



A Capital City Government Working For You...

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City Council Agenda

**City Council Chambers
214 SE 8th Street
Topeka, Kansas 66603**

September 18, 2007
6:00 PM

City Manager: Norton N. Bonaparte, Jr.

Mayor: William W. Bunten

Councilmembers

Lana Kennedy	District No. 1	Deborah Swank	District No. 6
John Alcala	District No. 2	Brett Blackburn	District No. 7
Sylvia E. Ortiz	District No. 3	Jeff Preisner	District No. 8
Jack Woelfel	District No. 4	Richard Harmon	District No. 9
Bill Haynes	District No. 5		

Addressing the Council: No person shall address the Council during a Council Meeting, unless they have notified the City Clerk by 5:00 P.M. on the day of any Council Meeting of their desire to speak on a specific matter on the published meeting agenda or during the public comment portion of the Council Meeting. This limitation shall not apply to items added during the course of a meeting. The Council does not take action with respect to any subject not on the agenda unless added to the agenda by a two-thirds vote of the Council

Persons addressing the City Council will be limited to four (4) minutes of public address on a particular agenda item. Debate, question/answer dialogue or discussion between Councilmembers will not be counted towards the four (4) minute time limitation. The Chair may extend time with the unanimous consent of the Council or the Council by affirmative vote of five (5) members may extend the four (4) minute limitation.

Persons will be limited to addressing the City Council one (1) time on a particular matter unless otherwise allowed by an affirmative vote of five (5) members of the City Council.

Citizens wishing to offer Public Comment may sign up by phoning the City Clerk's office at 368-3940.

(Agendas are available on Thursday afternoon in the City Clerk's office, 215 SE 7th – Room 166 and on the City's web site at <http://www.topeka.org>)

INVOCATION:

PLEDGE OF ALLEGIANCE:

- 1. **PROCLAMATIONS:**
"Constitution Week"
"Balloons Around The World Week"
"Water Awareness and Education Month"

- 2. **PRESENTATIONS:**
"None scheduled at this time."

- 3. **ROLL CALL:**

- 4. **CONSENT AGENDA:**

A. Resolution - Washburn University Memorial Union - Noise Exception

 [ATTACHMENTS](#)

A RESOLUTION introduced by Councilmember Deborah Swank granting Washburn University an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions. (Council District No. 6)

(The Scorch on the Porch event will take place during the hours of 11:00 a.m. and 1:00 p.m. on September 19, 2007.)

B. MINUTES of the regular meeting of September 11, 2007

C. APPLICATIONS:

- 5. **PUBLIC HEARINGS:**

A. Public Hearing and Ordinance - Roy V. Uhl Company, Inc. (V07A/4)

 [ATTACHMENTS](#)

A PUBLIC HEARING relating to vacation request V07A/4 by Roy V. Uhl Company, Inc., requesting to vacate a portion of a 16-foot wide public improvement alley right-of-way while providing for a public utility and sanitary sewer easement to be established over the described property located south of SE 3rd Street between SE Swygart Street and SE Davies Street, City of Topeka Shawnee County, Kansas.

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of a portion of a 16-foot wide public unimproved alley right-of-way while providing for a public utility and sanitary sewer easement to be established over the described property located south of SE 3rd Street between SE Swygart Street and SE Davies Street, City of Topeka, Shawnee County, Kansas. Final Reading. (V07A/4) (Council District No. 3)

(Approval would vacate a portion of a 16-foot wide unimproved alley right-of-way while providing for a public utility and sanitary sewer easement to be established over the described property.)

- 6. **UNFINISHED BUSINESS:**

A. Project Budget and Ordinance - Street Improvement Project No. 84349

 [ATTACHMENTS](#)

A PROJECT BUDGET in the amount of \$500,000 and AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Street Improvement Project No. 84349, which provides for ADA sidewalk ramps, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka. Final Reading. (All Council Districts)

(Approval would implement a city-wide improvement project that would provide handicapped accessible sidewalk ramp construction to meet ADA requirements. The target area will be from Topeka Boulevard to Washburn Avenue between 6th Street and 17th Streets.)

B. Resolution - Ellite Investments, L.L.C. (CU07/3)

 [ATTACHMENTS](#)

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., in accordance with Section 48-18.02(c)(8) of the Code of the City of Topeka, approving a Conditional Use Permit to relocate, remodel or rebuild a legal non-conforming billboard, on property currently zoned "C-4" Commercial District and located east of I-470 Highway and west of SW Drury Lane in the City of Topeka, Kansas. (CU07/3) (Council District No. 9) (Planning Commission recommended conditional approval.)(Planning Department recommended conditional approval.)(Deferred from the meeting of September 11, 2007.)

(Approval would allow for the replacement of a 35 foot tall two sided billboard sign, comprising of 672 square feet per sign face, with a 50 foot tall all-steel monopole.)

7. NEW BUSINESS:

A. Communication - Lease Purchase Agreement for Enterprise Resource Planning Software System

 [ATTACHMENTS](#)

A COMMUNICATION introduced by City Manager Norton N. Bonaparte, Jr., relating to a lease purchase agreement for the purchase of an Enterprise Resource Planning (ERP) System for the City of Topeka.

(Approval would authorize a six-year lease purchase agreement for an ERP system. Including the principal of \$3,340,428 and interest of \$516,811 brings the total amount to \$3,857,239.)

B. Ordinance - Weekly Expenditures - August 27 - September 2, 2007

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of August 27, 2007, through September 2, 2007, and enumerating said expenditures therein. First and Final Reading.

8. ZONING:

A. Ordinance - Paradise Providence Place (PUD07/5)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at 2401 SE 11th Street in the City of Topeka, Kansas from "R-1" Single-Family Dwelling District TO "PUD" Planned Unit Development District ("M-2" use group). Final Reading. (PUD07/5) (Council District No. 3) (Planning Commission recommended approval by a vote of 8-0-0.) (Planning Department recommended approval.)

(Approval would allow for a 3-story, sixty-unit apartment complex and eleven, single-story duplex structures for senior adults in combination with church, day care, and community center uses.)

9. MISCELLANEOUS:

-

10. PRESENTATIONS BY THE CITY MANAGER, MAYOR AND MEMBERS OF THE COUNCIL:

-

11. PUBLIC COMMENT:

-

12. ADJOURNMENT:

-



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 3, 2007

 [+ Back](#)  [Print](#)

DATE: September 18, 2007

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 3, 2007

+ Back Print

DATE: September 18, 2007

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 3, 2007

 [+ Back](#)  [Print](#)

DATE: September 18, 2007

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

"Constitution Week"

"Balloons Around The World Week"

"Water Awareness and Education Month"

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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214 SE 8th Street
Topeka, Kansas 66603

August 3, 2007

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DATE: September 18, 2007

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

"None scheduled at this time."

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 3, 2007

 + Back  Print

DATE: September 18, 2007

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 11, 2007

 + Back  Print

DATE: September 18, 2007
CONTACT PERSON: Deborah Swank **DOCUMENT #:**
SECOND PARTY/SUBJECT: Kathy Reser **PROJECT #:**
CATEGORY/SUBCATEGORY 020 Resolutions / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by Councilmember Deborah Swank granting Washburn University an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions. *(Council District No. 6)*

(The Scorch on the Porch event will take place during the hours of 11:00 a.m. and 1:00 p.m. on September 19, 2007.)

POLICY ISSUE:

None

STAFF RECOMMENDATION:

None

BACKGROUND:

Noise exception for live music located at 1700 SW College Avenue during specified date and time.

BUDGETARY IMPACT:

None

SOURCE OF FUNDING:

None

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION introduced by Councilmember Deborah Swank granting Washburn University an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions.

WHEREAS, City of Topeka Code Section 54-148 makes it unlawful for any person to make, continue or cause to made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health or safety or others within the limits of the city; and

WHEREAS, City of Topeka Code Section 54-148 authorizes the City Council to grant exceptions to the prohibitions of this code section upon request and a showing that the proposed activity does not offend the spirit of the findings of City of Topeka Code Section 54-146, and

WHEREAS, Washburn University has requested that it be granted an exception to the provisions of City of Topeka Code Section 54-148 for the purposes, dates and times described herein, and

WHEREAS, upon review of the application of Washburn University, the Council of the City of Topeka does hereby find that the requested activity does not offend the spirit of the findings of City of Topeka Code Section 54-146.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Topeka that Washburn University is hereby granted an exception from the

provisions of City of Topeka Code Section 54-148 for live music at the Scorch on the Porch event between 11:00 a.m. and 1:00 p.m. on September 19, 2007.

The activities will take place on the grounds of the Memorial Union.

ADOPTED and APPROVED by the City Council _____.

William W. Bunten, Mayor

Brenda Younger, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 21, 2007

 + Back  Print

DATE: September 18, 2007

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 1, 2007

 + Back  Print

DATE: September 18, 2007

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



A Capital City Government Working For You...

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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 5, 2007

+ Back Print

DATE: September 18, 2007
CONTACT PERSON: Bill Fiander/David Thurbon **DOCUMENT #:**
SECOND PARTY/SUBJECT: Roy V. Uhl Company, Inc. **PROJECT #:** V07A/4
CATEGORY/SUBCATEGORY: 014 Ordinances – Non-Codified / 006 Vacations
CIP PROJECT: No
ACTION OF COUNCIL: 09/11/07 First Reading **JOURNAL #:** 07
PAGE #:

DOCUMENT DESCRIPTION:

A PUBLIC HEARING relating to vacation request V07A/4 by Roy V. Uhl Company, Inc., requesting to vacate a portion of a 16-foot wide public improvement alley right-of-way while providing for a public utility and sanitary sewer easement to be established over the described property located south of SE 3rd Street between SE Swygart Street and SE Davies Street, City of Topeka Shawnee County, Kansas.

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of a portion of a 16-foot wide public unimproved alley right-of-way while providing for a public utility and sanitary sewer easement to be established over the described property located south of SE 3rd Street between SE Swygart Street and SE Davies Street, City of Topeka, Shawnee County, Kansas. Final Reading. (V07A/4) (Council District No. 3)

(Approval would vacate a portion of a 16-foot wide unimproved alley right-of-way while providing for a public utility and sanitary sewer easement to be established over the described property.)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

The Planning Department Staff has evaluated this proposal relative to the existing land uses and plat of subdivision, and, recommends **APPROVAL** of the proposed vacation of unimproved alley right-of-way while establishing a public utility and sanitary sewer easement over the described property.

BACKGROUND:

- The Kansas Statutes and Topeka City Code Section 130-476(b) requires a public hearing in conjunction with proposed vacation petitions which have been filed in accordance with a prescribed procedure.
- The property owner wishes to vacate the existing unimproved alley right-of-way which bisects their property in order to provide for better utilization of the property.
- A public utility and sanitary sewer easement will be retained.
- Approval of the vacation should not be construed to imply support for any existing or subsequent land development.

Item #9

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Aerial](#)

[Vicinity Map](#)

[Application \(4 pages\)](#)

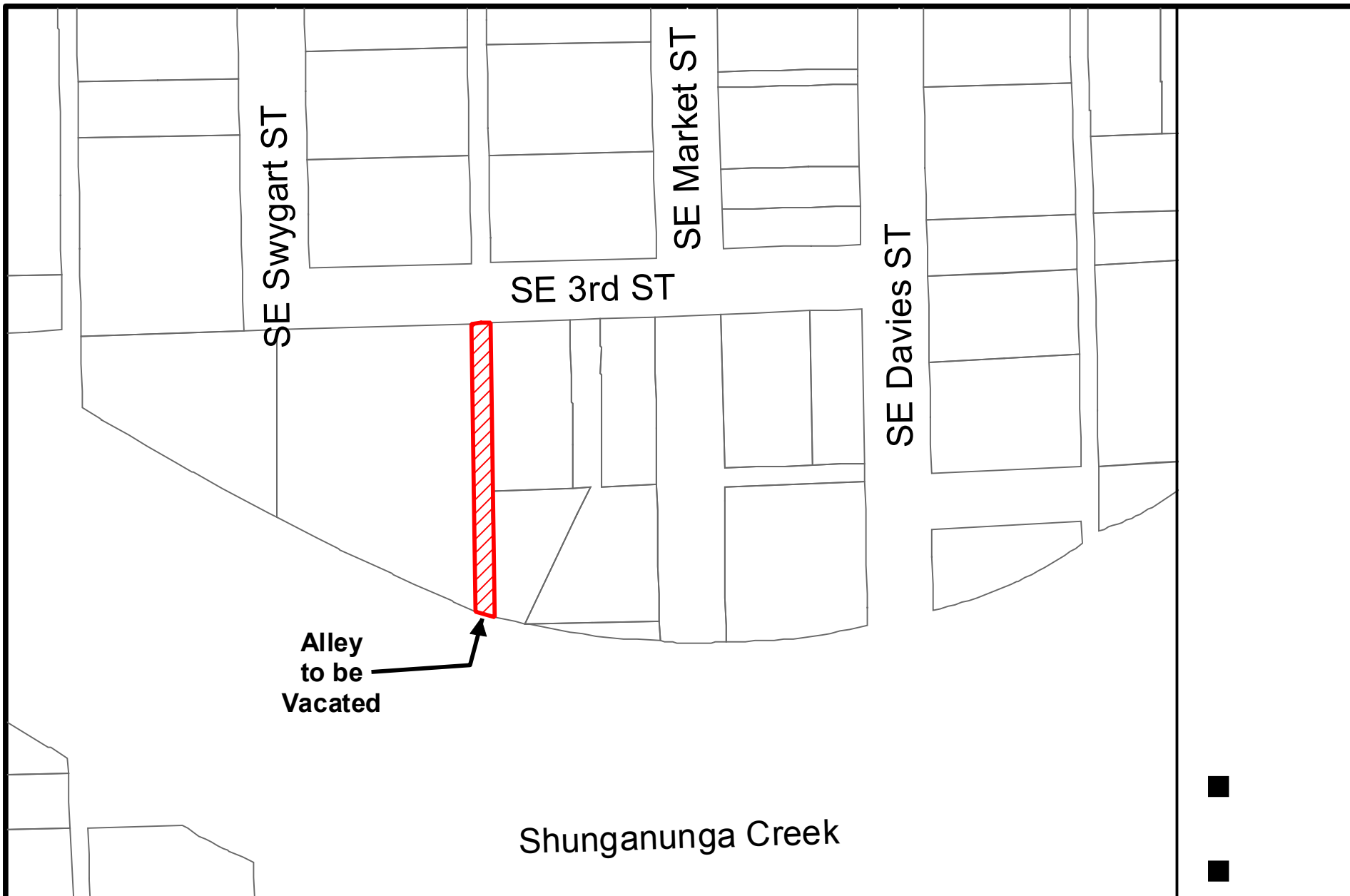
[Department Comments](#)

[Ordinance](#)

[Legal Ad](#)



V07A/4 by Roy V. Uhl Company, Inc.



V07A/4 by Roy V. Uhl Company, Inc.

CITY OF TOPEKA PLANNING DEPARTMENT

620 SE Madison Street-3rd Floor
Topeka, Kansas 66607

Office: (785) 368-3728
Fax: (785) 368-2535

PLANNING OFFICE USE ONLY

Date Submitted <u>2-6-07</u>	Date Advertised _____
Application No. <u>1187A/4</u>	Date of Public Hearing _____
TO BE COMPLETED BY CITY CLERK'S OFFICE	
Filing Fee \$ <u>250.00</u>	Receipt No. <u>10053</u>

APPLICATION

City Vacation of Streets, Alleys and Easements

- Applicant(s): ROY V. UHL COMPANY, INC.
- Applicant's Mailing Address: P.O. BOX 1461
City TOPEKA State: KS Zip: 66601-1461
- Telephone: Area Code: 785 No.: 286-0500
- Legal description of property requested to be vacated as prepared by the City of Topeka Department of Public Works: SEE ATTACHED
- Check type of vacation: Street _____ Alley ☒ Easement ☒ Other _____
- Legal description of property owned by the applicant which adjoins the street, alley or easement to be vacated: SEE ATTACHED
Lots _____ Block No. _____
In _____ Subdivision _____

Metes and Bounds Description, if unplatted: _____

RECEIVED
CITY CLERK
TOPEKA, KS
2007 FEB -6 A 11:45

7. Are there other owners of land who own property adjoining the subject street, alley or easement proposed to be vacated who, pursuant to K.S.A. 12-504, would be a property party to the petition to vacate?

Yes _____ No X

If yes, please list said owner's name(s) and mailing address.

8. Briefly, describe the proposed development of the subject property and your reasons for vacating the property: NO DEVELOPMENT PLANNED - REQUIRED TO PREVENT REMOVAL OF FENCE.

9. Will the area proposed for vacation preclude, restrict, hamper or lessen ingress-egress to other similarly abutting properties? NO

10. Do you concur with the retention of the subject area as an easement should the reviewing utility or public agency request such to cover existing or proposed utility lines? _____

EASEMENT NO LONGER NECESSARY.

11. Will any permanent structures be constructed within the area proposed for vacation? _____

NONE PLANNED AT THIS TIME.

12. Will the area proposed for vacation create any unique, adverse or undesirable traffic conditions? NO

13. How are adjoining properties used? PART OF COMPANY SHOP PREMISES - USED FOR STORAGE OF JOB MATERIALS.

14. In your opinion, would the proposed vacation injure or endanger any private rights? _____

NO

15. In your opinion, would the public suffer any loss or inconvenience should the petition to vacate be approved? NO

16. In the event this proposed vacation is to vacate street or alley right-of-way, are you aware of the applicability of the district zoning on the subject property? Please briefly explain: _____

RE-ZONING REQUESTED ALSO.

Signature of Applicant(s)



DENNIS R. UHL

(Please Attach Any Additional Information)

If the owner(s) of record is to be represented by legal counsel or an authorized agent, please complete the following so that communications pertaining to this application may be forwarded to the appropriate individual.

Name of Representative ARTHUR E. PALMER (GOODELL, STRATTON, EDMONDS & PALMER, L.L.P.)

Street Address 515 S. KANSAS AVENUE

City TOPEKA

State KS

Zip Code 66603

Telephone No. (785) 233-0593

Fax No. (785) 233-8870

V07A/4
Alley Vacation
Legal Description

A portion of an alley in Western Land and Lot Company's Addition to the City of Topeka, Shawnee County, Kansas, described as: Beginning at the Northwest corner of Lot 301 on Market Street; thence southerly on the East line of an alley to a point on the West line of Lot 321 on Market Street which is 112.78 feet northerly distant from the Southwest corner of Lot 329 on Market Street; thence northwesterly on a non-tangential curve which is concave northeasterly and having a radius measure of 732.56 feet, to a point on the West line of said alley which is 7.35 feet southerly distant from the Northeast corner of Lot 322 on Swygart Street; thence northerly on the West line of said alley to the Northeast corner of Lot 302 on Swygart Street; thence easterly to the point of beginning.

V07A/4 by ROY V. UHL COMPANY, INC., VACATION REQUEST

REVIEW COMMENTS:

Ken Bass, City Water Department

1. Water Department has no objections to this alley vacation.

Joe Singer, City Engineering

1. There is a sanitary sewer located in most of the North part of the alley, we should retain at least part as a utility easement and to accommodate Westar it should be retained as a public utility easement.

Steve Bolton, Shawnee County Refuse

1. It is our opinion that the requested vacation will have no adverse effect on our ability to provide refuse service.

Michelle Conway, Fire Inspector

1. The Fire Department has no objections to this alley vacation.

Kent Cowhick, Police Department

1. The Police Department has no objections to this alley vacation.

Kimball E. Parker, AT&T (SWBT)

1. AT&T has no objections to this alley vacation.

Pam Solis, Westar Energy

1. Westar Energy only has one existing overhead guy pole and anchor located along the street right-of-way on the south side of SE 3rd Street that appears to extend into the described alley right-of-way. If our existing facilities are located within the described alley, Westar Energy will request that the applicant agree to one of the following requirements: 1) An easement is granted to Westar Energy for the continued operation, maintenance and replacement of our electric facilities, or 2) The applicant, agrees to pay all costs associated with the relocation of our electric facilities. If the applicant chooses option 2, adequate time needs to be allowed for design and construction of the relocation project. This time frame will depend on the work involved.

Lyndon Henry, Cox Communication

1. No comments received.

Dawn Hecker, Kansas Gas Service

1. Kansas Gas Service has no objections to this alley vacation.

(Published in the Topeka Metro News _____)

ORDINANCE NO.

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of a portion of 16-foot wide public unimproved alley right-of-way located south of SE 3rd Street between SE Swygart Street and SE Davies Street, City of Topeka, Shawnee County, Kansas. **(V07A/4) (Council District No. 3)**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That pursuant to the requirements of K.S.A. 12-504 as amended, a petition by Roy V. Uhl Company, Inc., as property owners, has been filed with the office of the City Clerk, requesting the vacation of the following described platted unimproved alley right-of-way located within the City of Topeka, Shawnee County, Kansas:

A portion of an alley in Western Land and Lot Company's Addition to the City of Topeka, Shawnee County, Kansas, described as: Beginning at the Northwest corner of Lot 301 on Market Street; thence southerly on the East line of an alley to a point on the West line of Lot 321 on Market Street which is 112.78 feet northerly distant from the Southwest corner of Lot 329 on Market Street; thence northwesterly on a non-tangential curve which is concave northeasterly and having a radius measure of 732.56 feet, to a point on the West line of said alley which is 7.35 feet southerly distant from the Northeast corner of Lot 322 on Swygart Street; thence northerly on the West line of said alley to the Northeast corner of Lot 302 on Swygart Street; thence easterly to the point of beginning.

Section 2. That said petition has been duly published for two (2) consecutive weeks in a newspaper of general circulation and on September 18, 2007, the petition is ready for determination by the Council of the City of Topeka, Kansas.

Section 3. That the Council of the City of Topeka, after being duly informed and hearing the evidence presented finds that:

- a. Legal notice was given as required by K.S.A. 12-504 as amended.
- b. No private rights will be injured or endangered by such vacation.
- c. The public will suffer no loss or inconvenience by such vacation.

Section 4. That the Council of the City of Topeka does hereby find that justice requires the petition of vacation be granted and does hereby order the vacation of the below described platted unimproved alley right-of-way located within the City of Topeka, Kansas:

A portion of an alley in Western Land and Lot Company's Addition to the City of Topeka, Shawnee County, Kansas, described as: Beginning at the Northwest corner of Lot 301 on Market Street; thence southerly on the East line of an alley to a point on the West line of Lot 321 on Market Street which is 112.78 feet northerly distant from the Southwest corner of Lot 329 on Market Street; thence northwesterly on a non-tangential curve which is concave northeasterly and having a radius measure of 732.56 feet, to a point on the West line of said alley which is 7.35 feet southerly distant from the Northeast corner of Lot 322 on Swygart Street; thence northerly on the West line of said alley to the Northeast corner of Lot 302 on Swygart Street; thence easterly to the point of beginning.

Section 5. That the Council of the City of Topeka does hereby find that justice further requires the provision for a public utility and sanitary sewer easement to be established over the described property as set forth in Section 4 and does hereby order the retention of the below described area as a public utility easement:

A portion of a platted alley in Western Land and Lot Company's Addition to the City of Topeka, Shawnee County, Kansas, described as: Beginning at the Northwest corner of Lot 301 on Market Street; thence southerly on the East line of an alley 114 feet; thence westerly, to a point on the West line of said alley which is 114 feet southerly distant from the Northeast corner of Lot 302 on Swygart Street; thence northerly on the West line of said alley to the Northeast corner of Lot 302 on Swygart Street; thence easterly to the point of beginning.

Section 6. This vacation shall not affect any other underlying easements or restrictions whether platted or by instrument.

Section 7. The City Clerk is hereby directed to certify a copy of this ordinance to the Shawnee County Register of Deeds Office for appropriate recording.

Section 8. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED AND APPROVED by the Council of the City of Topeka _____, 2007.

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified __

Not To Be Codified X

Please have the attached published in the Topeka Metro News in the Legal Advertising Section on August 24, 2007 and again on August 31, 2007.

IN THE MATTER OF THE PROPOSED VACATION OF:

A portion of 16-foot wide public unimproved alley right-of-way located south of SE 3rd Street between SE Swygart Street and SE Davies Street, City of Topeka, Shawnee County, Kansas. **(V07A/4) (Council District No. 3)**

NOTICE OF PUBLIC HEARING

(Pursuant to K.S.A. 12-504 et seq.)

To Whom It May Concern:

Public notice is hereby given that a petition has been filed by Roy V. Uhl Company, Inc., owners of the concerned property, praying that the above stated alley located on said property be vacated.

The petition will be presented to the Council of the City of Topeka for hearing on September 18, 2007, at 6:00 P.M. or as soon thereafter as the same may be heard in the City Council Chambers, Municipal Building, 2nd Floor, 8th and Monroe Streets, Topeka, Kansas, at which time and place all interested persons may appear and be heard, either for or against granting the prayer of said Petition.

**BY THE GOVERNING BODY,
CITY OF TOPEKA, KANSAS**



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 5, 2007

+ Back Print

DATE:	September 18, 2007		
CONTACT PERSON:	Bernie Cosby	DOCUMENT #:	
SECOND PARTY/SUBJECT:	Street Repair Project	PROJECT #:	84349
CATEGORY/SUBCATEGORY	014 Ordinances – Non-Codified / 004 Public Improvements		
CIP PROJECT:	Yes		
ACTION OF COUNCIL:	09/11/07 First Reading.	JOURNAL #:	07
		PAGE #:	

DOCUMENT DESCRIPTION:

A PROJECT BUDGET in the amount of \$500,000 and **AN ORDINANCE** introduced by City Manager Norton N. Bonaparte, Jr., authorizing Street Improvement Project No. 84349, which provides for ADA sidewalk ramps, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka. **Final Reading.** *(All Council Districts)*

(Approval would implement a city-wide improvement project that would provide handicapped accessible sidewalk ramp construction to meet ADA requirements. The target area will be from Topeka Boulevard to Washburn Avenue between 6th Street and 17th Streets.)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

Adopt Project Budget and Ordinance as presented.

BACKGROUND:

This project will provide the construction of handicapped accessible curb cuts and sidewalk ramps at selected intersections throughout the City, to meet requirements of the Americans with Disabilities Act in accordance with the City's sidewalk ramps-transition plan. The target area will be from Topeka Boulevard to Washburn Avenue between 6th Street and 17th Streets. The project is listed in the 2007 Capital Improvement Budget as "ADA Street Curb Repair" in the amount of \$500,000.00.

BUDGETARY IMPACT:

Project Budget: \$500,000.00

Annual Debt Service: \$41,691.00 for 20 years

SOURCE OF FUNDING:

General Obligation Bonds or any other lawfully available funds.

Item #10

ATTACHMENTS:

[Project Budget](#)

[Debt Service](#)

[Ordinance](#)

PROJECT BUDGET

STREET REPAIR PROJECT NO. 84349

HANDICAPPED ACCESSIBLE SIDEWALK RAMP PROJECT

LOCATION:

City Wide

SOURCE OF FUNDS:

2007 Capital Budget – 100% General Obligation Bonds

DESCRIPTION:

Construct handicapped accessible curb cuts and sidewalk ramps at selected intersections throughout the City, to meet requirements of the Americans with Disabilities Act in accordance with the City's sidewalk ramp - transition plan.

COST ESTIMATE:

Construction	\$ 380,000.00
Design	\$ 30,000.00
Engineering Fee	\$ -
Proj. Serv. Fee	
Proj. Engr.	\$ 10,500.00
CIP Coordinator	\$ -
Proj. Admin.	\$ 8,000.00
Contingencies	\$ 37,500.00
Right-of-Way	\$ -
Interin Interest	\$ <u>34,000.00</u>
Total	\$ 500,000.00

CONTACT PERSON:

Bernie Cosby, City Engineering

GO Bond Cost of Project

PROJECT: 84349

Interest rate	5.25%
Number of Years	20

Cost of Issuance	2.00%
Temp Note interest	5.000%

Principal (project cost)	<u>\$475,000</u>
Plus Temp Note Interest (unless included in Principal)	<u>\$23,750</u>
Subtotal	\$498,750
Plus Cost of Issuance	<u>\$9,975</u>
Total	\$508,725

Annual Debt Service	\$41,691
Annual Debt Service as Percent of Total	8.2%

Total Debt Service (principal and interest)	\$833,824
---	-----------

Difference Project Cost and Total Debt Service	\$358,824
--	-----------

GO Bonded Indebtedness as of January 2007	\$165,635,000
---	---------------

2006 Temporary Notes that Finance Future GO Bond projects	\$11,470,000
---	--------------

Approved, not Included in GO Bond Issue or Temporary Notes--City Projects	\$8,768,214
---	-------------

Approved, not Included in GO Bond Issue or Temporary Notes--Special Assessment Projects	<u>\$2,552,885</u>
---	--------------------

Total Indebtedness	<u><u>\$188,426,099</u></u>
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Plus Project	\$188,934,824
--------------	---------------

(Published in the Topeka Metro News_____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Street Improvement Project No. 84349, which provides for ADA sidewalk ramps, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That it is hereby deemed advisable and necessary and is also hereby authorized, pursuant to Section A12-1 of the Code of the City of Topeka that the following public improvement be made:

A. GENERAL NATURE OF IMPROVEMENT:

This project will provide the construction of handicapped accessible curb cuts and sidewalk ramps at selected intersections throughout the City, to meet requirements of the Americans with Disabilities Act in accordance with the City's sidewalk ramps-transition plan.

B. TOTAL PROJECT BUDGET COST:

\$500,000.00

C. SOURCE OF FUNDS:

General Obligation Bonds
or any other lawfully available funds \$500,000.00

Section 2. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED and APPROVED by the City Council_____.

CITY OF TOPEKA, KANSAS

ATTEST: _____
William W. Bunten, Mayor

Brenda Younger, City Clerk



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 12, 2007

+ Back Print

DATE: September 18, 2007
CONTACT PERSON: Bill Fiander/David Thurbon **DOCUMENT #:**
SECOND PARTY/SUBJECT: Ellite Investments, L.L.C. **PROJECT #:** CU07/3
CATEGORY/SUBCATEGORY: 020 Resolutions / 001 Special Permits
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., in accordance with Section 48-18.02(c)(8) of the Code of the City of Topeka, approving a Conditional Use Permit to relocate, remodel or rebuild a legal non-conforming billboard, on property currently zoned "C-4" Commercial District and located east of I-470 Highway and west of SW Drury Lane in the City of Topeka, Kansas. (CU07/3) (Council District No. 9) (Planning Commission recommended conditional approval.)(Planning Department recommended conditional approval.)(Deferred from the meeting of September 11, 2007.)

(Approval would allow for the replacement of a 35 foot tall two sided billboard sign, comprising of 672 square feet per sign face, with a 50 foot tall all-steel monopole.)

POLICY ISSUE:

New billboards in C-4 zoning districts are permitted up to 300 sq. ft. per sign face and 55' in height. The rebuilding of this billboard with a CUP increases the height from 35' to 50' but keeps the sign area the same at 672 sq. ft. per sign face. This proposal increases the non-conforming nature of the sign and creates a precedent to increase the height of non-conforming billboards in the future.

STAFF RECOMMENDATION:

The Planning Commission recommended this proposal be conditionally **APPROVED** by a vote of **7-1-0** at their August 20, 2007 meeting as referenced in their attached minutes. The Planning Department recommended that this request be **APPROVED** based on two options as referenced below, neither of which the Planning Commission choose.

Construction of an all steel single monopole billboard sign not exceeding a total of thirty-five (35') feet in height and comprising a total of two (2) sign faces not exceeding six hundred seventy two (672) square feet per sign face;

OR

Construction of an all steel single monopole billboard sign not exceeding a total of fifty-five (55') feet in height and comprising a total of two (2) sign faces not exceeding three hundred (300) square feet per sign face.

Item #11

BACKGROUND:

- See Staff Report.

- City Council options:
 - **Adopt** the recommendation of the Planning Commission by Resolution;
 - **Override** the Planning Commission's recommendation by a two-thirds majority (6 votes) of the City Council membership; or,
 - **Return** such recommendation to the Planning Commission with a statement specifying the basis for the City Council's failure to approve or disapprove

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Resolution](#)

[Staff Report](#)

[Aerial](#)

[Aerial Large](#)

[Exhibits ABC](#)

[Existing Sign](#)

[Application \(4 pages\)](#)

[Planning Commission Minutes](#)

[Planning Commission Minutes](#)

RESOLUTION _____

CONDITIONAL USE PERMIT

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr. in accordance with Section 48-18.02(c)(8) of the Code of the City of Topeka, approving a Conditional Use Permit to relocate, remodel or rebuild a legal non-conforming billboard, on property currently zoned "C-4" Commercial District and located east of I-470 Highway and west of SW Drury Lane in the City of Topeka, Kansas. **(CU07/3) (Council District No. 9)**

BE IT RESOLVED by the Council of the City of Topeka, Kansas, that the application of City of Topeka under the provisions of Section 48-18.02(c)(8) of the Code of the City of Topeka, approving a Conditional Use Permit to relocate, remodel or rebuild a legal non-conforming billboard, on property currently zoned "C-4" Commercial District and located east of I-470 Highway and west of SW Drury Lane in the City of Topeka, Kansas, and legally described as follows:

Block D, Lot 4, Shawnee Hills Village Subdivision No. 2, in the City of Topeka, Shawnee County, Kansas.

be, and the same is hereby approved, **subject to:**

- 1. Construction of an all steel single monopole billboard sign not exceeding a total of fifty (50') feet in height and comprising a total of two (2) sign faces not exceeding six hundred seventy two (672) square feet per sign face.**

ADOPTED AND APPROVED by the Council of the City of Topeka, _____, 2007.

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

CONDITIONAL USE PERMIT REPORT

TOPEKA PLANNING DEPARTMENT

CASE NO: CU07/3

by: Elite Investments, L.L.C.

PROPOSAL: Requesting a Conditional Use Permit "CUP" to relocate, remodel or rebuild a legal non-conforming billboard sign on property currently zoned "C-4" Commercial District.

LOCATION: east of I-470 Highway and west of SW Drury Lane.

PARCEL ID NUMBER: 1420402004004000.

PRESENT USE: An approximate 87,710 square foot vacant lot presently occupied by a thirty-five foot (35') two (2) sided billboard sign comprising six hundred seventy two (672) square feet per sign face.

PROPOSED USE: As provided for by Section 48-18.02 (c)(8) and being subject to the requirements of Article XXVI, Section 48-26.00(n)(1)(a-j) of the Comprehensive Zoning Regulations, the applicant seeks a Conditional Use Permit to rebuild a thirty-five foot (35') tall two (2) sided billboard sign comprising six hundred seventy two (672) square feet per sign face. Each sign face is to measure fourteen (14') feet in height by forty-eight (48') feet in length, with the bottom edge of the sign being thirty-six (36') feet from the ground. The sign is to be all steel construction.

CHARACTER OF NEIGHBORHOOD: The neighborhood is predominately commercial and office uses.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	"C-4" Commercial District	Cracker Barrel
South:	Right-of-Way	Highway I-470
East:	"C-4" Commercial District	Vacant and KCC Office
West:	Right-of-Way	Highway I-470

GUIDELINES FOR EVALUATION: In considering an application for a conditional use permit to relocate, remodel or rebuild a legal non-conforming billboard, the Governing Body, after review of the

August 20, 2007
Agenda Item #F-1

recommendation of the Planning Commission, shall determine that the proposed billboard is appropriate in the location proposed based upon its consideration of the following "*General Standards*":

1. **The structural members of all billboard materials shall be constructed entirely of non-combustible materials excepting only the sign face, ornamental molding and platform and shall be installed only on single-pole structures:** The entire structure is to be all steel construction and a single pole design (please refer to attached graphic marked Exhibit "A").
2. **The proposed sign shall not be larger than the existing billboard proposed to be replaced, but not to exceed seven hundred fifty (750) square feet including extensions; nor shall such sign have more than two (2) sign faces:** As indicated the replacement billboard sign may be no larger than the original. The proposed billboard is to be a two (2) sided billboard sign comprising six hundred seventy two (672) square feet per sign face same as the original (please refer to attached graphic marked Exhibit "B"). However, the original billboard is only thirty-five feet (35') in height whereas; the proposed billboard sign is to be fifty feet (50') in height.

The subject site is currently zoned "C-4" Commercial District. Normally to have a billboard sign which is the dimension of the current sign, that sign would need to be located in an area zoned "I-1" Light Industrial which allows for a billboard sign to be no taller than thirty-five feet (35') in height, limited to two (2) sign face's with each sign face being no more than six hundred seventy two (672) square feet in size. Staff can support a billboard sign at this location which meets the "*General Standards*" as contained within this staff report providing the sign does not exceed the dimension of the current sign being replaced. Should the applicant desire to construct a billboard sign that is fifty feet (50') in height staff could support such a sign only if the sign face dimension's were reduced to a maximum of three hundred (300) square feet per sign face. This would be in keeping with the size limitations of the underlying "C-4" Commercial District.

3. **No billboard is to be erected upon a roof of any building or attached to any building:** The proposed billboard sign is to be a freestanding structure (please refer to attached graphic marked Exhibit "A").
4. **No billboard to be relocated shall be setback less than twenty (20') feet from any public right-of-way line:** The signs proposed location shall be set a minimum of twenty (20') feet from the public right-of-way of I-470 Highway (please refer to attached graphic marked Exhibit "B").
5. **No billboard shall be relocated less than either one thousand three hundred twenty (1,320') feet from any other such sign on the same street or closer than a four hundred (400') foot radius on different streets:** The proposed billboard sign location meets both of these criteria (please refer to attached graphic marked Exhibit "C").
6. **No billboard to be relocated shall be less than two hundred (200') feet from any underpass, overpass or bridge structure:** The proposed billboard sign location meets all of these criteria (please refer to attached graphic marked Exhibit "C").

August 20, 2007
Agenda Item #F-1

7. **No billboard to be relocated shall be placed within three hundred (300') feet of a residential dwelling, which fronts on the same street right-of-way, nor within five hundred (500') of any religious assembly or public or private elementary or secondary school on the same street:** There are no residential dwellings, religious assembly, public or private elementary or secondary schools within the prescribed distances which front on the same street right-of-way as the proposed billboard sign.
8. **No billboard shall result in loss or damage of natural, scenic, or historic features of significant importance; and shall be constructed and operated with minimal interference of the use and development of neighborhood property:** No adverse affects have previously been reported to staff regarding the existence of the current sign which has occupied the site for almost a quarter century. There are therefore, no adverse effects anticipated by the continuation of a billboard sign of this size at this location. The new sign as proposed being of less structural mass should be less intrusive upon the environs than that which currently exists.
9. **No billboard shall be so designed to include the vertical stacking of billboards on the sign pole. Each billboard shall be comprised of a single sign face oriented in a given direction:** The proposed billboard is complaint with this provision.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

Platting: **Compliant** – Lot 4, Block "D" – Shawnee Hills Village Subdivision No. 2.

CONCERNS OF STAFF AND REVIEWING AGENCIES: This request has been submitted to all applicable reviewing agency staff for consideration and comment. No significant issues or concerns were expressed by reviewing staff relative to code compliance or the provisions of public services.

ADDITIONAL FACTORS:

1. Neighborhood Improvement Association: Not Applicable.
2. Capitol Plaza Area: Not Applicable.
3. Flood Hazard Area: Not Applicable.
4. Airport Hazard Area: Not Applicable.
5. Historic Properties: No Registered Properties within 500-feet.

STAFF RECOMMENDATION:

The proposed billboard does not conform to the size regulations in any zoning district or the conditional use permit standards. The Planning Commission is not authorized to grant variances to the size and height limitations as provided for in the conditional use permit regulations for this type of sign therefore, based upon the above findings and analysis Planning Staff recommends **APPROVAL** of this proposal, based on one of the following options:

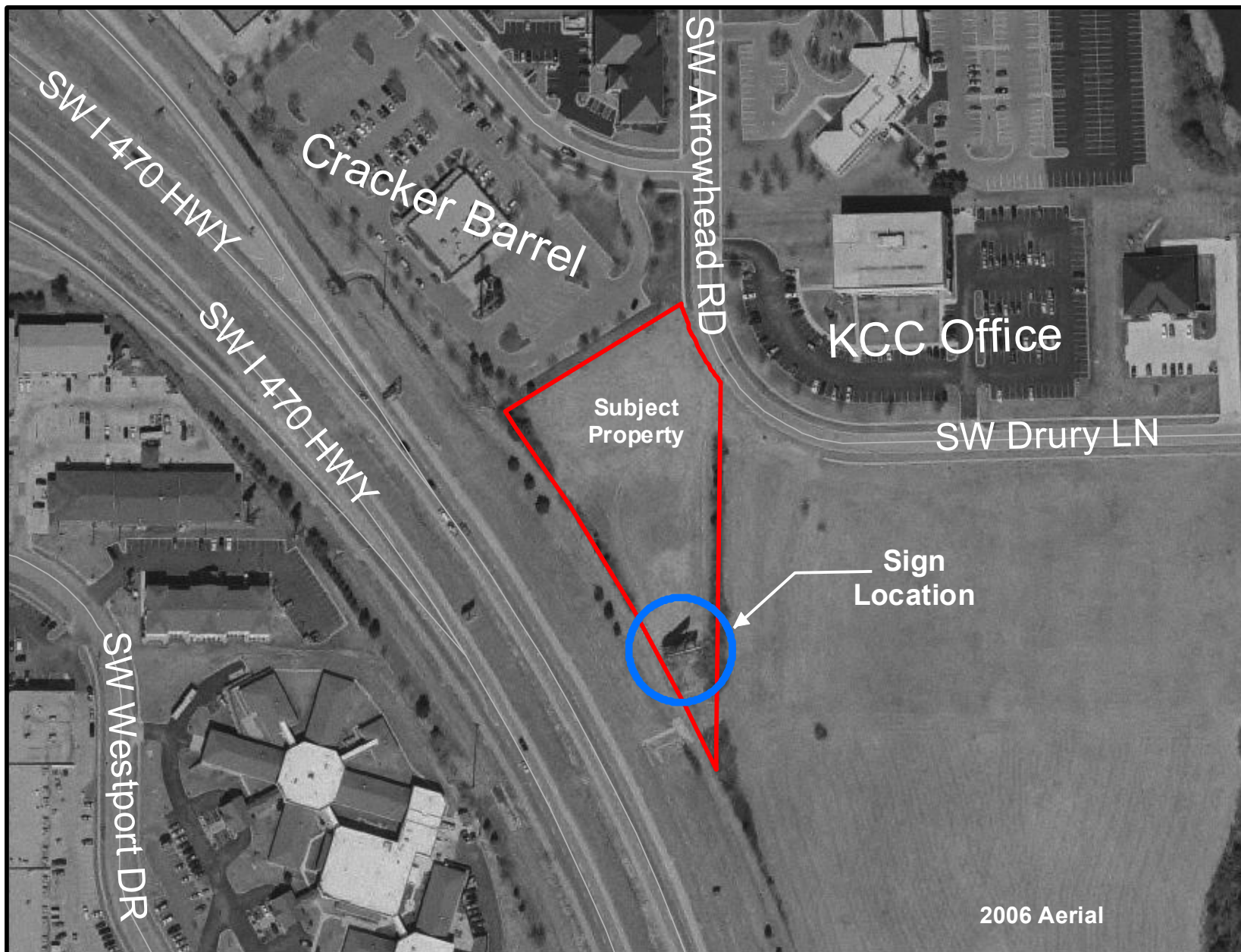
August 20, 2007
Agenda Item #F-1

1. Construction of an all steel single monopole billboard sign not exceeding a total of thirty-five (35') feet in height and comprising a total of two (2) sign faces not exceeding six hundred seventy two (672) square feet per sign face;

OR

2. Construction of an all steel single monopole billboard sign not exceeding a total of fifty-five (55') feet in height and comprising a total of two (2) sign faces not exceeding three hundred (300) square feet per sign face.

Prepared by: Dean W. Diediker
Planner II



CU07/3 by Ellite Investments, L.L.C.



CU07/3 by Ellite Investments, L.L.C.



We Are Outdoor.

Sign Dimensions for Remodeled Sign Located at

SW Drury Lane

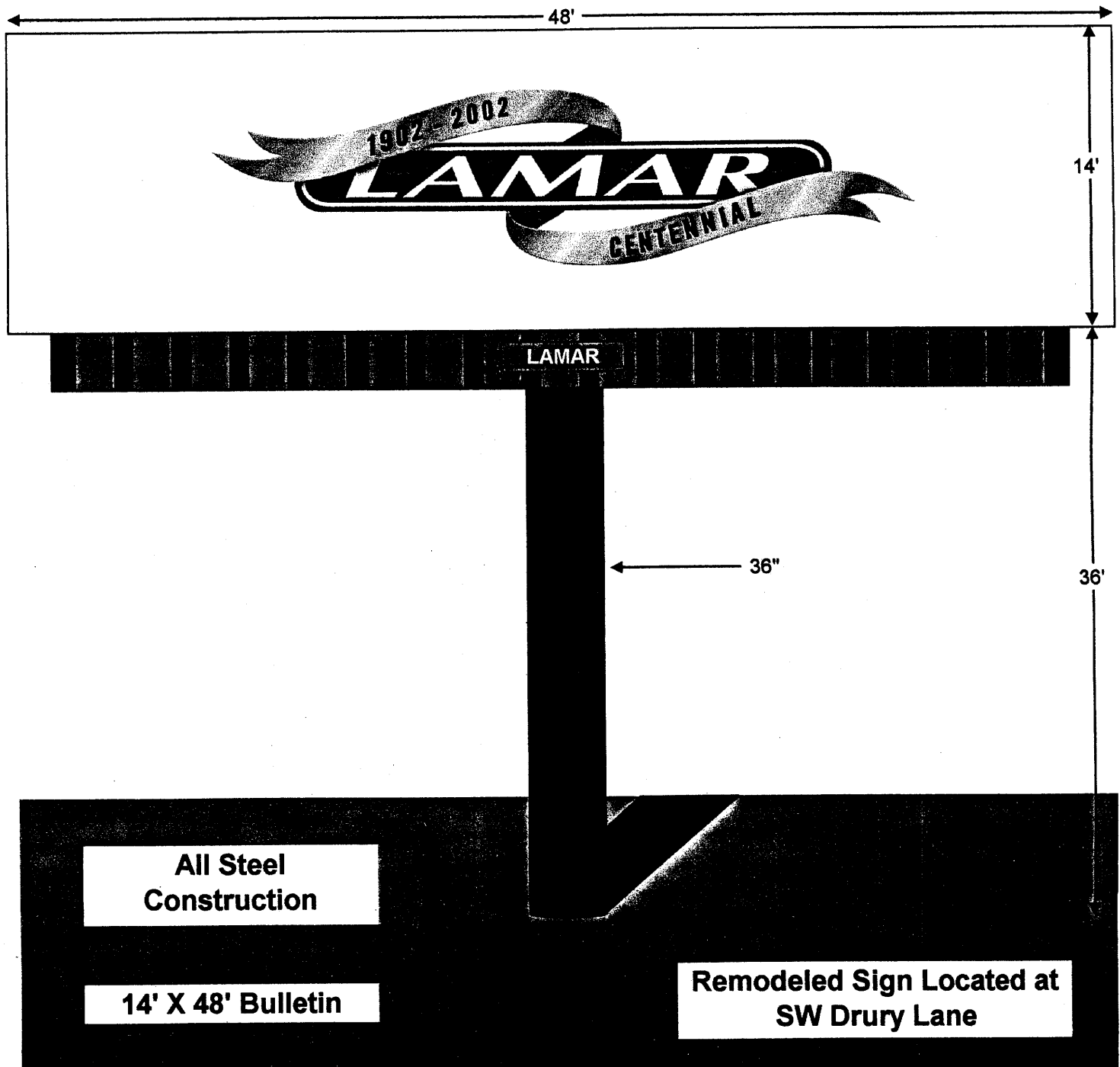


Exhibit "A"



Remodeled Structure Located at

SW Drury Lane

Sign type: Single Pole, V-shape
Sign Size: 14' X 48'
Sign Height: 50' overall
Illuminated: Yes
Structure Material: All Steel Construction

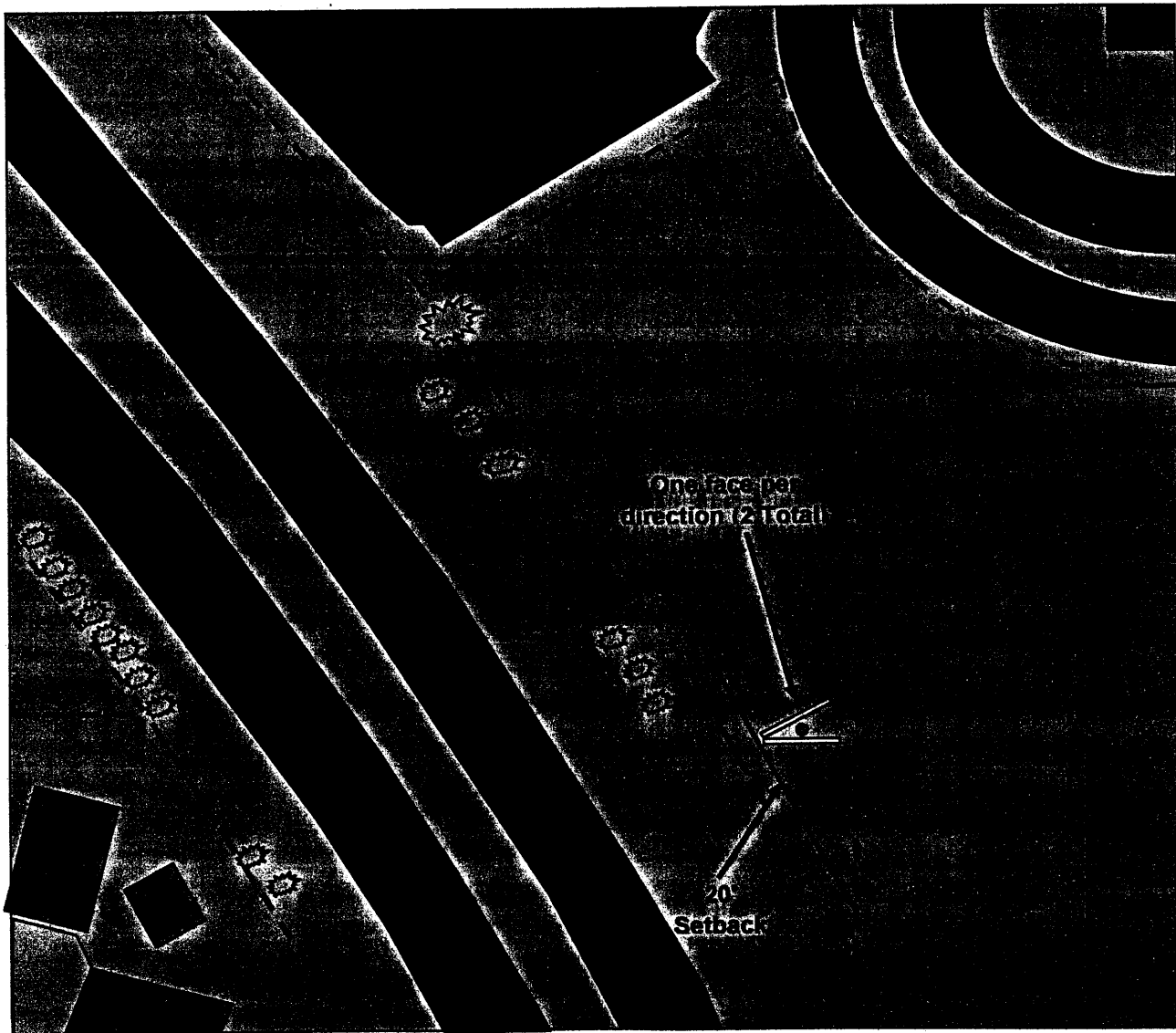
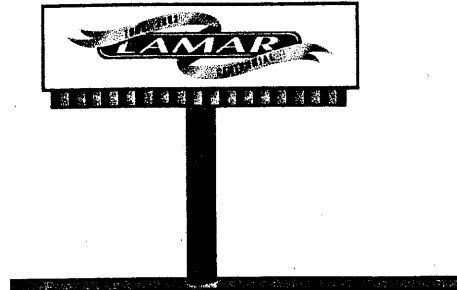
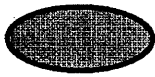


Exhibit "B"

**Aerial of Existing sign at
 [REDACTED] SW Drury Lane**



Bridges and Overpasses



Existing Sign to be rebuilt



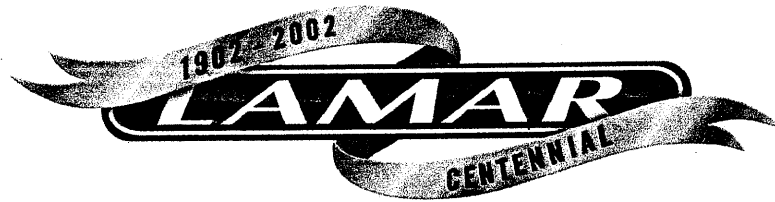
Existing Signs in general area



Demonstration of 200' Radius



Demonstration of 1320' Radius



We Are Outdoor.



Existing Structure Located at SW Drury Lane (Viewed from I-470)



Application Form Re-Zoning or Conditional Use Permit

City of Topeka Planning Department
620 SE Madison, 3rd Floor
Topeka, KS 66607
Phone 785-368-3728 Fax 785-368-2535

Applicant Information

Property Owner(s): Elite Investments, LLC.

Street Address: 15015 Roxburghe

City: Olathe State: KS Zip: 66061 E-mail: _____

Business phone: (913) 226-2106 Home phone: _____ Fax: (913) 393-1110

Authorized Owner Representative (if any): _____

Street Address: _____

City: _____ State: _____ Zip: _____ E-mail: _____

Business phone: _____ Home phone: _____ Fax: _____

Authorized Professional Agent (Engineer, Architect, Attorney, etc.) – If different from above

Geoff Cook, Real Estate Manager for Lamar Advertising of Topeka

Street Address: 2501 NE Meriden Rd.

City: Topeka State: KS Zip: 66617 E-mail: gcook@lamar.com

Business phone: 234-0501 Home phone: 608-0479 Fax: 234-1518

Authorization

I (we) am (are) the owner(s) of record for the subject property and hereby authorize filing of this application and posting of signage on the property by the City of Topeka for the requested zoning change. I (we) declare that all required materials are submitted along with this application and that the information submitted is complete and accurate. I (we) hereby acknowledge that all appropriate procedures, policies and regulations have been reviewed and understood, including authorization of any agent as listed in this application.

Owner 1 Name: _____

Owner 1 Signature: _____ Date: _____

Owner 2: Geoff Cook Real Estate Manager for LAMAR Advertising

Owner 2 Signature: Geoff Cook Date: 5/9/07

Requested Action and Site Information

Address of Property to be Re-Zoned (or if vacant, describe general location): 1515 SW Drury Lane & 1-470

Legal Description of Property: lot(s) 4 block X DLM subdivision Shawnee Hills Village #2
(if unplatted, attach metes and bounds description)

Total Area (acres/square feet): 2.09 Acres ID# 1420402004004000

Type of Application:

1. Re-zoning from: _____ to: _____
2. Conditional Use Permit proposed use: Rebuild existing Billboard on Monopole as described herein.

Existing Use (# of dwelling units, square feet, etc.): Currently developing a Hotel

How long has the existing use been on the property? New

Proposed Use (# of dwelling units, square feet, etc.): _____

Was a Pre-Application Meeting or Zoning Inquiry completed with Staff? _____ If Yes, when? _____

FOR OFFICE USE ONLY

Date submitted: 5/9/07
Application no.: CU07/3
Filing fee: 700⁰⁰ Receipt no.: 11571
Quarter section map no.: A-1

Date notice sent: 5/25/07
Date advertised: 5/25/07
Date of hearing: 6/18/07
Council district: #9

CHECK YES OR NO

Capital Plaza Area: Yes _____ No ☒

Within Historic Site Environs: Yes _____ No ☒

If Yes, what is it?: _____

100 yr Floodplain: Yes _____ No ☒

National/State Historic Register: Yes _____ No ☒

Local Historic Resource: Yes _____ No ☒

Airport Hazard Area: Yes _____ No ☒

Neighborhood Association: Yes _____ No ☒

Name of N.I.A./N.A.: none

Applicant Justification

For re-zoning applications:

This section is intended to provide you with the opportunity to present information in support of your request. It is important to bear in mind that the presumption of validity rests with the present zoning and use of the property. It is the burden of the applicant to demonstrate that the proposed change in zoning classification or proposed conditional use permit is appropriate.

Please attach additional sheets if necessary.

1. Why is the land not suitable for the uses to which the property is currently zoned?

The property is currently zoned C-4, which does not allow signs of 672 square feet or more to exist without the existence of a conditional use permit. This sign is of the status legal nonconforming as it is legal to exist, however we are required to apply for a permit to rebuild the structure to modern code compliance.

2. What effect would the proposed zone change have on the character of the neighborhood and surrounding properties?

The remodeling of the existing billboard at 1515 SW Drury Lane would provide the neighborhood with a modernized structure that is up to Lamar and the City of Topeka's high standards. In the same fashion as other signs in the area, Cracker Barrel, Rib Crib and our sign located farther South on I-470, Lamar will provide a new monopole structure and eliminate the multi pole structure that exists today.

The introduction of the new hotel on this property will bring new life to this growing area. Lamar wishes to contribute to the revitalizing of this highly visible part of town with a new monopole structure. As Drury lane develops, it meets new standards. Lamar values the existing billboard, but realizes that it falls below our standards and those of the City. Our only desire is to raise up to the modern standards that have developed since the construction of this sign and maintain the value of our sign location.

3. How does this request relate to any adopted neighborhood/land use plans by the City?

The city has granted a permit for a new hotel on the property and the sign in it's current condition will prevent the property owner from accessing his entire property. The new monopole structure will allow the use of more of this property and allow access to the far South portion of the property. The landowner has requested that Lamar rebuild this sign on a monopole, as they will be able to manuver vehicles under the sign to access their entire property. The pavement and sidewalk will accomodate the single pole structure and will be easy to work around during construction and thereafter.

Infrastructure Availability

Please consult the Engineering Division of Topeka Public Works Department for information below (368-3842)

1. Water

- a. Location and size of water main serving site:
- b. Does the current system have adequate capacity? If not, are improvements anticipated?
- c. If other than City of Topeka, identify water district provider: _____

2. Sanitary Sewer

- a. Location and size of sewer main serving site:
- b. Does the current system have adequate capacity? If not, are improvements anticipated?
- c. If other than City of Topeka, identify sewer district provider: _____

3. Storm Drainage

- a. How will storm water run-off be handled on site?
- b. Does the current storm sewer system have adequate capacity for proposed use?

4. Traffic Circulation

- a. Does the site have public street frontage access? What is the pavement width of any adjoining public streets?
- b. What are the site's existing or proposed access points?
- c. Will any street improvements or traffic control improvements be required?

DRAFT

**Minutes of the
Topeka Planning Commission
June 18, 2007**

CU07/3 by Ellite Investments, L.L.C. requesting a Conditional Use Permit to relocate, remodel or rebuild a legal non-conforming billboard on property currently zoned "C-4" Commercial District and located east of I-470 Highway and west of SW Drury Lane. **(Diediker)** Bill Fiander summarized the staff report.

Discussion by members:

Theron Sims asked if staff had visited with the applicant after the staff recommendation was sent to them? Mr. Fiander replied no.

Proponents:

Geoff Cook, Lamar Advertising, spoke in favor of the proposal. He said Lamar has purchased the signs and are improving them. Lamar's requirements are similar to city code. We like single pole structures. This one is a multi pole structure that we would make a single pole. Michelle Hoferer asked if there is a preference in the two options that were listed in the staff report? Mr. Cook said he would prefer the size of sign be 50 feet high with a 672 square foot sign face.

Ralph Skoog said since you only have two choices which would you prefer. Mr. Cook said he would prefer the sign be larger. He referred to a sign located on South Topeka Boulevard that is the size he is requesting. Mark Boyd said the extra height is just for visibility? Mr. Cook replied yes, the trees in the area have grown up and are beginning to block the sign. Mr. Skoog asked if the trees were in the State right of way? Mr. Cook replied yes. There has been a lot of deliberation between KDOT and the State about the trees.

Kimberly Scott said there is a sign on Topeka Boulevard that is bigger than what we are allowing him? Mr. Thurbon said different zoning districts allow different signs. Ms. Hoferer asked Mr. Cook if he knew what the size of the sign is and the zoning on the property for the property he referred to on Topeka Boulevard? Mr. Cook replied it is 672 square foot sign and it is in the C-4 zoning. Mr. Fiander asked what the height was prior to the new sign that is there? Mr. Cook replied 53 feet in height. Mr. Fiander said sounds like they replaced a 53 feet tall sign with a 53 feet sign. He said in this case they are requesting an increase in height from 35 feet to 50 feet. Fred Sanders asked if the sign is constructed at 35 feet would the trees block the sign? Mr. Cook said they are currently growing into the sign and it will deteriorate the sign further. Mr. Sanders asked if they have contacted the State about the trees? Mr. Cook said he is trying to work with them for a solution. Mr. Thurbon said KDOT is working on a tree trimming program. Mr. Cook said he was confused - the city had already issued the building permit for this sign and then I was told to come here. We were issued a permit for the 50 foot sign with a 672 square foot sign face. Mr. Thurbon said during review of the permit we found it not compliant. Mr. Sanders said is there a communication error between staff and permits? Mr. Thurbon said he will have to check why the permit was issued. Mr. Fiander said our department makes the final check prior to issuance of sign permits.

1st motion:

Terry Simnitt moved to approve the sign 53 ft high with a 672 square foot sign face, seconded by Fred Sanders.

Substitute motion:

Mark Boyd said he would like to make a substitution motion allowing a sign that is 35 feet high with a 672 square foot sign face, seconded by Ralph Skoog.

Theron Sims asked if there would be any legal problems since the permit was already issued? Mr. Thurbon said there hasn't been any construction started. Also they were advised they needed the conditional use permit. I am not sure why they applied for the building permit knowing they needed the conditional use permit. I will follow up and see why the permit was issued. Mr. Sims said when they applied for the building permit they would have been advised C-4 only allows 35 feet in height. Mr. Thurbon agreed. He stated he would like to comment on the first motion. He said a conditional use permit can't increase the standards of the base zoning. That would require a variance by the Board of Zoning Appeals.

Mr. Thurbon stated a conditional use permit can not be used to allow a larger sign than what is allowed in zoning code. Mr. Simnitt said the sign on Topeka Boulevard is as large as they are requesting, why can't this one be? Mr. Thurbon said it was probably a grandfathered use. He added we allow a billboard to be replaced if it isn't increased in size or height. In this case a variance would have to be requested by the Board of Zoning Appeals to increase the height.

Mr. Boyd asked if Mr. Cook would go to the Board of Zoning Appeals to ask for a variance to get the taller sign? Mr. Cook said he felt he had met the criteria needed to get what we requested. Mr. Boyd said he suggested running through the Board of Zoning Appeals and if they deny come back here for the conditional use permit. Ms. Hoferer said we would just hold off on the conditional use permit. Mark said he would withdraw his motion. Mr. Cook said he feels this new structure would only benefit us if we get the height we are requesting.

Mr. Boyd asked Mr. Cook if he understands what happened. Mr. Cook replied yes, I need to apply for a variance for the height with the Board of Zoning Appeals. Mr. Skoog withdrew his second to the motion and informed Mr. Cook staff would help him with the variance application.

Chairwoman Hoferer said all previous motions have been withdrawn.

Final motion:

Theron Sims moved to continue the proposal to the August Planning Commission hearing pending outcome from the Board of Zoning Appeals, seconded by Ralph Skoog. **CONTINUED to the August 20, 2007 Planning Commission meeting. (9-0-0)**

DRAFT

**Minutes of the
Topeka Planning Commission
August 20, 2007**

CU07/3 by Ellite Investments, L.L.C. requesting a Conditional Use Permit to relocate, remodel or rebuild a legal non-conforming billboard on property currently zoned "C-4" Commercial District and located east of I-470 Highway and west of SW Drury Lane. **(Diediker) Continued from the June 18th, 2007 Planning Commission meeting.** Dean Diediker summarized the staff report.

Discussion by members:

David Thurbon stated normally a conditional use permit can not be more permissive than the base zoning. That is why we sent the case to the Board of Zoning Appeals. It was found however there is a section in the code that deals with this situation specifically. Mr. Thurbon added staff thinks the spirit and intent of the zoning code should be followed, but in this case the Commission can vary from the base zoning.

Braxton Copley, City Attorney's office, stated a prior city council created a process that would allow for the rebuilding of billboards but the owner had to apply for a conditional use permit. Criteria stated the size of the sign could not change but it didn't address height. It only applies to the sign face. He said Legal's answer is the Planning Commission can allow the sign to be re-built to the same size and allow the height they have requested. The question is, is it feasible?x He said planning staff has given two viable options and are listed in the staff report. Howard Blackmon asked if the commission could give them what they applied for? Mr. Copley replied yes.

Fred Sanders asked if KDOT maintains the trees on their property where billboard is located? Mr. Thurbon said it is his understanding that KDOT will trim the trees. Mr. Sanders asked if that is an option? Mr. Thurbon said KDOT has a tree trimming program but not sure if they will trim the trees in front of this sign. Mr. Sanders said if they have to cut this one down they could always plant another.

Proponents:

Geoff Cook, Lamar Advertising, spoke in favor of the proposal. He said he has been reviewing the sign code and it appears size and height are two different things. The code says we have to keep the same size but can increase the height to avoid the trees that have become a problem. Terry Simnitt said you want to raise the height but keep the same sign face? How high? Mr. Cook replied from 35 feet to 50 feet. Theron Sims asked what about tree trimming? Mr. Cook said he is working with KDOT but part of it is his company can't bother purposely planted trees. Some of these trees have more value than ones that grow up out of no where. They invest the money for these trees. Mr. Sims asked if KDOT could trim them? Mr. Cook said the whole industry is working with the state on this problem.

Mr. Sanders asked if wind will be an issue with the additional height? Mr. Cook said the new monopole unit can withstand a higher amount of wind than the one there right now. A single pole unit is stronger than the multi- pole units of the past. We want to maintain the same visibility we had when the sign was put there many years ago.

No exparte communications.

Howard Blackmon move to approve the conditional use as it was applied for allowing for a sign height of 50 feet, seconded by Terry Simnitt. **APPROVAL. (7-1-0) Commissioner Boyd voted no.**



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 12, 2007

+ Back Print

DATE: September 18, 2007
CONTACT PERSON: Jim Langford or Jay Oyler **DOCUMENT #:**
SECOND PARTY/SUBJECT: **PROJECT #:**
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

A COMMUNICATION introduced by City Manager Norton N. Bonaparte, Jr., relating to a lease purchase agreement for the purchase of an Enterprise Resource Planning (ERP) System for the City of Topeka.

(Approval would authorize a six-year lease purchase agreement for an ERP system. Including the principal of \$3,340,428 and interest of \$516,811 brings the total amount to \$3,857,239.)

POLICY ISSUE:

Whether to enter into a lease purchase agreement with Municipal Services Group for the purchase and installation of an ERP system for the City of Topeka.

STAFF RECOMMENDATION:

Approve the communication.

BACKGROUND:

The City Council approved the project budget for the installation of an ERP system on August 28, 2007. Financing for the project budget included \$3,340,428 from a lease purchase agreement. The City has negotiated an agreement with Municipal Services Group for a six-year lease at an annual interest rate of 3.83 percent. The first payment would be due on January 15, 2009. Total interest paid over the six year period will be \$516,811. Combined with the principal the total cost of the lease purchase will be \$3,857,239.

BUDGETARY IMPACT:

The annual payment will be \$642,873.17. The first payment will be due on January 15, 2009. The schedule of payment is attached to this document.

SOURCE OF FUNDING:

The payments will be need to be appropriated from the General Improvement Fund or other available sources beginning with the 2009 fiscal year budget.

ATTACHMENTS:

[Schedule of Payment for ERP Lease Agreement](#)

Item #12

Exhibit E
Schedule of Payments
Enterprise Resource Planning Software
City of Topeka, KS

3.83% Interest Rate Valid Through September 24, 2007

Pmt #.	Payment Due Date	Payment Amount	Interest Portion	Principal Portion	Purchase Price
1	15-Jan-09	\$ 642,873.17	\$ 178,121.80	\$ 464,751.37	\$ 2,907,309.07
2	15-Jan-10	642,873.17	110,138.41	532,734.76	2,368,714.23
3	15-Jan-11	642,873.17	89,734.67	553,138.50	1,809,491.21
4	15-Jan-12	642,873.17	68,549.47	574,323.70	1,228,849.95
5	15-Jan-13	642,873.17	46,552.87	596,320.30	625,970.12
6	15-Jan-14	642,873.17	23,713.80	619,159.37	0.00
Totals		\$ 3,857,239.02	\$ 516,811.02	\$ 3,340,428.00	



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 5, 2007

+ Back Print

DATE: September 18, 2007
CONTACT PERSON: Jim Langford/kej **DOCUMENT #:**
SECOND PARTY/SUBJECT: Weekly Expenditures **PROJECT #:**
CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of August 27, 2007, through September 2, 2007, and enumerating said expenditures therein. First and Final Reading.

POLICY ISSUE:

Approve and allow weekly payments of valid operating expenditures, pursuant to Resolution No. 7607.

STAFF RECOMMENDATION:

Adopt as presented.

BACKGROUND:

Pursuant to Resolution No. 7607, adopted on April 12, 2005, which provides authorization to pay for certain expenditures prior to approval by the Council in an expenditure ordinance, the expenditures being authorized by this ordinance have been previously paid, in accordance with established procedures and policies for such payments.

BUDGETARY IMPACT:

Approves expenditures for the period August 27, 2007, through September 2, 2007, in the amount of \$6,852,071.37

SOURCE OF FUNDING:

Appropriated funds and fees-for-service revenues of various City departments.

ATTACHMENTS:

[Weekly Expenditures for Week Ending September 2, 2007](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte Jr., allowing and approving City expenditures for the period of August 27, 2007, through September 2, 2007, and enumerating said expenditures herein.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

Section 1. All expenditures made or authorized to be made by issuance of checks or electronic transfers as enumerated herein, are in accordance with City of Topeka Resolution No. 7607.

Section 2. The claims and expenditures listed in Exhibit A, which is on file in the City Council Office and the City Clerk's Office and incorporated herein by said reference, are hereby allowed and approved for payment.

<u>Section 3.</u>	Total for 551 vendor checks written in this period	\$3,515,499.91
	Total vendor checks voided in this period (net)	(0.00)
	Total electronic transfers to vendors in this period	788,992.66
	Total net payroll to employees this period	1,607,173.26
	Total payroll related electronic transfers this period	<u>940,405.54</u>
	Total for expenditures in this period	<u>\$6,852,071.37</u>

Section 4. This ordinance shall take effect and be in force after its passage, approval and publication in the official city newspaper.

PASSED and APPROVED by the City Council _____.

ATTEST:

William W. Bunten, Mayor

Brenda Younger, City Clerk



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 12, 2007

+ Back Print

DATE: September 18, 2007

CONTACT PERSON: Bill Fiander/David Thurbon **DOCUMENT #:** PUD07/5

SECOND PARTY/SUBJECT: Jackson Memorial Church of God in Christ, Inc. **PROJECT #:**

CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 007 Zoning

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at 2401 SE 11th Street in the City of Topeka, Kansas from "R-1" Single-Family Dwelling District TO "PUD" Planned Unit Development District ("M-2" use group). **Final Reading.** (PUD07/5) (Council District No. 3) (Planning Commission recommended approval by a vote of 8-0-0.) (Planning Department recommended approval.)

(Approval would allow for a 3-story, sixty-unit apartment complex and eleven, single-story duplex structures for senior adults in combination with church, day care, and community center uses.)

POLICY ISSUE:

Request is consistent with the land use principles of the Comprehensive Plan.

STAFF RECOMMENDATION:

The Planning Commission recommended this proposal be **APPROVED** by a vote of **8-0-0** at their August 20, 2007 meeting as referenced in their attached minutes. The Planning Department recommended that this request be **APPROVED** as referenced in the attached staff report.

BACKGROUND:

- See Staff Report.
- City Council options:
 - **Adopt** the recommendation of the Planning Commission by Ordinance;
 - **Override** the Planning Commission's recommendation by a two-thirds majority (6 votes) of the City Council membership; or,
 - **Return** such recommendation to the Planning Commission with a statement specifying the basis for the City Council's failure to approve or disapprove.

BUDGETARY IMPACT:

N/A

Item #14

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Ordinance](#)

[Staff Report](#)

[PUD Plan \(2 pages\)](#)

[PUD Plan](#)

[Aerial](#)

[Zoning Map](#)

[Application \(4 pages\)](#)

[Planning Commission Minutes](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located 2401 SE 11th Street in the City of Topeka, Kansas from "R-1" Single-Family Dwelling District **TO** "PUD" Planned Unit Development District ("M-2" use group). **(PUD07/5) (Council District No. 3)**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, be, and the same is hereby amended, by reclassifying the following described property:

LOTS 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29 AND 31, EXCEPT THE EAST 15 FEET OF SAID LOTS 21, 23, 25, 27, 29 AND 31, BLOCK 7;

AND LOTS 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32 AND 34, BLOCK 7;

AND LOTS 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31 AND 33, BLOCK 8;

AND LOTS 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32 AND 34, BLOCK 8, ALL IN THE BELL VIEW ADDITION, CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS

ALSO ALL OF VACATED BELLVIEW AVENUE FROM THE SOUTH LINE OF EAST 11TH STREET TO THE NORTH LINE OF EAST 12TH AVENUE, BETWEEN BLOCKS 7 AND 8 IN SAID BELL VIEW ADDITION.

ALSO ALL OF VACATED ALLEY RUNNING NORTH AND SOUTH BETWEEN 11TH AND 12TH STREETS IN BLOCK 8; AND ALL OF VACATED ALLEY RUNNING NORTH AND SOUTH BETWEEN LOTS 2 TO 32 EVEN NUMBERS INCLUSIVE, AND LOTS 1 TO 31, ODD NUMBERS INCLUSIVE IN BLOCK 7, BELL VIEW ADDITION, CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS.

(EXCEPT AND SUBJECT TO EASEMENTS, RESTRICTIONS, AND RESERVATIONS OF RECORD, AND ALL TAXES AND ASSESSMENTS THAT MAY BE LEVIED, IMPOSED, OR BECOME PAYABLE HEREAFTER.)

from "R-1" Single-Family Dwelling District **TO** "PUD" Planned Unit Development District ("M-2" use group). **Subject to:**

- 1. Use and development of the site in accordance with the recorded Master PUD Plan of Paradise Providence Place.**

Section 2. This Ordinance Number shall be fixed upon the "District Map".

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED AND APPROVED by the Council of the City of Topeka,
_____, 2007.

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified _____

Not To Be Codified X

August 20, 2007
Agenda Item #G-4

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: PUD07/5 Paradise Providence Place PUD by: Jackson Memorial Church of God in Christ, Inc.

PROPOSAL: Amend the District Zoning Classification from "R-1" Single-Family Dwelling District, TO "PUD" Planned Unit Development ("M-2" Multiple-Family Dwelling District use group).

LOCATION: 2401 SE 11th Street.

PARCEL ID NUMBER: 1320403010001000.

PRESENT USE: The property is an approximate 5.89 acre tract the eastern half of which is vacant and the western half a former elementary school, is occupied by two church groups and associated parking.

PROPOSED USE: The applicant is seeking rezoning to allow the property to be redeveloped for a combined use to include the existing church facility in addition to a 3-story apartment structure with 60 one bedroom units and support services (to include a food service facility and maximum 600 square foot barber/beauty shop). Also being proposed are 11 single story duplex structures consisting of 22 individual units ranging in size from 700 to 1,000 square feet per individual unit. Both the apartment and duplexes are for senior adults. The existing church uses are to remain and continue to function as a church and Day Care Center Type II or may be converted for use as a community center and Day Care Center Type II.

CHARACTER OF NEIGHBORHOOD: The area is a mixture of single and two-family residential housing to the north and east and multiple-family housing to the west. The subject property abuts SE I-70 Highway to the south.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	"R-1" Single-Family Dwelling District "M-1" Two-Family Dwelling District	Residential
South:	Right-of-Way	SE I-70 Highway
East:	"PUD" ("M-1" Two-Family use group)	Topeka Housing Authority
West:	"PUD" ("M-2" Multiple-Family use group)	Paradise Plazas Apartments

August 20, 2007
Agenda Item #G-4

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The property was originally the site of the Belvoir Elementary School. Upon acquisition of the property by the applicant the former school building was converted to its present use as a church and day care facility.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The site's present classification is consistent with the established pattern of zoning and land use in the area and remains suitable for the low density uses to which presently restricted.

CONFORMANCE TO COMPREHENSIVE PLAN: The subject property is located within the East Topeka Neighborhood Revitalization Plan boundaries an element of the *Comprehensive Plan* which establishes the western half of the site for Institutional and the eastern half for Open Space - Park uses. For many years the property was the site of the Belvoir Elementary School and play grounds until its closing at which time the building was converted for use as a church and has been occupied by the Jackson Memorial Church of God in Christ, Inc since that time. Because of the density of housing in the area, the play grounds were recommended to remain open space. However, both housing complexes (Pine Ridge and Paradise Plaza) have retained playground areas for their residents. In addition, this proposal is proposing that 30% of the former playgrounds remain in green space.

One of the guiding principles in meeting the housing goals as expressed by the East Topeka Neighborhood Revitalization Plan is to "*increase quality elderly housing options that are affordable*". The Paradise Providence Place Master PUD Plan proposes senior duplex housing along with an apartment complex that offers one bedroom units in addition to providing food service and personal care services i.e. barber/beauty shop all being located within the apartment building structure, thereby, offering a choice of housing options which provides safe, affordable and aesthetically pleasing housing options for senior adults. As the proposal is viewed as promoting those goals and objectives established by the East Topeka Neighborhood Revitalization Plan regarding senior housing the proposal is therefore viewed as being consistent with the plan.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: The proposed reclassification would permit the subject property to develop consistent with the goals and objectives established by the East Topeka Neighborhood Revitalization Plan and the established patterns of land use in the area. Therefore, based upon the surrounding land use there is expected to be no detrimental effect to nearby properties upon removal of the present restrictions.

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 proposed reclassification would accommodate development of this property consistent with the goals and objectives established by the East Topeka Neighborhood Revitalization Plan. The proposal is to provide safe, affordable and aesthetically pleasing housing options for senior adults. As no detrimental effects are anticipated, there would appear to be no particular gain to the public health, safety, and welfare by maintaining the present restrictions.

August 20, 2007
Agenda Item #G-4

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are presently available to this area and will not be overburdened by this proposal. There are currently no transportation projects in the City's CIP (2006-2011) affecting this area.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

Application: **Complete.**

Minimum Lot Area: **Compliant.**

Setbacks: **Non-Compliant** – Planning Commission will need to grant the variances as indicated on the Master PUD Plan.

Platting: **Compliant** – Block 7 and more – Bell View Addition.

CONCERNS OF STAFF AND REVIEWING AGENCIES: This request has been submitted to all applicable reviewing agency staff for consideration and comment. No significant issues or concerns were expressed by reviewing staff relative to code compliance or the provisions of public services with the exception of those as listed in staff recommendation.

ADDITIONAL FACTORS:

1. Neighborhood Improvement Association: East Topeka South NIA - The NIA supports the applicants rezoning request and encourages the Planning Department and Planning Commission to approve the proposal per memo dated July 24, 2007.
2. Capitol Plaza Area: Not Applicable.
3. Flood Hazard Area: Not Applicable.
4. Airport Hazard Area: Not Applicable.
5. Historic Properties: Not Applicable.

STAFF RECOMMENDATION:

Based upon the above findings and analysis Planning Staff recommends **APPROVAL** of this proposal subject to the following conditions being addressed prior to City Council consideration:

1. Use and development of the site in accordance with the recorded Master PUD Plan of Paradise Providence Place.
2. Remove reference to 30' access easement from plan graphic.

August 20, 2007
Agenda Item #G-4

Under **General Notes:**

3. Add the following standard "site plan" note: *"No building permit shall be approved until the site development plans have been reviewed by city reviewing staff and approved by the Planning Director. All uses shall comply with the PUD Master Plan."* The site shall include both areas A & B.

Under **Circulation, Parking and Traffic Notes:**

4. Remove Items #3 and #4.
5. Add note regarding installation of sidewalks both internal and as required externally to the development to promote safe pedestrian circulation in and around the PUD.
6. Item #5 needs to indicate floor area of existing building or auditorium/largest room. Also in the sentence the word "maximum" should be changed to "*minimum*".
7. The following sentence is to be added to Item #6: *"The location of drives is to be determined at time of site plan approval."*
8. Item #7 is to be changed to read as follows: *"A cross access agreement exists between Areas A and B, the location of which shall be determined at time of site plan approval."*
9. A note needs to be added giving the Planning Director the ability to limit the maximum number of parking spaces in area "A" in order to achieve the 30% green space requirement.
10. Item #10 should be placed under Landscape Notes and should be changed to read as follows: *"A metal picket fence with a maximum height of 6' feet shall be installed around the exterior property perimeter of areas "A" and "B" beginning at the east edge of the driveway entrance on SE 11th Street opposite SW Bellevue Avenue, extending along SE 11th Street, along the frontage of SE Golden Avenue, and along the entire south property boundary ending at a point along the frontage of SE Long Street the location of which is to be determined at time of site plan approval."*

Under **Signage Notes:**

11. Permitted signage shall be limited to a maximum of two (2) signs consisting of either two (2) monument signs or one (1) monument sign and one (1) wall sign only one of which may be internally illuminated with the size of the illuminated portion of the sign not to exceed 25 square feet in area. Monument signage shall be limited to a maximum sign area of 40 square feet and not more than 5' in height. Wall signage shall be limited to a flat wall mounted sign on the face of the building not exceeding a maximum sign area of 40 square feet. Monument signage may be located at the entrance to the development or at street intersections.

August 20, 2007
Agenda Item #G-4

Under **Building Notes:**

12. A note needs to be added clarifying whether the 20' setback pertains to patios, porches or privacy fences.

Under **Project Program:**

13. Area "A" Zoning Use Groups: should be changed to read as follows: ""M-2" use group limited to duplex units and an apartment building, all for senior adults, *in addition to food service facilities in which food and beverages are offered for sale or for service with or without charge on the premises in addition to a Barber/Beauty Shop limited to a floor area of 600 square feet all of which are clearly incidental and subordinate to and customary in connection with a principal use and both being contained within the apartment building structure.*"
14. The Structural Density and Height note needs to read as follows: "Apartment building structure with a maximum of 60 one bedroom units and a building footprint maximum of 20,000 SF. Duplex Units: *A total of 11 single story structures comprising a maximum of 22 individual dwelling units, the building footprints of which are a minimum of 700 SF and maximum of 1,000 SF per individual dwelling unit.*
15. The number of parking stalls referenced under "Area B: Phasing:" needs to be changed from 109 to *111*.
16. Need to provide an addressing schedule for residential component.

Under **Amendments:**

17. The fifth line down in the statement should be changed to read in part as follows: "...then the simple majority of *any affected* fee title owners..."

Prepared by: Dean W. Diediker
Planner II

A MASTER PLANNED UNIT DEVELOPMENT
PARADISE PROVIDENCE PLACE

A TRACT IN THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 12 SOUTH, RANGE
16 EAST OF THE 6th P.M. IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS

BOOK : _____ PAGE : _____
DATE : _____ TIME : _____

LEGEND	
	PROPERTY LINE
	RIGHT-OF-WAY LINE
	SECTION LINE
	CENTER LINE
	EASEMENT LINE
	EXISTING OVERHEAD CABLE TELEVISION LINE
	EXISTING UNDERGROUND CABLE TELEVISION LINE
	EXISTING OVERHEAD ELECTRIC LINE
	EXISTING UNDERGROUND ELECTRIC LINE
	EXISTING GAS LINE
	EXISTING SANITARY SEWER LINE
	EXISTING SANITARY MANHOLE
	EXISTING STORM SEWER LINE
	EXISTING STORM INLET
	EXISTING OVERHEAD TELEPHONE LINE
	EXISTING UNDERGROUND TELEPHONE LINE
	EXISTING WATER LINE
	ACCESS EASEMENT
	BOOK
	BACK OF CURB/BACK OF CURB
	MEASURED
	ORDINANCE
	PLATTED
	PAGE
	RESOLUTION
	RIGHT-OF-WAY
	SANITARY SEWER EASEMENT

LEGAL DESCRIPTION :

LOTS 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29 AND 31, EXCEPT THE
EAST 15 FEET OF SAID LOTS 21, 23, 25, 27, 29 AND 31, BLOCK 7;

AND LOTS 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32 AND 34,
BLOCK 7;

AND LOTS 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31 AND 33,
BLOCK 8;

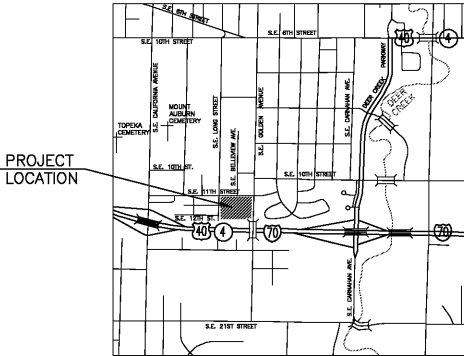
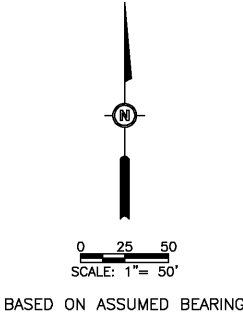
AND LOTS 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32 AND 34,
BLOCK 8, ALL IN THE BELL VIEW ADDITION, CITY OF TOPEKA, SHAWNEE COUNTY,
KANSAS

ALSO ALL OF VACATED BELLVIEW AVENUE FROM THE SOUTH LINE OF EAST 11TH
STREET TO THE NORTH LINE OF EAST 12TH AVENUE, BETWEEN BLOCKS 7 AND 8 IN
SAID BELL VIEW ADDITION.

ALSO ALL OF VACATED ALLEY RUNNING NORTH AND SOUTH BETWEEN 11TH AND 12TH
STREETS IN BLOCK 8; AND ALL OF VACATED ALLEY RUNNING NORTH AND SOUTH
BETWEEN LOTS 2 TO 32 EVEN NUMBERS INCLUSIVE, AND LOTS 1 TO 31, ODD
NUMBERS INCLUSIVE IN BLOCK 7, BELL VIEW ADDITION, CITY OF TOPEKA, SHAWNEE
COUNTY, KANSAS.

(EXCEPT AND SUBJECT TO EASEMENTS, RESTRICTIONS, AND RESERVATIONS OF
RECORD, AND ALL TAXES AND ASSESSMENTS THAT MAY BE LEVIED, IMPOSED, OR
BECOME PAYABLE HEREAFTER.)

AREA A:
LOTS 27, 29, 31 AND 33, BLOCK 8 AND LOTS 1 THRU 32 AND LOT 34, EXCEPT
THE EAST 15 FEET OF LOTS 21, 23, 25, 27, 29 AND 31, BLOCK 7, TOGETHER WITH
THE VACATED ALLEY ADJACENT TO SAID LOTS RUNNING NORTH AND SOUTH THROUGH
BLOCK 7 AND VACATED SE BELLVIEW AVENUE ADJACENT TO SAID LOTS 27, 29, 31
AND 33, BLOCK 8 AND LOTS 28, 30, 32 AND 34, BLOCK 7 AND THE EAST HALF
OF VACATED SE BELLVIEW AVENUE ADJACENT TO SAID LOTS 2, 4, 6, 8, 10, 12, 14,
16, 18, 20, 22, 24 AND 26, BLOCK 7, ALL IN BELL VIEW ADDITION, CITY OF
TOPEKA, SHAWNEE COUNTY, KANSAS.



VICINITY MAP
No Scale

BARTLETT & WEST
1800 SW EXECUTIVE DRIVE - TOPEKA, KS 66615-3880
PHONE 785.275.2555, FAX 785.275.2735
WWW.BARTLETTWEST.COM

A MASTER PLANNED UNIT DEVELOPMENT
PARADISE PROVIDENCE PLACE
SE 11th STREET & SE GOLDEN AVENUE
TOPEKA, SHAWNEE COUNTY, KANSAS

DESIGNED BY: ACS
DRAWN BY: DJS/JMD
APPROVED BY: ACS
DESIGN PROJ: 15777.100
CONST PROJ: 15777.100
SCALE: 1" = 50'
DATE: 7/06/2007
DRAWING NO:
PUD07/05
SHEET NO: 1 of 2

A MASTER PLANNED UNIT DEVELOPMENT PARADISE PROVIDENCE PLACE

A TRACT IN THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 12 SOUTH, RANGE
16 EAST OF THE 6th P.M. IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS

BOOK : _____ PAGE : _____

DATE : _____ TIME : _____

PROJECT PERFORMANCE OBJECTIVES :

CREATE A SENIOR ADULT RESIDENTIAL COMMUNITY PROVIDING ONE AND TWO BEDROOM DUPLEX AND APARTMENT UNITS ACCESSED BY PRIVATE DRIVES, AND INTEGRATED WITH THE ADJACENT EXISTING CHURCH/COMMUNITY CENTER FACILITY.

GENERAL NOTES :

- PURSUANT TO SECTION 48-24.05, THE APPLICANT MUST PROVIDE THE PLANNING DEPARTMENT A MASTER PUD PLAN SUITABLE FOR RECORDING WITHIN 30 DAYS UPON APPROVAL BY GOVERNING BODY AND RECORD IT WITH THE SHAWNEE COUNTY REGISTER OF DEEDS WITHIN 45 DAYS UPON APPROVAL BY THE GOVERNING BODY OR PUD SHALL BE NULL AND VOID.
- ALL APPLICABLE USE GROUP REGULATIONS SHALL APPLY UNLESS STATED OTHERWISE.
- NO BUILDING PERMIT SHALL BE APPROVED UNTIL THE SITE DEVELOPMENT PLANS HAVE BEEN REVIEWED BY CITY REVIEWING STAFF AND APPROVED BY THE PLANNING DIRECTOR. ALL USES SHALL COMPLY WITH THE PUD MASTER PLAN.

UTILITY NOTES :

- ALL UTILITIES SHALL BE INSTALLED UNDERGROUND PURSUANT TO THE CITY'S RIGHT-OF-WAY MANAGEMENT STANDARDS.
- SANITARY SEWER SERVICE SHALL BE BY THE CITY OF TOPEKA.
- WATER SERVICE SHALL BE BY CITY OF TOPEKA.

CIRCULATION, PARKING AND TRAFFIC NOTES :

- ALL PARKING WITHIN AREAS A AND B SHALL BE SHARED BETWEEN THE USE GROUP AREAS, WITH THE MAINTENANCE RESPONSIBILITIES FOR THE PAVED AREAS BEING THE RESPONSIBILITY OF THE OWNER OF THE PROPERTY WHERE THE PAVED AREA LIES.
- EACH SINGLE OR DUPLEX DWELLING UNIT FOR SENIOR ADULTS SHALL HAVE AT LEAST ONE PARKING SPACE (DRIVEWAY OR GARAGE) PER UNIT, A MINIMUM OF ONE PARKING SPACE SHALL BE PROVIDED FOR EVERY 2 APARTMENT UNITS FOR SENIOR ADULTS. THE PLANNING DIRECTOR SHALL HAVE DISCRETION TO LIMIT THE MAXIMUM NUMBER OF PARKING STALLS PROVIDED WITHIN AREA A IN ORDER TO ACHIEVE THE 30% GREEN SPACE REQUIREMENT.
- CHURCH/COMMUNITY CENTER FACILITY PARKING:
SANCTUARY (WITHOUT FIXED SEATING):
REQUIRED: 2,915 SF (FLOOR AREA OF LARGEST ROOM) @ 7 SF/SEAT @ 1 STALL PER 4 SEATS = 104 STALLS
OR COMMUNITY CENTER: A STALL PER 300 SF OF FLOOR AREA = 106 STALLS
AND DAYCARE CENTER, TYPE II:
REQUIRED: FACILITY LICENSING FOR 30 CHILDREN = 5 STALL MIN.
TOTAL MINIMUM REQUIRED: 111 STALLS
- PRIVATE ACCESS DRIVES WITHIN AREA A SHALL PROVIDE CONTINUOUS CIRCULATION THROUGH THE SITE TO THE ACCESS POINTS ONTO SE LONG STREET AND SE 11TH STREET. SAID DRIVES SHALL BE A MINIMUM OF 24 FEET IN WIDTH FOR 2 WAY DRIVES, OR 20 FEET IN WIDTH FOR ONE WAY DRIVES THAT CAN BE UTILIZED AS FIRE ACCESS DRIVES. THE LOCATION OF DRIVES IS TO BE DETERMINED AT THE TIME OF SITE PLAN APPROVAL.
- A CROSS ACCESS AGREEMENT EXISTS BETWEEN AREAS A AND B, THE LOCATION OF WHICH SHALL BE DETERMINED AT THE TIME OF SITE PLAN APPROVAL.
- AREA A MAY HAVE ONE 25 FOOT ACCESS OPENING ONTO SE GOLDEN AVE., THE CENTERLINE OF WHICH IS LOCATED A MINIMUM DISTANCE OF 100 FEET FROM THE SOUTH RIGHT OF WAY OF SE 11TH STREET, AND A MINIMUM DISTANCE OF 290 FEET FROM THE SOUTH LINE OF THE SUBJECT TRACT EXTENDED TO SE GOLDEN AVE.
- AREA B SHALL RETAIN THE LOCATION OF THE EXISTING ACCESS POINTS ONTO SE 11TH ST., ONE LYING 70 FEET EAST OF THE EAST RIGHT OF WAY OF SE LONG STREET, AND THE OTHER ALIGNING WITH THE SE BELLVIEW AVE. RIGHT OF WAY. A NEW ACCESS POINT ONTO SE LONG ST. SHALL REPLACE THE EXISTING ACCESS LOCATED NEAR THE SOUTH PROPERTY BOUNDARY. SAID PROPOSED ACCESS POINT SHALL BE LOCATED AS SHOWN ON THE GRAPHIC.
- SIDEWALKS SHALL BE PROVIDED BOTH INTERNALLY AND AS REQUIRED EXTERNALLY TO THE DEVELOPMENT TO PROMOTE SAFE PEDESTRIAN CIRCULATION IN AND AROUND THE SUBJECT PROPERTY.
- AN ADDRESSING SCHEDULE FOR AREA A WILL BE DETERMINED AT THE TIME OF SITE PLAN APPROVAL.

SIGNAGE NOTES :

- PERMITTED SIGNAGE SHALL BE LIMITED TO A MAXIMUM OF TWO (2) SIGNS CONSISTING OF EITHER TWO (2) MONUMENT SIGNS OR ONE (1) MONUMENT SIGN AND ONE (1) WALL SIGN, ONLY ONE OF WHICH MAY BE INTERNALLY ILLUMINATED WITH THE SIZE OF THE ILLUMINATED PORTION OF THE SIGN NOT TO EXCEED 25 SQUARE FEET IN AREA. MONUMENT SIGNAGE SHALL BE LIMITED TO A MAXIMUM SIGN AREA OF 40 SQUARE FEET AND NOT MORE THAN 5 FEET IN HEIGHT. WALL SIGNAGE SHALL BE LIMITED TO A FLAT WALL MOUNTED SIGN ON THE FACE OF THE BUILDING NOT EXCEEDING A MAXIMUM SIGN AREA OF 40 SQUARE FEET. MONUMENT SIGNAGE MAY BE LOCATED AT THE ENTRANCE TO THE DEVELOPMENT OR AT STREET INTERSECTIONS.
- TEMPORARY SIGNS OR BANNERS SHALL BE PROHIBITED.

LANDSCAPING NOTES :

- LANDSCAPE PLANS SHALL BE SUBMITTED FOR REVIEW WITH THE SITE DEVELOPMENT PLAN FOR EACH PHASE OF DEVELOPMENT AND SHALL CONFORM TO THE CITY LANDSCAPE ORDINANCE.
- A METAL PICKET FENCE WITH A MAXIMUM HEIGHT OF 6 FEET SHALL BE INSTALLED AROUND THE EXTERIOR PROPERTY PERIMETER OF AREAS A AND B BEGINNING AT THE EAST EDGE OF THE DRIVEWAY ENTRANCE ON SE 11TH STREET OPPOSITE SW BELLEVIEW AVENUE, EXTENDING EAST ALONG SE 11TH STREET, ALONG THE FRONTAGE OF SE GOLDEN AVENUE, AND ALONG THE ENTIRE SOUTH PROPERTY BOUNDARY ENDING AT A POINT ALONG THE FRONTAGE OF SE LONG STREET, THE LOCATION OF WHICH IS TO BE DETERMINED AT THE TIME OF SITE PLAN APPROVAL.

BUILDING AND STRUCTURE NOTES :

- NO STRUCTURE SHALL BE BUILT WITHIN THIRTY FEET OF THE PLANNED UNIT DEVELOPMENT BOUNDARY, WITH THE EXCEPTION OF ANY ELDER HOUSING UNITS TO BE CONSTRUCTED ALONG THE SOUTH BOUNDARY LINE, WHICH SHALL BE ALLOWED WITHIN 20 FEET OF THE BOUNDARY. PATIOS, PORCHES OR PRIVACY FENCES SHALL BE ALLOWED WITHIN THE BUILDING SETBACK. THE EXISTING CHURCH BUILDING SHALL BE ALLOWED WITHIN THIS SETBACK.
- BUILDING SPACING: THE MINIMUM DISTANCE BETWEEN TWO PRINCIPAL STRUCTURES SHALL BE TEN FEET.

PROJECT PROGRAM :

TOTAL AREA: 5.84 ACRES

AREA A:
AREA: 3.01 ACRES
ZONING USE GROUPS:
M-2 USE GROUP LIMITED TO DUPLEX UNITS AND AN APARTMENT BUILDING, ALL FOR SENIOR ADULTS, IN ADDITION TO FOOD SERVICE FACILITIES IN WHICH FOOD AND BEVERAGES ARE OFFERED FOR SALE OR FOR SERVICE WITH OR WITHOUT CHARGE ON THE PREMISES IN ADDITION TO A BARBER/BEAUTY SHOP LIMITED TO A FLOOR AREA OF 600 SQUARE FEET ALL OF WHICH ARE CLEARLY INCIDENTAL AND SUBORDINATE TO AND CUSTOMARY IN CONNECTION WITH A PRINCIPAL USE AND BOTH BEING CONTAINED WITHIN THE APARTMENT BUILDING STRUCTURE.

STRUCTURE DENSITY AND HEIGHT:
APARTMENT BUILDING: SINGLE STRUCTURE WITH A MAXIMUM OF 60 ONE BEDROOM UNITS AND A BUILDING FOOTPRINT MAXIMUM OF 20,000 SF.
DUPLEX UNITS: A MAXIMUM TOTAL OF 11 SINGLE STORY STRUCTURES COMPRISING A MAXIMUM OF 22 INDIVIDUAL DWELLING UNITS, THE BUILDING FOOTPRINTS OF WHICH ARE A MINIMUM OF 700 SF AND MAXIMUM OF 1,000 SF PER INDIVIDUAL DWELLING UNIT.

GREEN SPACE REQUIREMENT: 30 PERCENT

PHASING:
PHASE I: DUPLEX UNITS TO BE LOCATED ALONG THE NORTH AND SOUTH PERIMETER OF AREA A, TO INCLUDE ALL ACCESS DRIVES WITHIN THE SUBJECT PROPERTY.
PHASE II: APARTMENT BUILDING TO BE LOCATED NEAR THE CENTER OF AREA A, ALONG WITH THE ASSOCIATED REQUIRED PARKING STALLS.

AREA B:
AREA: 2.83 ACRES
ZONING USE GROUP:
M-2 USE GROUP LIMITED TO THE EXISTING RELIGIOUS ASSEMBLY AND DAY CARE CENTER TYPE II USES, OR A COMMUNITY CENTER AND DAY CARE CENTER TYPE II USES.

STRUCTURE DENSITY:
EXISTING APPROXIMATELY 33,500 SF SINGLE STORY STRUCTURE.

PHASING:
PARKING AND ACCESS DRIVES TO BE RECONFIGURED WITH THE PHASE I DEVELOPMENT IN AREA A TO PROVIDE A MINIMUM OF 111 PARKING STALLS WITHIN AREA B.

VARIANCES :

- VARIANCE: PURSUANT WITH SECTION 48-24.07 OF THE "PUD" DISTRICT REGULATIONS, THE CITY OF TOPEKA PLANNING COMMISSION HEREBY GRANTS THE FOLLOWING VARIANCE:
A. A VARIANCE TO REDUCE THE PERIMETER SETBACK REQUIREMENT OF SECTION 48-24.02(b)(2)(a) TO 20 FEET ALONG THE SOUTH LINE OF AREA A TO PROVIDE ADDITIONAL GREEN SPACE WITHIN THE INTERIOR PORTION OF AREA A, AND TO REDUCE THE PERIMETER SETBACK TO 15 FEET ALONG THE NORTH AND WEST LINES OF AREA B TO ALLOW THE EXISTING STRUCTURE.

AMENDMENTS:

THE "OWNERS" SOLELY MAY INITIATE AMENDMENTS TO THE APPROVED PLANNED UNIT DEVELOPMENT MASTER PLAN. THE PROVISIONS HEREOF SHALL BE BINDING UPON THE HEIRS, EXECUTORS, ADMINISTRATORS, TRUSTEES AND ASSIGNS OF THE "OWNERS". SHOULD MORE THAN ONE ENTITY HOLD TITLE, THEN THE SIMPLE MAJORITY OF ANY AFFECTED FEE TITLE OWNERS OF ALL SUCH TITLE SHALL BE REQUIRED TO EXECUTE ANY SUCH AMENDMENT. INDIVIDUAL USE AREAS MAY MAKE REVISIONS WITHOUT INVOLVING OTHER USE AREAS.

OWNER'S CERTIFICATE :

THE OWNERS AGREE 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 TRACT OF LAND, LATH, LLC, BY IT'S MANAGING MEMBER, DANIEL O. JACKSON, HAVE CAUSED THESE PRESENTS TO BE SIGNED THIS _____ DAY OF _____, 20____.

DANIEL O. JACKSON, MANAGING MEMBER, LATH, LLC

STATE OF KANSAS, COUNTY OF SHAWNEE, SS :

BE IT REMEMBERED THAT ON THIS _____ DAY OF _____, 20____, BEFORE ME A NOTARY PUBLIC, IN AND FOR THE COUNTY AND STATE AFORESAID, CAME DANIEL O. JACKSON, MANAGING MEMBER, LATH, LLC, WHO IS PERSONALLY KNOWN TO ME TO BE THE SAME PERSON(S) WHO EXECUTED THE WITHIN INSTRUMENT OF WRITING, AND SUCH PERSON(S) DULY ACKNOWLEDGED THE EXECUTION OF THE SAME.

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND, AND AFFIXED MY SEAL THE DAY AND YEAR LAST WRITTEN ABOVE.

NOTARY PUBLIC MY COMMISSION EXPIRES

IN TESTIMONY WHEREOF, THE OWNER(S) OF THE ABOVE DESCRIBED TRACT OF LAND, JACKSON MEMORIAL CHURCH OF GOD IN CHRIST, INC., BY IT'S TREASURER, FRED JACKSON, HAVE CAUSED THESE PRESENTS TO BE SIGNED THIS _____ DAY OF _____, 20____.

FRED JACKSON, TREASURER, JACKSON MEMORIAL CHURCH OF GOD IN CHRIST, INC.
STATE OF KANSAS, COUNTY OF SHAWNEE, SS :

BE IT REMEMBERED THAT ON THIS _____ DAY OF _____, 20____, BEFORE ME A NOTARY PUBLIC, IN AND FOR THE COUNTY AND STATE AFORESAID, CAME FRED JACKSON, TREASURER, OF JACKSON MEMORIAL CHURCH OF GOD IN CHRIST, INC., WHO IS PERSONALLY KNOWN TO ME TO BE THE SAME PERSON(S) WHO EXECUTED THE WITHIN INSTRUMENT OF WRITING, AND SUCH PERSON(S) DULY ACKNOWLEDGED THE EXECUTION OF THE SAME.

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND, AND AFFIXED MY SEAL THE DAY AND YEAR LAST WRITTEN ABOVE.

NOTARY PUBLIC MY COMMISSION EXPIRES

RECORDED WITH THE SHAWNEE COUNTY REGISTER OF DEEDS :

MARILYN NICHOLS, REGISTER OF DEEDS

THIS PLANNED UNIT DEVELOPMENT (PUD) MASTER PLAN HAS BEEN REVIEWED AND APPROVED IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 24 OF THE COMPREHENSIVE ZONING REGULATIONS OF THE CITY OF TOPEKA, KANSAS, AND MAY BE AMENDED ONLY AS PRESCRIBED IN SECTION 48-24.06 OF SAID ARTICLE AND AS SET FORTH ON THIS DOCUMENT OR AS MAY SUBSEQUENTLY BE APPROVED AND RECORDED.

**CERTIFICATION OF MASTER PLANNED UNIT DEVELOPMENT PLAN
APPROVAL :**

DAVID F. THURBON, AICP, PLANNING DIRECTOR,
SECRETARY, TOPEKA PLANNING COMMISSION

STATE OF KANSAS, COUNTY OF SHAWNEE, SS :

BE IT REMEMBERED THAT ON THIS _____ DAY OF _____, 20____, BEFORE ME A NOTARY PUBLIC, IN AND FOR THE COUNTY AND STATE AFORESAID, CAME DAVID F. THURBON, 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 TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND, AND AFFIXED MY SEAL THE DAY AND YEAR LAST WRITTEN ABOVE.

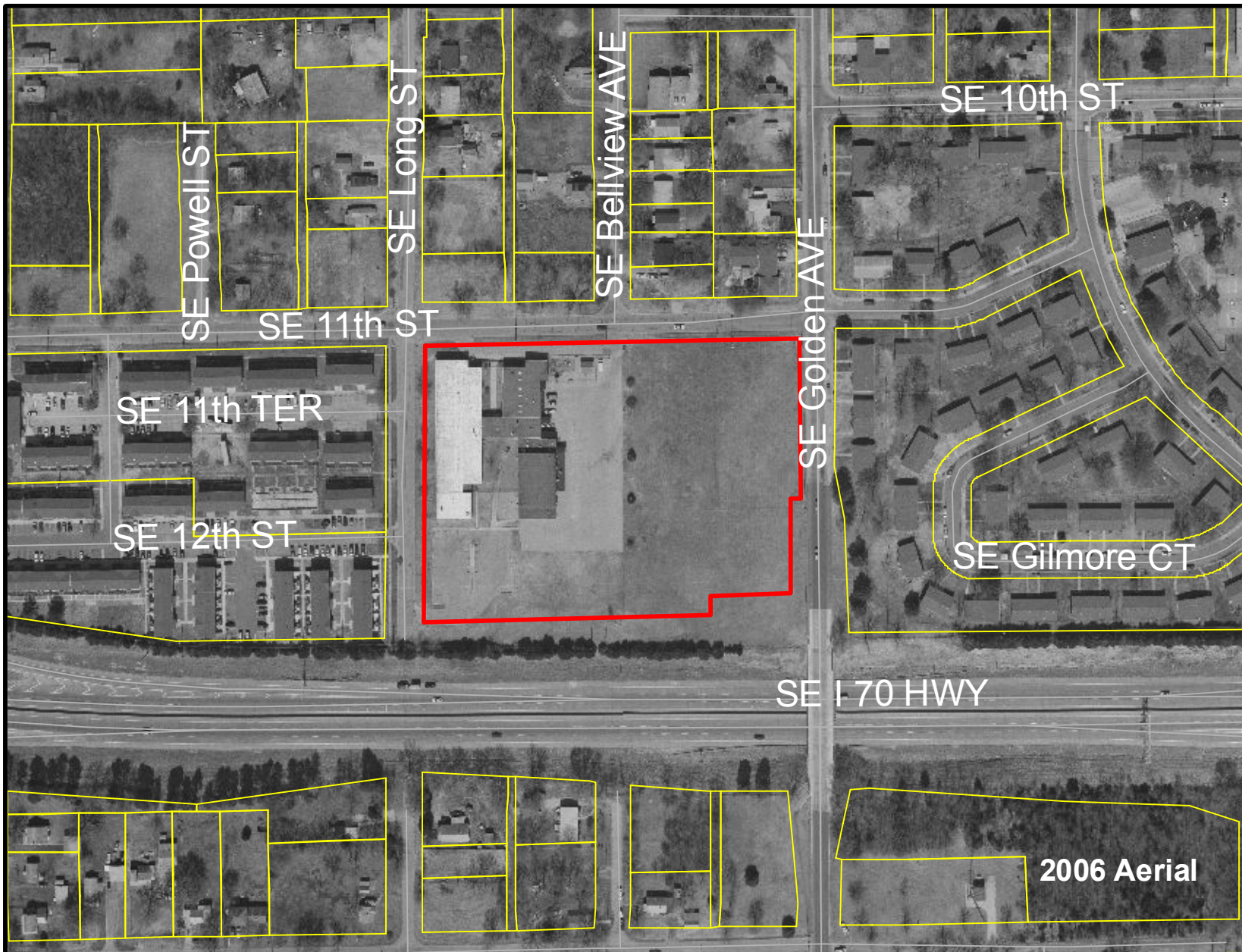
NOTARY PUBLIC MY COMMISSION EXPIRES

BARTLETT & WEST
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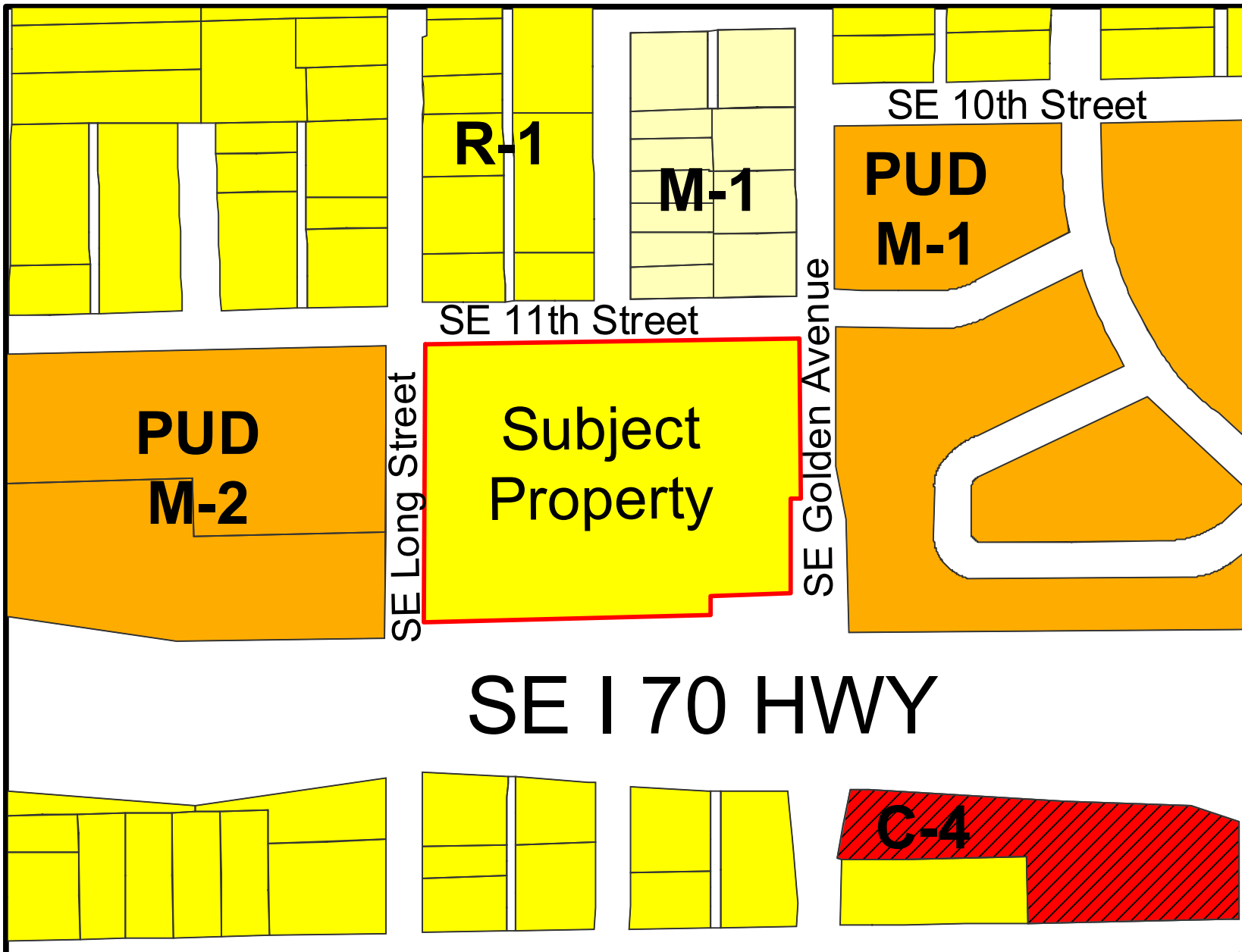
A MASTER PLANNED UNIT DEVELOPMENT

**PARADISE PROVIDENCE PLACE
SE 11th STREET & SE GOLDEN AVENUE
TOPEKA, SHAWNEE COUNTY, KANSAS**

DESIGNED BY: ACS
DRAWN BY: DJS/JMD
APPROVED BY: ACS
DESIGN PROJ: 15777.100
CONST PROJ: 15777.100
SCALE: No Scale
DATE: 7/06/2007
DRAWING NO: **PUD07/05**
SHEET NO: 2 of 2



PUD07/5 Paradise Providence Place



PUD07/5 Paradise Providence Place



Application Form Re-Zoning or Conditional Use Permit

City of Topeka Planning Department
620 SE Madison, 3rd Floor
Topeka, KS 66607
Phone 785-368-3728 Fax 785-368-2535

Applicant Information

Property Owner(s): Jackson Memorial Church of God in Christ, Inc., Fred Jackson, Treasurer

Street Address: 2401 SE 11th Street

City: Topeka State: KS Zip: 66607 E-mail:

Business phone: Home phone: Fax:

Authorized Owner Representative (if any): Owners: LATH, LLC, Daniel O. Jackson, Managing Member

Street Address: 2231 SW Wanamaker Rd., Suite 101

City: Topeka State: KS Zip: 66614 E-mail: arwalton@sbcglobal.net

Business phone: 785-232-5460 Home phone: Fax:

Authorized Professional Agent (Engineer, Architect, Attorney, etc.) – if different from above

Bartlett & West, Inc. by Angela C. Sharp, P.E.

Street Address: 1200 SW Executive Dr.

City: Topeka State: KS Zip: 66615 E-mail: angela.sharp@bartwest.com

Business phone: 785-272-2252, ext. 313 Home phone: Fax: 785-275-8735

Authorization

I (we) am (are) the owner(s) of record for the subject property and hereby authorize filing of this application and posting of signage on the property by the City of Topeka for the requested zoning change. I (we) declare that all required materials are submitted along with this application and that the information submitted is complete and accurate. I (we) hereby acknowledge that all appropriate procedures, policies and regulations have been reviewed and understood, including authorization of any agent as listed in this application.

Owner 1 Name: Jackson Memorial Church of God in Christ, Inc., Fred Jackson, Treasurer

Owner 1 Signature: Fred Jackson **Date:** 7-2-07

Owner 2: LATH, LLC, Daniel O. Jackson, Managing Member

Owner 2 Signature: Daniel O. Jackson **Date:** 7/2/07

Requested Action and Site Information

Address of Property to be Re-Zoned (or if vacant, describe general location): 2401 SE 11th Street, as well as the adjacent vacant parcel at the southwest corner of SE 11th Street and SE Golden Avenue.

Legal Description of Property: lot(s) _____ block _____ subdivision See attached
(if unplatted, attach metes and bounds description)

Total Area (acres/square feet): 5.89 AC

Type of Application:

1. *Re-zoning from:* R-1 *to:* PUD with M-2 and C-2 use groups

2. *Conditional Use Permit proposed use:* _____

Existing Use (# of dwelling units, square feet, etc.): Approximately the eastern half of the property is vacant and the western half is occupied with a church building with associated parking.

How long has the existing use been on the property? Not known

Proposed Use (# of dwelling units, square feet, etc.): 22 - 960 SF duplex units, 60 unit apartment building with support services, all designated as adult senior housing (eastern half of the property), as well as retaining the existing church facility (western half of the property).

Was a Pre-Application Meeting or Zoning Inquiry completed with Staff? Yes **If Yes, when?** 6/19/07

FOR OFFICE USE ONLY

Date submitted: 7/16/07

Date notice sent: 7/27/07

Application no.: PUD0715

Date advertised: 7/27/07

Filing fee: 1244⁵⁰ **Receipt no.:** 11593

Date of hearing: 8/20/07

Quarter section map no.: H-13

Council district: #3

CHECK YES OR NO

Capital Plaza Area: Yes _____ No ✓

Within Historic Site Environs: Yes _____ No ✓

If Yes, what is it?: _____

100 yr Floodplain: Yes _____ No ✓

National/State Historic Register: Yes _____ No ✓

Airport Hazard Area: Yes _____ No ✓

Local Historic Resource: Yes _____ No ✓

Neighborhood Association: Yes ✓ No _____

Name of N.I.A./N.A.: East Topeka South NIA.

Applicant Justification

For re-zoning applications:

This section is intended to provide you with the opportunity to present information in support of your request. It is important to bear in mind that the presumption of validity rests with the present zoning and use of the property. It is the burden of the applicant to demonstrate that the proposed change in zoning classification or proposed conditional use permit is appropriate.

Please attach additional sheets if necessary.

1. Why is the land not suitable for the uses to which the property is currently zoned?

The subject property is the site of the former Belvoir Elementary School. Aside from the conversion of the school building to a church facility, no other development has occurred on the subject property since the abandonment of the school facility. The existing church is to remain and will be enhanced by the proposed senior housing development. There is a documented need for senior housing in this area and the subject property is ideally suited for the "senior community" type of development that is proposed, given the availability of existing utilities and the ability to provide access to a public right-of-way on three sides of the property.

2. What effect would the proposed zone change have on the character of the neighborhood and surrounding properties?

The proposed development will provide safe, affordable and aesthetically pleasing housing for senior adults. There is a definite need for senior housing in the east Topeka market. Residents and management of the Paradise Plaza Townhomes, the development immediately west of the subject property, have expressed their desire for senior housing in their neighborhood to fulfill the needs of some of their aging tenants. The proposed development will enhance surrounding properties and expand upon the positive character that exists with the revitalization of the above mentioned Paradise Plaza Townhomes.

3. How does this request relate to any adopted neighborhood/land use plans by the City?

The granting of this request will help to fulfill one of the Housing Guiding Principles noted in the East Topeka Neighborhood Revitalization Plan (p. 21, adopted in April 2000) of increasing "quality elderly housing options that are affordable."

Infrastructure Availability

Please consult the Engineering Division of Topeka Public Works Department for information below (368-3842)

1. Water

- a. Location and size of water main serving site:

12" main along SE Long Street

6" main extending through the center of the property into the SE Bellview right of way,

6" main along SE Golden Ave.

- b. Does the current system have adequate capacity? If not, are improvements anticipated?

Yes

- c. If other than City of Topeka, identify water district provider: _____

2. Sanitary Sewer

- a. Location and size of sewer main serving site:

8" main along SE Golden Ave., 8" mains extending north within the alleys that lie between SE Long Street and SE Golden St.

- b. Does the current system have adequate capacity? If not, are improvements anticipated?

Yes

- c. If other than City of Topeka, identify sewer district provider: _____

3. Storm Drainage

- a. How will storm water run-off be handled on site?

On site sewer system including storm water detention

- b. Does the current storm sewer system have adequate capacity for proposed use?

See above.

4. Traffic Circulation

- a. Does the site have public street frontage access? What is the pavement width of any adjoining public streets?

Yes. SE Long St. - 29' bk-bk; SE 11th St. - 32' bk-bk; SE Golden Ave. - 41' bk-bk

- b. What are the site's existing or proposed access points?

Existing and to remain- 3 access points onto SE 11th St. and 2 access points onto SE Long St.

Proposed - 1 access point onto SE Golden Avenue.

- c. Will any street improvements or traffic control improvements be required?

No

DRAFT

**Minutes of the
Topeka Planning Commission
August 20, 2007**

PUD07/5 Paradise Providence Place by Jackson Memorial Church of God in Christ, Inc. requesting to amend the District Zoning Classification from "R-1" Single Family Dwelling District **TO** "PUD" Planned Unit Development District (M-2 use group) on property located at 2401 SE 11th Street. **(Diediker)** Dean Diediker summarized the staff report.

Proponents:

Angela Sharp, Bartlett and West Engineers, spoke in favor of the proposal. She said the owners of the property are in the audience available for questions. She said they are well known in the community. They own the apartments to the west of this property also. She said they want to provide affordable housing for seniors in the neighborhood that would like to remain in the community. She said the staff report states it all....safe affordable housing options for seniors. She said it is consistent with the East Topeka neighborhood plan. They support the neighborhood and they are supported by the neighborhood.

Echo Zebo, property owner to the north, said he is not against the proposal but has some concerns. The purpose of the commission is to promote orderly growth in Topeka. There are a number of things that are not orderly on this property. The alarm on this property goes off at least once a week. That is something that isn't necessary. It is audible. There is a weather alert siren that goes off every Monday at noon, not sure how that would affect the residents. Will it be relocated? This old school is utilized as a voting place? Will it remain after the adult community is there? There is a major issue with school buses on 11th Street with regards to the apartments. Here said there are many buses and there are no cross walks from south to north. There are also no sidewalks. There is nothing to slow down traffic. The buses put out there signs and that is the extent of traffic control and that causes traffic congestion. Another issue is the buses honking for extended periods waiting for the kids. How will the buses affect the senior housing? There is some paved area on the apartment properties that would give the buses enough room to turn in and out of. This could be a solution in the future. I would hate to see additional development being added to the already existing problem. There are a lot of problems in this area which stem from Paradise Plaza Apartments. He said he doesn't see this development making it any better. He suggested Mr. Jackson work with Durham Bus Company for a better place to pickup and drop off the kids.

Michelle Hoferer said the weather sirens are controlled by the city. It is a safety issue and probably won't be changed. As far as the school buses the school board may need contacted. The alarm on the church is the owner's responsibility. Howard Blackmon informed Mr. Zebo the school board meets the first and third Thursday of the month and he would need to go to the administration center to get signed up to speak.

Mrs. Sharp said the tornado siren is a good thing for the neighborhood and good for the development. He said talking to school district about the bus route is a good idea. I know they don't usually use private property to turn around but maybe they could pick up on the other side of the street. This development won't add to the bus issue.

Reverend Jackson, applicant, spoke in favor of the proposal. He said he understands his neighbors concerns. He said we are happy to have the families with children back in our neighborhood. He said he remembers a time when there weren't any. He said buses' turning around on private property is an issue. He said he thinks Mr. Zebo misunderstood. The church building will not be used for senior housing. The senior housing is going to be east of the church. The alarm system is the same that was in Belvoir Elementary School. We can remove the bell ringing on the outside of the building. We have good security. Mr. Blackmon said it shows the apartment buildings being three stories. Will there be an elevator? Reverend Jackson replied yes. He said there will be a storm shelter under a portion of the buildings as well. Mark Boyd said maybe Reverend Jackson could go to the school board regarding the busing issue. Reverend Jackson said he doubts this is more of a problem than any other area in the city. He said he is happy the neighbors wait on the children. He said we will help out as much as possible concerning the buses.

No exparte communications.

Theron Sims moved approval, seconded by Howard Blackmon. **APPROVAL, subject to conditions listed in the staff report. (8-0-0)**



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 3, 2007

 + Back  Print

DATE: September 18, 2007

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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August 3, 2007

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DATE: September 18, 2007

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available