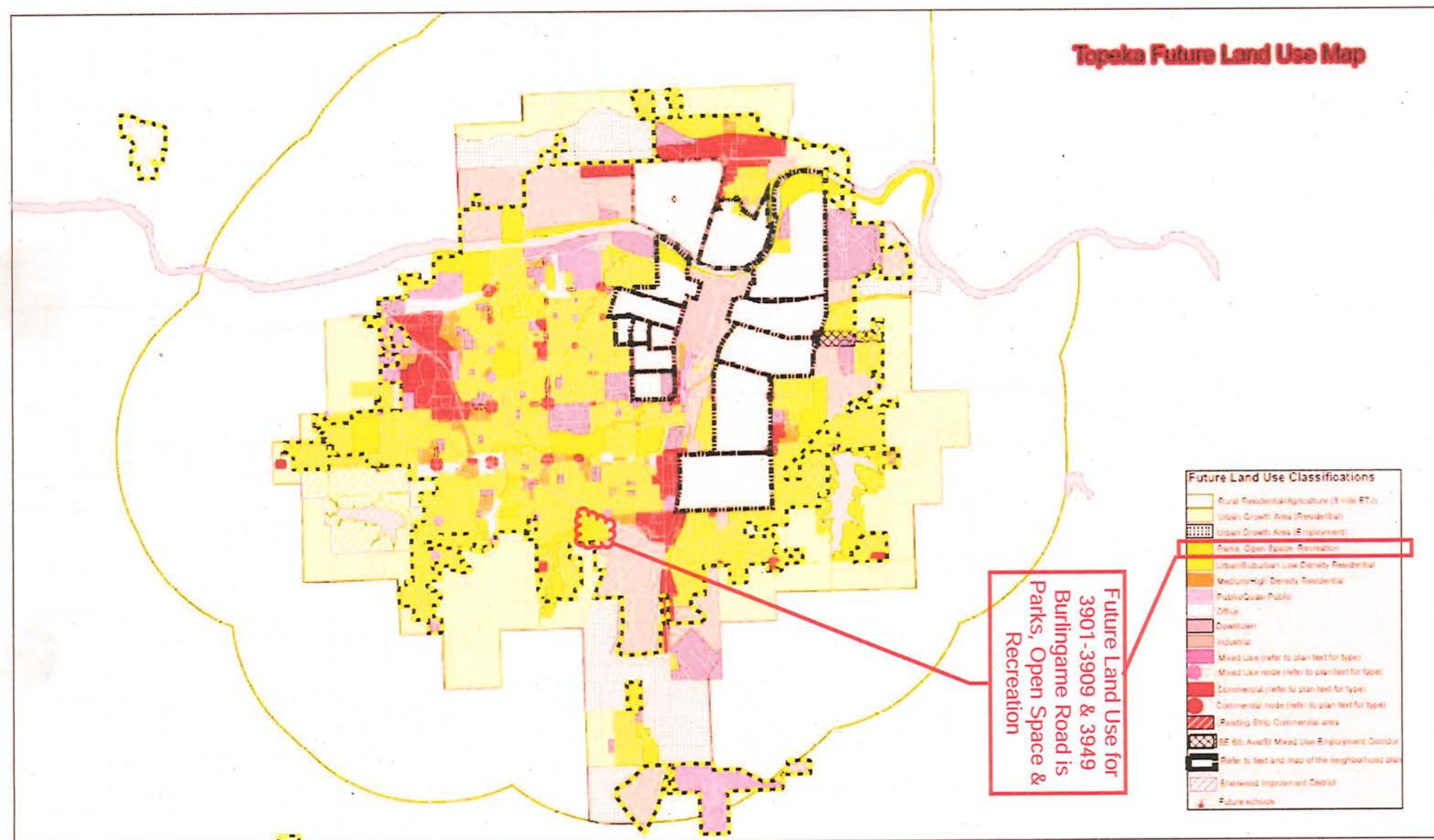
Cargo containers as an accessory use are permitted in the I-1 and I-2 districts. In all other districts cargo containers are permitted only in accordance with the following provisions and standards.

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

ATTACHMENT “D”

Topeka Future Land Use Map

Map #3 – Topeka Future Land Use



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

Map Adopted by Topeka City Council - January 10, 2017

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

September 5, 2019

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

Dear Planning and Development Department:

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

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

We have:

cars from the three houses

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

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

dance school traffic

Foster Cemetery traffic

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

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

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

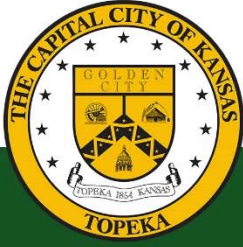
We have been good neighbors to the Sports Zone, even with the Neon Sign flashing all night within about 70 feet of our bedrooms. Would any of you like that by your bedroom windows? Is there another R1 in the city with a flashing neon light? Our grandson has played football and basketball at the Sports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

Sincerely,

John and Rosemary Palma

ACZR19/01

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: Mike Hall, AICP
Manager, Current Planning

Date: September 16, 2019

RE: Small Cell Wireless Facilities / ACZR19-01

The attached draft amendments to the zoning regulations to regulate Small Cell Wireless Facilities (SCWFs) are submitted for your consideration. A public hearing has been advertised for September 16, 2019 and staff requests the Planning Commission forward a recommendation of APPROVAL to the Governing Body upon close of the public hearing.

The recommended amendments are to chapters 18.55, 18.60, and 18.225. The proposed regulations differentiate SWCFs from “communication towers” and would allow SCWFs by right in all zoning districts provided they comply with the enclosed *SCWF General Design & Aesthetic Requirements*.

Staff introduced SCWFs to you at the June 2019 Planning Commission meeting. The balance of this memorandum repeats the information in the memo in the June 2019 agenda packet.

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.

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 support the use of SCWFs. 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 requirements. The requirements 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 requirements are attached.

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).
3. Small Cell Wireless Facilities General Design & Aesthetic Requirements.
4. Draft Amendments to Title 18, Division 4 – Zoning Code to Regulate Small Cell Wireless Facilities

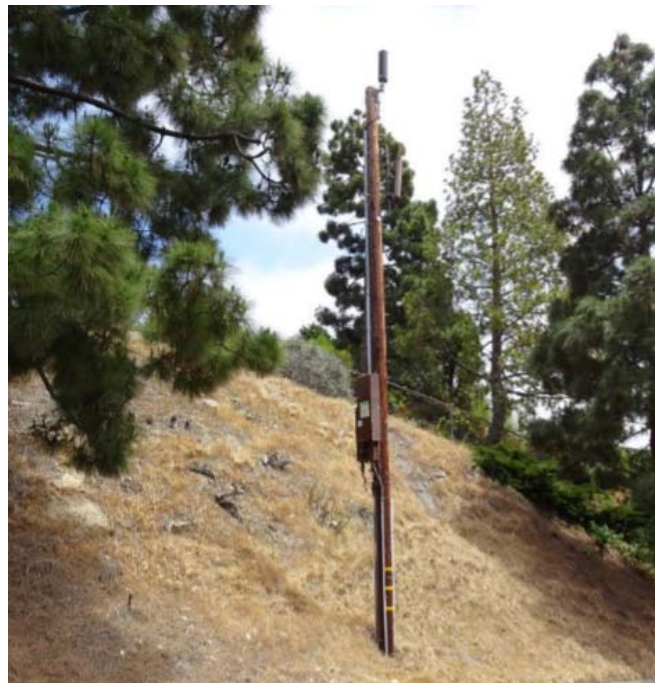
ⁱ National League of Cities (2018). *Municipal Action Guide: Small Cell Wireless Technology in Cities*. P. 16.

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

The Telecommunications Act of 1996:

The Telecommunications Act 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.”

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.

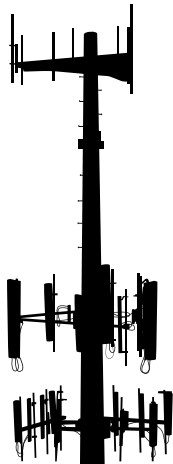
City Examples

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

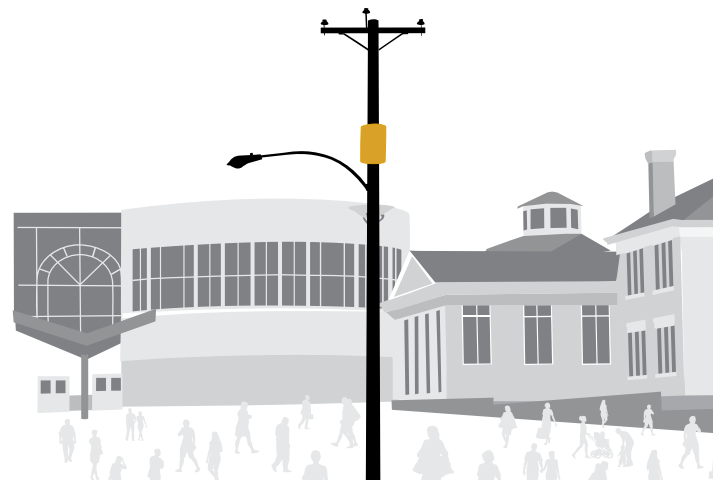
with sensitive aesthetic needs. However, a city known for its universities and tech industries needed to be a competitive leader on broadband infrastructure to retain and attract residents and businesses.

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.

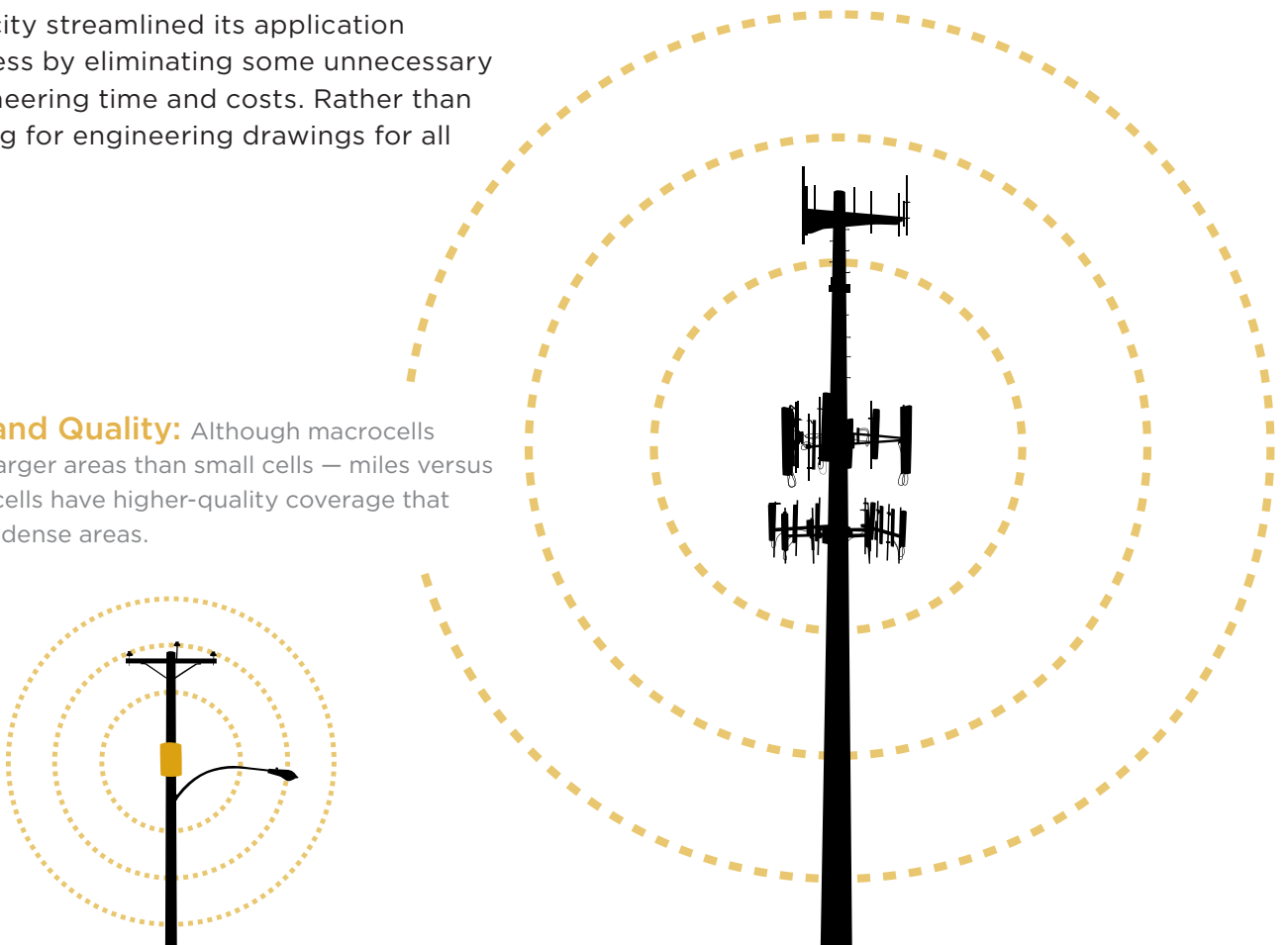
Raleigh: Finding Common Ground with Industry Through Partnerships

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

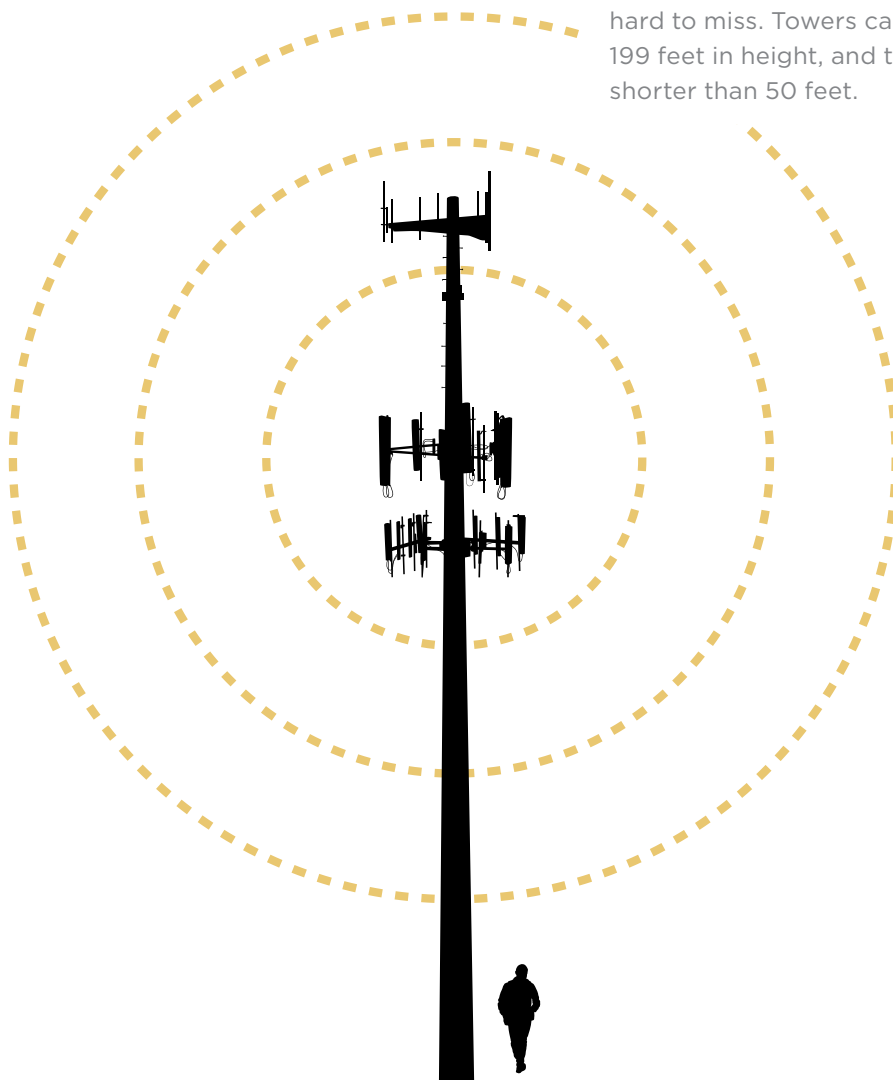
The new law required Arizona cities to establish and make standard terms of agreements publicly available. Tempe viewed the legislation's six-month implementation period as an opportunity to foster collaboration between the public and private sectors. Before finalizing the standard terms and conditions, 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

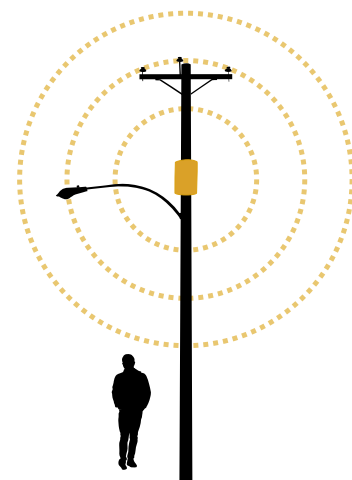
small cell infrastructure blended into the community were very important. Tempe was able to coordinate with other local cities and wireless providers to create design guidelines, ensuring that new infrastructure would mesh with the local aesthetic. The city worked to ensure that the guidelines were not 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/bbusa_broadband_glossary_161024.pdf

BroadbandUSA: Smart Communities Glossary — https://www2.ntia.doc.gov/files/bbusa_smartcommunitiesglossary_11212017.pdf

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 cell>

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/bbusa_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.

Acknowledgements

Thank you to Kelly Martin, who created the data visualizations, cover illustration and report design, and to Laura Cofsky for editing the report. We are also grateful to all of the city officials, thought leaders, and experts who took the time to speak to us about small cell infrastructure siting.

All photos courtesy of Getty Images 2018 unless otherwise noted.

© 2018 National League of Cities. All Rights Reserved.



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



ADOPTED JANUARY 22, 2018; AMENDED AUGUST 20, 2019

Table of Contents

Background and Purpose.....	3
Small Cell Types.....	4
General Design Requirements.....	10
Context Specific Design Requirements.....	16
Exceptions	19
Glossary of Terms.....	20

Background and Purpose

These requirements apply to requests to locate small cell facilities in the right-of-way and reflect the desire of the City of Topeka (“City” or “Topeka” or “COT”) and Shawnee County (“County” or “SC”) to maintain a compatible visual appeal within the City and County.

The City of Topeka and Shawnee County will use these requirements 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 Small Cell Wireless Facilities Aesthetic Requirements provide aesthetic requirements and specifications that all small cell facilities installed within the public ROW must meet prior to installation in the City of Topeka or Shawnee County. These requirements may also be applied to small cell facilities located on public and private property.

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.

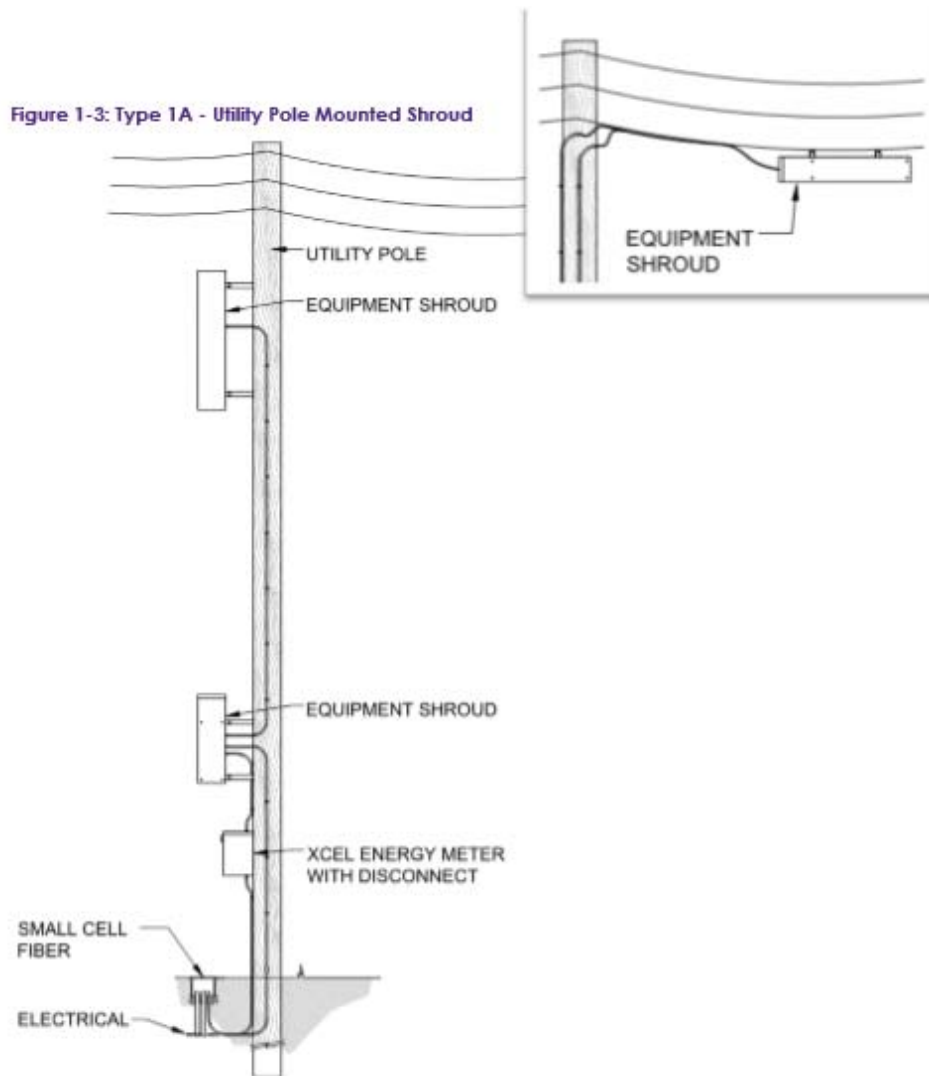
The purpose of the Small Cell Wireless Facilities Aesthetic Requirements is to strike a balance between preserving the character of the City of Topeka and Shawnee County through careful design, siting, landscaping and dimensional standards to blend these facilities into their environment, while enhancing 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 Aesthetic Requirements will be evaluated periodically to ensure that the provisions respond and adapt accordingly to these evolving technologies.

Small Cell Types

There are four types of small cell types permitted within the City of Topeka and Shawnee County.

Type 1: Attachments to Utility Poles

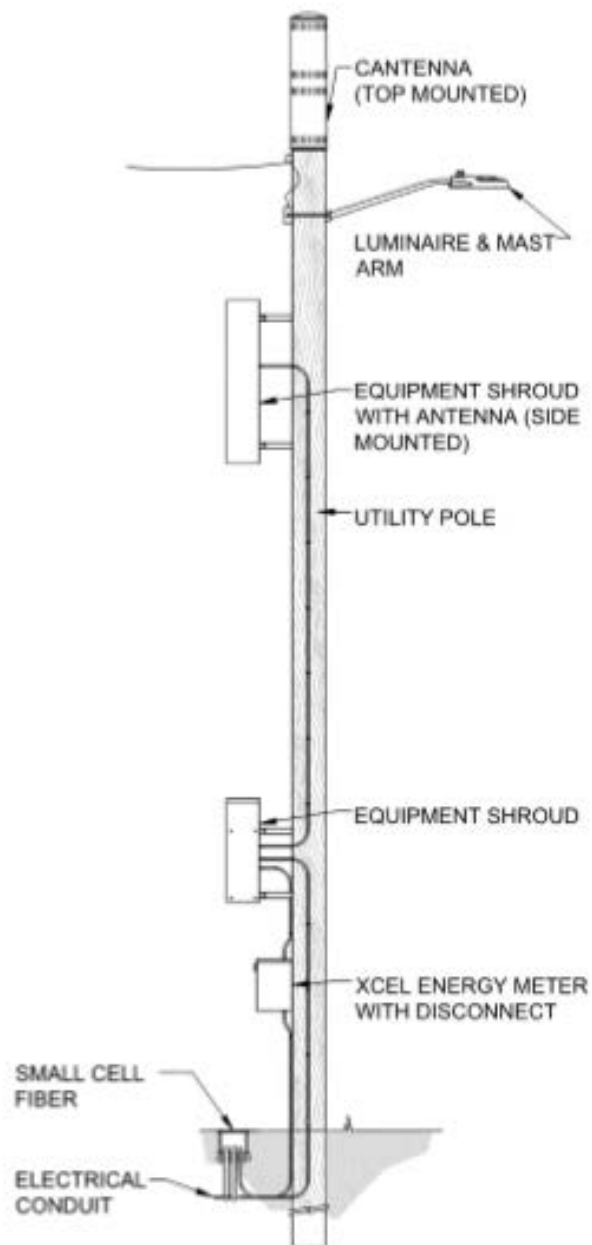
A wireless or small cell facility is categorized as Type 1 when locating small cell attachments on existing utility poles or utility lines.



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 Cantenna

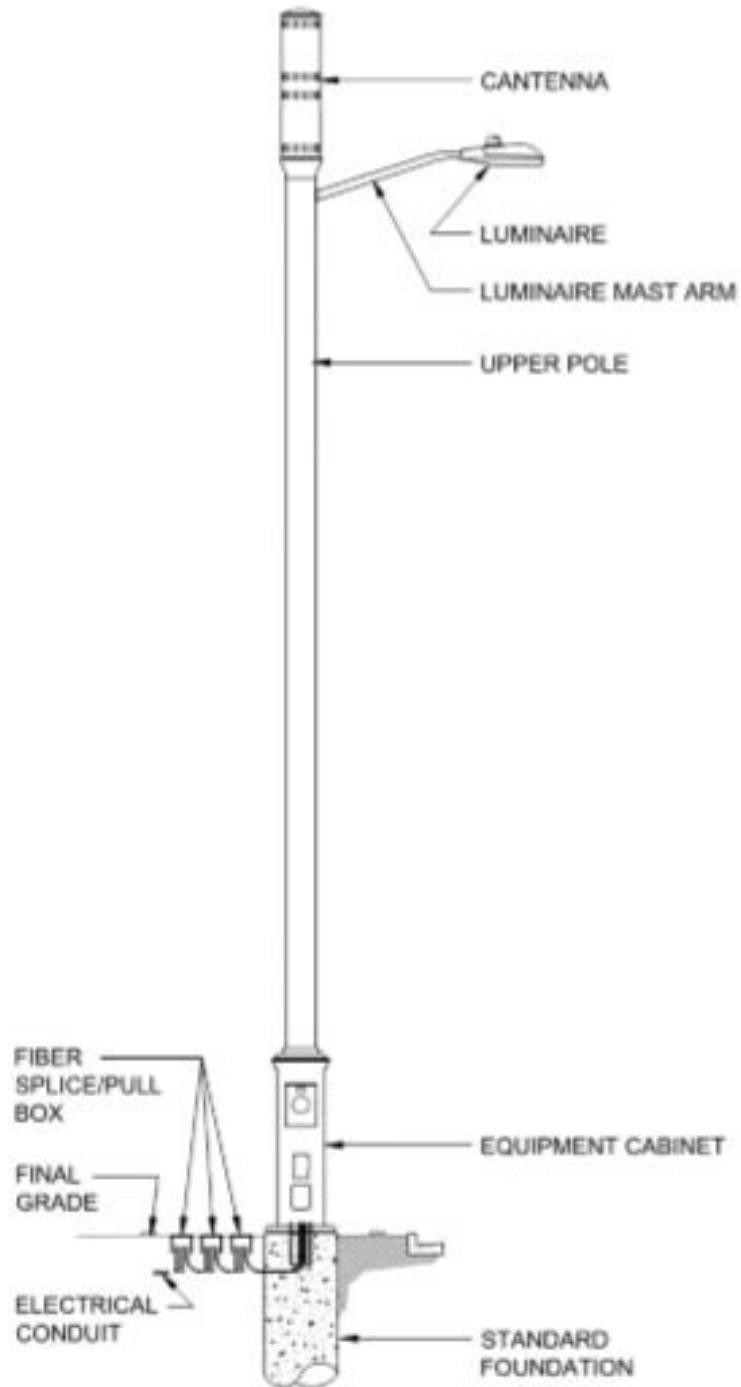


Figure 1-6: Type 3B - Combination Pole with Equipment Shroud

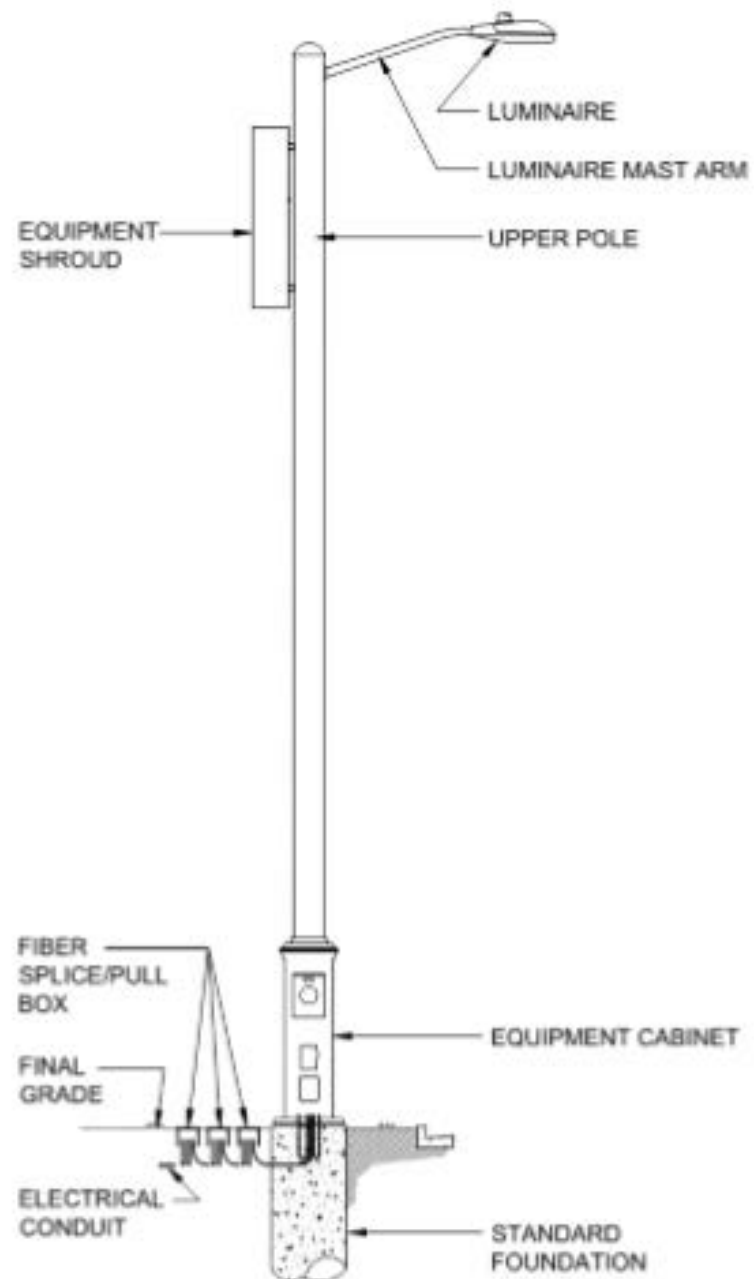
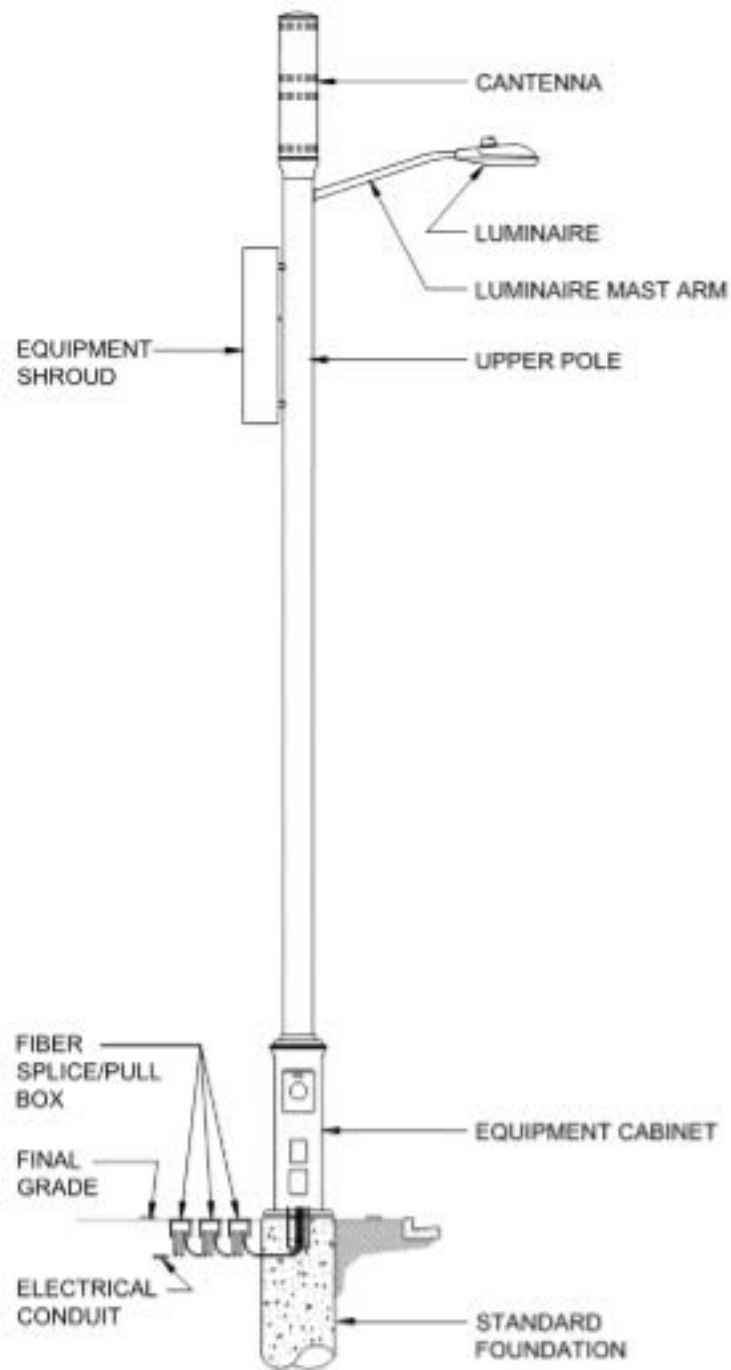


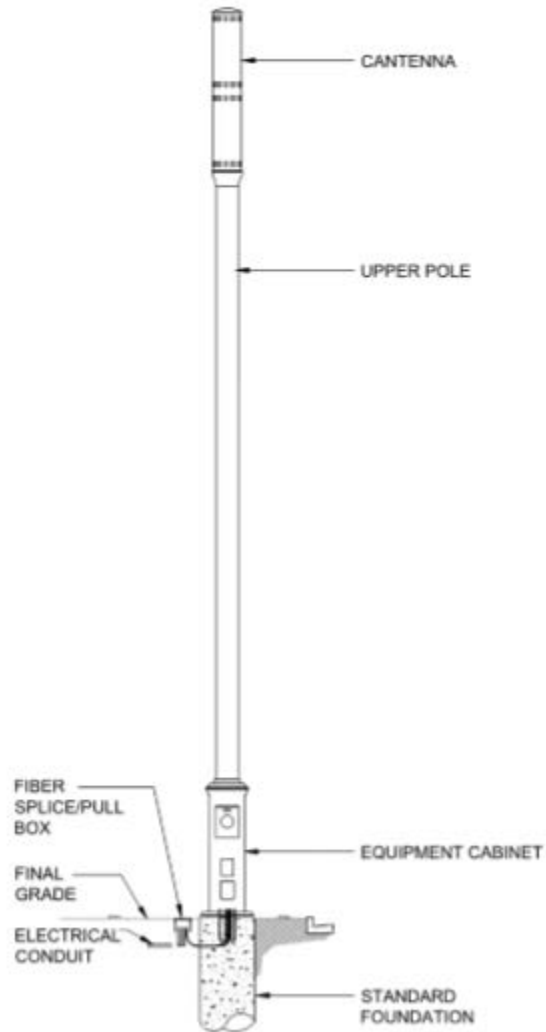
Figure 1-7: Type 3C - Combination Pole with Cantenna and Equipment Shroud



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 Requirements

FCC Order 18-133 outlines general requirements that cities must adhere to when processing applications. In addition to the requirements of FCC Order 18-133 and K.S.A. 66-2019, these Design Requirements for Small Cell Facilities and Wireless Support Structures provide guidance to wireless communications carriers on the aesthetic requirements and 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.

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 municipal and local building/zoning 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.

Performance Objectives for Requests: Network providers shall consider the aesthetics of the existing streetlights and neighborhoods adjacent to proposed small cell locations prior to submitting an application. 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, and pole colors.

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 Requirements, 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 Requirements.

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 Requirements.
 - Color for all ground-mounted small cell facilities and cabinets shall be as prescribed in the Context Specific Design Requirements.

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) 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 travelway, 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, in no case shall a ground mounted small cell facility cabinet be located closer than 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 may 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 Requirements

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 requirements, three districts have been defined based on the unique existing and desired character of the rights-of-way within these areas. These districts are:

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

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

Historic Topeka 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 in the Historic District—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 Requirements

- 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 discouraged from being within 50 feet of a historic site or structure or Historic Landmark recognized by the City, County, State, or Federal government.

Residential Districts and Parks

Thoroughfare Preferences for Installation of Small Cell Facilities and Wireless Support Structures

Siting Preferences

- 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.

- 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.

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 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 structures 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 private deed restrictions and other private restrictions in the area that apply to those facilities.

EXCEPTIONS

The City Engineer, in the City Engineer's sole discretion, may grant exceptions to these Aesthetic Requirements if the City Engineer's finds the following conditions exist:

1. The Aesthetic Requirements as applied to a specific set of circumstances are: (a) technically infeasible and (b) unreasonable when balanced against the interest of avoiding or remedying the intangible public harm of unsightly or out-of-character facility deployments; and
2. The applicant's proposed design and aesthetic appearance for the proposed facilities satisfies the intent of the requirements.

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 the governing body or the county commission.
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 land/right-of-way designated or adjacent to D-1/D-2/D-3 zoning district OR the future land use classification in the City's Land Use and Growth Management Plan.

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
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.
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

	<p>all of the antenna's exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and</p> <p>(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.</p>
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	<p>Means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including, but not limited to:</p> <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

**DRAFT AMENDMENTS TO TITLE 18, DIVISION 4 - ZONING CODE
TO REGULATE SMALL CELL WIRELESS FACILITIES**

September 16, 2019 Planning Commission Meeting

TMC 18.55.030 “C” Definitions.

“Communication tower” means a ground-mounted guyed, monopole or self-supporting tower, constructed as a freestanding structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication. Not included in this definition are: (1) small cell wireless facilities; and (2) towers which are held, used or controlled exclusively for public purposes by any department or branch of government. Such towers are defined as a “public use facility” and regulated accordingly.

TMC 18.55.190 “S” Definitions

“Small cell wireless facility” or “SCWF” means a wireless facility that meets both of the following qualifications:

(1) 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

(2) 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.

(3) Height. (a) 50 feet in height or less; or (b) the structure is no more than 10% higher than that of adjacent structures or as prescribed in federal law.

18.60.010 Use Tables

Use	Description	R-1/R-2/R-3 Single-Family Dwelling	R-4 Manufactured Homes	M-1 Two-Family Dwelling	M-1a Limited Multiple-Family Dwelling	M-2 Multiple-Family Dwelling	M-3 Multiple-Family Dwelling	O&I-1 Office and Institutional	O&I-2 Office and Institutional	O&I-3 Office and Institutional	C-1 Commercial	C-2 Commercial	C-3 Commercial	C-4 Commercial	I-1 Light Industrial	I-2 Heavy Industrial	U-1 University	MS-1 Medical Service	X-1 Mixed Use	X-2 Mixed Use	X-3 Mixed Use	D-1 Downtown Mixed Use	D-2 Downtown Mixed Use	D-3 Downtown Mixed Use	RR-1 Residential Reserve	OS-1 Open Space
Industrial		Districts																								
Storage of Non-merchandise, Outdoor	See Chapter 18.225 TMC, outdoor storage of non-merchandise	-	-	-	-	-	-	-	-	-	-	-	-	-	S/C	S/C	-	-	-	C	C	-	-	-	-	-
Tower, Communication #, Transmission Tower #	ground-mounted freestanding structure transmitting or receiving TV, radio, and microwave frequencies. Refer to Chapter 18.20 TMC	C	C	C	C	C	C	C	C	C	C	C	C	S	S	S	C	C	-	-	-	C	C	C	C	-
<u>Small Cell Wireless Facilities</u>	<u>Refer to TMC Chapters 18.20 and 18.225.</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>
Towers, Receiving and Commercial Broadcasting	for radio and television. Refer to Chapter 18.20 TMC	-	-	-	-	-	-	C	C	-	-	-	-	C	C	-	-	C	-	-	-	-	-	-	-	-

18.225.010 Special use requirements.

The special uses identified in the use matrix table at TMC [18.60.010](#) are subject to the additional requirements of this chapter. In case of any conflict between the regulations of the district in which the use is allowed and the additional regulations of this chapter, the most restrictive regulations shall govern:

(jj) Small Cell Wireless Facilities (SCWFs)

(1) Application. An applicant for placement of an SCWF shall submit site plans, elevation drawings and structural calculations prepared by a professional engineer licensed by the State of Kansas. The drawings must depict transmission equipment, power source, electrical service pedestal and any associated access or utility easements and setbacks

(2) Right of Way. If placement is sited in public right-of-way, the applicant will execute a license agreement with the City.

(3) Compliance with Aesthetic Requirements. The proposed SCWF shall comply with the City of Topeka/Shawnee County Small Cell Wireless Facilities General Design & Aesthetic Requirements posted on the City's website.