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City Council Agenda

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

November 13, 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:**
"National American Indian Heritage Month"
- 2. **PRESENTATIONS:**
"None scheduled at this time."
- 3. **ROLL CALL:**
- 4. **CONSENT AGENDA:**

A. Communication - City of Topeka ADA Advisory Council [ATTACHMENTS](#)

A COMMUNICATION recommending the appointment of Sharon Joseph to the City of Topeka ADA Advisory Council for a term that would expire on November 30, 2009. (Council District No. 6)

B. Communication - City of Topeka ADA Advisory Council [ATTACHMENTS](#)

A COMMUNICATION recommending the appointment of Michael Byington to the City of Topeka ADA Advisory Council for a term that expire on November 30, 2009. (Council District No. 1)

C. Communication - City of Topeka ADA Advisory Council [ATTACHMENTS](#)

A COMMUNICATION recommending the appointment of Brenda Eddy to the City of Topeka ADA Advisory Council for a term that would expire on November 30, 2009. (Council District No. 8)

D. Communication - City of Topeka ADA Advisory Council [ATTACHMENTS](#)

A COMMUNICATION recommending the appointment of Albert Lewis to the City of Topeka ADA Advisory Council for a term that would expire on November 30, 2009. (Council District No. 3)

E. Communication - City of Topeka ADA Advisory Council [ATTACHMENTS](#)

A COMMUNICATION recommending the appointment of Melissa Powers to the City of Topeka ADA Advisory Council for a term that would expire on November 30, 2009. (Council District No. 7)

F. Communication - Human Relations Commission [ATTACHMENTS](#)

A COMMUNICATION recommending the appointment of Joshanna Stone to the Human Relations Commission for a term that would expire on November 30, 2009. (Council District No. 8)

G. Final Plat - Wanamaker North Addition Subdivision (P07/30) [ATTACHMENTS](#)

A FINAL PLAT for Wanamaker North Addition Subdivision located at 1025, 1029 and 1035 SW Wanamaker Road in the City of Topeka, Shawnee County, Kansas. (P07/30) (Council District No. 9)(Planning Commission recommended approval by a vote of 9-0-0.) (Planning Department recommended approval.)

(Approval would establish a two-lot subdivision for commercial use.)

H. MINUTES of the regular meeting of November 6, 2007

I. APPLICATIONS:

5. PUBLIC HEARINGS:

A. Public Hearing and Ordinance - Board of County Commissioners of Shawnee County (V07A/7)

A PUBLIC HEARING relating to vacation request V07A/7 by Board of Shawnee County Commissioners for public alley right-of-way in the Original Town of Topeka and located north of 200 SE 7th Street and east of 600 SE Quincy Street, City of Topeka, Shawnee County, Kansas.

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of public alley right-of-way in the Original Town of Topeka and located north of 200 SE 7th Street and east of 600 SE Quincy Street, City of Topeka, Shawnee County, Kansas. Final Reading. (V07A/7) (Council District No. 1)

(Approval would vacate two public alley rights-of-way and establish a necessary utility easement.)

B. Public Hearing and Ordinance - Lateral Sanitary Sewer Improvement Project No. 40858-03

 [ATTACHMENTS](#)

A PUBLIC HEARING for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Lateral Sanitary Sewer District No. 40858-03, authorized by Resolution No. 7526, adopted and approved September 21, 2004.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of River Hill Subdivision with piping, manholes, engineering and all other contingencies needed to complete Lateral Sanitary Sewer Improvement Project No. 40858-03, as defined and described in Resolution No. 7526, adopted and approved September 24, 2004. Final Reading. (Council District No. 9)

(The project will be paid 100% by the Improvement District. The approval would apportion and levy a special assessment for the improvement of Lateral Sanitary Sewer District No. 40858-03 located on the north side of 6th Avenue, west of Wanamaker Road in River Hill residential subdivision.)

C. Public Hearing and Ordinance - Lateral Sanitary Sewer Improvement Project No. 40906

 [ATTACHMENTS](#)

A PUBLIC HEARING for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Lateral Sanitary Sewer District No. 40906, authorized by Resolution No. 7334, adopted and approved April 22, 2003.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for Main and Lateral Sanitary Sewer Improvement Project No. 40906, as defined and described in Resolution No. 7334, adopted and approved April 22, 2003. Final Reading. (Council District No. 4)

(The project will be paid 100% by the Improvement District. Approval would apportion and levy a special assessment for the improvement of Main and Lateral Sanitary Sewer District No. 40906 located along SE 45th Street from SE Maryland easterly to approximately a point 600 feet east of SE California in Marlatt Center Subdivision and Southboro Subdivision.)

D. Public Hearing and Ordinance - Sanitary Sewer Improvement Project No. 40915-02

 [ATTACHMENTS](#)

A PUBLIC HEARING for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Sanitary Sewer Improvement Project No. 40915-02, authorized by Resolution No. 7592, adopted and approved March 8, 2005.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of a portion of Woodglen Subdivision with piping, manholes, engineering and all other contingencies needed to complete Sanitary Sewer Improvement Project No. 40915-02, as defined and described in Resolution No. 7592,

adopted and approved March 8, 2005. Final Reading. (Council District No. 4)

(The project will be paid 100% by the Improvement District. Approval would apportion and levy a special assessment for the improvement of Sanitary Sewer Improvement District No. 40915-02 located on SE Greenwood Court, SE Spruce Court, and SE Baldwin, all north of 22nd Terrace in Woodglen Subdivision.)

6. UNFINISHED BUSINESS:

A. Resolution - Capital Improvement Program 2008 - 2012

 [ATTACHMENTS](#)

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., authorizing and adopting the 2008-2012 Capital Improvement Program for the City of Topeka, Kansas. *(Deferred from the meeting of November 6, 2007.)*

(The resolution approves the 2008-2012 Capital Improvement Program.)

B. Resolution - Capital Improvement Budget for 2008-2009

 [ATTACHMENTS](#)

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., adopting the 2008-2009 Capital Improvement Budget for the City of Topeka, Kansas. *(Deferred from the meeting of November 6, 2007.)*

(The resolution would approve the two-year Capital Improvement Budget.)

C. Project Budget and Ordinance - Traffic Signal Improvement Project No. 141280

 [ATTACHMENTS](#)

A PROJECT BUDGET in the amount of \$204,800 and **AN ORDINANCE** introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 141280, which provides for approximately 64 new traffic signal controllers, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka. Final Reading. *(All Council Districts)*

(The project would provide for approximately 64 new traffic signal controllers as part of an ongoing replacement program to replace all city-owned traffic signal controllers, upgrading them to current technology.)

D. Project Budget and Ordinance - Trafficway Improvement Project No. 70142-04

 [ATTACHMENTS](#)

A PROJECT BUDGET in the amount of \$215,000 and **AN ORDINANCE** introduced by City Manager Norton N. Bonaparte, Jr., authorizing Trafficway Improvement Project No. 70142-04, Part A, which provides for the design of the reconstruction and widening of SE California Avenue, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka. Final Reading. *(Council District No. 4) (Deferred from the meeting of September 11, 2007.)*

(Approval would authorize the design of the reconstruction and widening of SE California Avenue, from SE 33rd Street to the SE 37th Street Intersection.)

E. Ordinance - Trafficway Improvement Project No. 70198-01 - Condemnation Proceedings

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing the initiation of condemnation proceedings to acquire property by eminent domain for City of Topeka Improvement Project No. 70198-01, which provides for the construction of a roundabout at the intersection of SW Urish and SW 21st Street. Final Reading. *(Council District No. 8)*

(Approval would initiate condemnation proceedings to acquire property interests for the improvement project.)

7. NEW BUSINESS:

A. Final Plat - ADR Industrial Park Subdivision (P06/33)

 [ATTACHMENTS](#)

A FINAL PLAT for the ADR Industrial Park Subdivision on property located at the northeast corner of U.S. 75 Highway and NW 25th Street, all being within the Municipal Service Area and contiguous to the City of Topeka, Shawnee County, Kansas. *(P06/33) (Council District No. 2) (Planning Commission recommended approval by a vote of 8-1-0.)*

(Approval would allow the property to develop for industrial use and require annexation for sanitary sewer service.)

B. Communication - Real Estate Purchase Agreement - Sumner School

 [ATTACHMENTS](#)

A COMMUNICATION approving a Real Estate Purchase Agreement between the City of Topeka and Community First, Inc., for the sale of the Sumner School property located at 330 SW Western, City of Topeka, Kansas and specifically authorizing the City Manager to execute the Agreement and all documents and instruments necessary to close the transaction.

(The City has issued request for proposals and Community First, Inc., responded and shall attempt to raise and/or borrow necessary funds on or before May 31, 2008 for the acquisition of \$22,000 and rehabilitation of the structure estimated at \$3,600,000. In the event adequate funds are not raised and/or borrowed, the contract will become null and void.)

C. Ordinance - Weekly Expenditures - October 15-21, 2007

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of October 15, 2007, through October 21, 2007, and enumerating said expenditures therein. First and Final Reading.

D. Ordinance - Weekly Expenditures - October 22-28, 2007

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period October 22, 2007, through October 28, 2007, and enumerating said expenditures therein. First and Final Reading.

8. ZONING:

A. Ordinance - CF and S Partnership and KU Endowment Association (Z07/22)

 [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 the south west corner of the intersection of SW Wanamaker Road and SW 30th Terrace from "O&I-2" Office and Institutional District TO "C-2" Commercial District. Final Reading. (Z07/22) (Council District No. 8) (Planning Commission recommended approval 7-1-1.) (Planning Department recommended disapproval.)

(Approval would allow development of the property for neighborhood commercial use.)

B. Ordinance - QSR Real Estate, LLC (Z07/23)

 [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 the southeast corner of the intersection of SW 37th Street and SW Fairlawn Road from "R-1" Single-Family Dwelling District TO "O&I-1" Office and Institutional District. Final Reading. (Z07/23) (Council District No. 7) (Planning Commission recommended approval 9-0-0.) (Planning Department recommended approval.)

(Approval would allow development of the property for office use.)

9. FIRST READINGS:

A. Ordinance - Philip and JoAnn Shideler (A07/8)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, as amended, on property generally located north of SW 17th Street approximately 797-feet west of SW Arvon Place within unincorporated Shawnee County, Kansas, and contiguous to the City of Topeka corporate limits, and said land being annexed for all City purposes. First Reading. (A07/8) (Council District No. 8)

(The property owner has granted permission to annex a 12.35 acre tract for potential commercial use.)

B. Ordinance - Arbor Valley Subdivision (PUD04/5B)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the Master PUD Plan of Arbor Valley Subdivision, by changing the maximum allowable dwelling units from 260 dwelling units (M-1a use group) to a maximum 300 dwelling units (202 dwelling units at M-1a use group and 98 dwelling units at M-2 use group) on property located at 6423 SW Huntoon Street in the City of Topeka, Kansas. **First Reading.** (PUD04/5B) (Council District No. 8) (Planning Commission recommended approval by a vote of 9-0-0.) (Planning Department recommended approval.)

(Approval would increase the density of the existing development by 40 units, to include a 98-unit senior apartment building.)

C. Ordinance - Reser's Fine Foods (V07S/6)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of a 50-foot wide strip of public street right-of-way located along the east side of SE Deer Creek Parkway about 600 feet south of SE 6th Avenue, City of Topeka, Shawnee County, Kansas. **First Reading.** (V07S/6) (Council District No. 3)(The Planning Department recommended approval.)

(Approval would vacate a 50-foot wide strip of public street right-of-way and establish a necessary drainage, stream buffer easement and utility easement.)

D. Ordinance - Clifford N. Cormier Living Trust (Z07/20)

 [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 2425 SE California Avenue in the City of Topeka, Kansas from "R-1" Single-Family Dwelling District TO "C-2" Commercial District. **First Reading.** (Z07/20) (Council District No. 4) (Planning Commission recommended approval by a vote of 8-1-0.) (Planning Department recommended disapproval.)

(Approval would allow development of the property for commercial use.)

E. Ordinance - Hunter Glen L.L.C. (Z07/21)

 [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 609 SW MacVicar Avenue in the City of Topeka, Kansas from "R-2" Single-Family Dwelling District TO "C-4" Commercial District. **First Reading.** (Z07/21) (Council District No. 9) (Planning Commission recommended approval by a vote of 6-3-0.) (Planning Department recommended disapproval.)

(Approval would allow for expansion of the existing gas station at 2501 SW 6th Avenue.)

10. MISCELLANEOUS:

-

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

-

12. PUBLIC COMMENT:

-

13. ADJOURNMENT:

-



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 4, 2007

 + Back  Print

DATE: November 13, 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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October 4, 2007

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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
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DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

"National American Indian Heritage Month"

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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October 4, 2007

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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 Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 4, 2007

+ Back Print

DATE: November 13, 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

July 11, 2007

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DATE: November 13, 2007
CONTACT PERSON: Celeste Benton
SECOND PARTY/SUBJECT: City of Topeka ADA
Advisory Council
CATEGORY/SUBCATEGORY: 006 Communication / 003 Requests
CIP PROJECT: No
ACTION OF COUNCIL:
DOCUMENT #:
PROJECT #:
JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

A COMMUNICATION recommending the appointment of Sharon Joseph to the City of Topeka ADA Advisory Council for a term that would expire on November 30, 2009. (Council District No. 6)

POLICY ISSUE:

NA

STAFF RECOMMENDATION:

The Mayor is recommending the appointment of Sharon Joseph, 2041 SW Westwood Dr., to the City of Topeka ADA Advisory Council for a two year term that will end November 30, 2009. Ms Joseph was nominated by Councilwoman Swank.

Ms Joseph has filed a Statement of Substantial Interest with the City Clerk.

BACKGROUND:

Ordinance 18920 created the City of Topeka Americans with Disabilities Act Advisory Council to support the civil rights of full integration into Topeka community life for all people with disabilities. The ADA Council will be comprised of ten members. At least six of the members must be individuals with disabilities, with each of the six major life functions represented as much as possible. Members will serve a two year term and shall not be eligible to serve more than four consecutive terms. The ADA Council will meet quarterly at a minimum, or more frequently if needed.

BUDGETARY IMPACT:

NA

SOURCE OF FUNDING:

NA

ATTACHMENTS:

[City of Topeka Americans with Disabilities Act Advisory Council](#)

Item #6

RESUME OF SHARON R. JOSEPH

2041 SW WESTWOOD DRIVE TOPEKA KS 66604-3272 357-8488

Transportation/Disability Rights Activist 1985-present:

Transportation Consultant on ADA requirements 1992-ongoing:

Transpiration providers: Topeka Metropolitan Transportation\Authority; Kansas City Area Transportation Authority, Johnson County KS Public Works Department, Kansas City KS Transportation Dept; Region VII Federal Transit Administration Transportation councils/committees: Mid America Regional Council Municipal Planning Organization; JoCo Board of Commissioners.

Advise government entities on compliance the ADA 1992-ongoing

KS Statehouse Architect, Secretary of State, Human Resources and Administration Departments; City of Topeka Human Rights Commission, Region VII Federal Transit Administration; Johnson County Board of Commissioners/county departments; various metro-KC cities, various state legislators/committees, TMTA accessible Transportation Advisory Committee

t

Employment

Volunteer: TMTA, HRC, AARP, TILRC, ongoing

Transportation Committee Chair: TILRC 2007-ongoing

Co-manager, The WHOLE PERSON CIL 1996-97

Paratransit Division, Metropolitan Transport. Services Inc. 1990-94.

Education

ADA Training & Implementation Network (EEOC/DOJ) 1992

Avila College, Women's Leadership Institute 1988

Johnson County Community College, Associate of Arts 1983

University of Oklahoma, Liberal Arts studies 1969-71

Affiliations

Topeka Human Relations Commission 2007-ongoing

AARP Kansas Diversity Council 2004-present

TMTA Lift Advisory Board 2005-present

KS Statehouse Renovation; Advisory Group 2003-present

Topeka Independent Living Center volunteer 2003-present

Topeka ADA Advisory Committee 2003-2004

Kansas/National ADAPT 1991-present

Johnson County Transportation Advisory Board 1996-2002

Paratransit Council (Johnson, Wyandotte, Leavenworth Co's) 1993-97

The Whole Person CIL 1984-99; President of Board of Directors 1995-99

Kansas Advocacy & Protection Services, Governing Board 1995-99

Kansas Commission on Disability Concerns Board 1986-2000

References available upon request



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

July 25, 2007

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DATE: November 13, 2007
CONTACT PERSON: Celeste Benton
SECOND PARTY/SUBJECT: City of Topeka ADA Advisory Council
CATEGORY/SUBCATEGORY: 006 Communication / 003 Requests
CIP PROJECT: No
ACTION OF COUNCIL:
DOCUMENT #:
PROJECT #:
JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

A COMMUNICATION recommending the appointment of Michael Byington to the City of Topeka ADA Advisory Council for a term that expire on November 30, 2009. (Council District No. 1)

POLICY ISSUE:

NA

STAFF RECOMMENDATION:

The Mayor is recommending the appointment of Michael Byington, 909 SW College Ave., to the City of Topeka ADA Advisory Council for a two year term that will end November 30, 2009. Mr. Byington was nominated by Councilwoman Kennedy. Mr. Byington has filed a Statement of Substantial Interest with the City Clerk.

BACKGROUND:

Ordinance 18920 created the City of Topeka Americans with Disabilities Act Advisory Council to support the civil rights of full integration into Topeka community life for all people with disabilities. The ADA Council will be comprised of ten members. At least six of the members must be individuals with disabilities, with each of the six major life functions represented as much as possible. Members will serve a two year term and shall not be eligible to serve more than four consecutive terms. The ADA Council will meet quarterly at a minimum, or more frequently, if needed.

BUDGETARY IMPACT:

NA

SOURCE OF FUNDING:

NA

ATTACHMENTS:

[Byington - ADA Council](#)

Item #7

RESUME

Michael J. Byington
909 S. W. College Ave.
Topeka, Kansas 66606
(785) 233-3839 (home)
(785) 221-7111 (cellular and voice mail)
(785) 233-2539 (FAX)
byington@cox.net (e-mail)

EMPLOYMENT:

Rehabilitation Support Worker, Kansas Services for the Blind and Visually Impaired, a section of the Kansas Department of Social and Rehabilitation Services, throughout 2004-present. Shift manager assisting Kansans, who are blind or visually impaired, in acquiring skills, abilities, and knowledge to live independently in the community of their choice. Majority of work is done in a residential unit for newly blind and visually impaired adults.

Director of Kansas Relay Service, a project of The Kansas Telecommunications Industry Association, 2001-2003, administered the Kansas contract for telecommunications relay service for people who are deaf, hearing impaired, and speech impaired, as required under Title IV of the Americans With Disabilities Act, and operated the Kansas Telecommunications Access Program, which makes grants to people who have disabilities so they can get the adapted telecommunications equipment needed in order to access basic telecommunications services.

Sole Proprietor, Byington Advocacy Consulting of Kansas, full time for five months during 2001, a sole proprietorship business providing: disability benefits advocacy, lobbying in human services areas, drama therapy services, consultation relating to vision loss, corporate communications training, and consultation and training concerning the Americans with Disabilities Act (ADA). (I left Envision to begin this business. It was full time for five months, until I was offered the position described above. I now do no lobbying, but continue to engage in part-time training and advocacy work.)

Director of Governmental Affairs, Envision, 1995-2001, lobbyist (issues relating to disability, blindness and low vision, government sales, and Kansas business operations) at federal, State, and local levels, public education, governmental marketing, systems advocacy, and personal advocacy with Envision employees, most of whom are blind or low vision. Envision employs large numbers of disabled individuals, but is also a thriving manufacturing, retail and service business with over 50 million per year in sales. I also was required to do some retail marketing as I was in charge of Envision's Topeka facilities, which included a retail outlet for adaptive equipment for people who are blind and low vision.

Technical Consultant on Deafblindness, Kansas Deafblind Program, Kansas Affiliate Program to the Helen Keller National Center for Deafblind Youths and Adults, 1988-1995, traveled throughout Kansas consulting and providing direct services in employment and independent living training for people who are dual sensory impaired. Teaching of travel training for blind and multiply disabled blind was included. (Envision assumed grant responsibilities for this position near the end of my tenure.)

Advocacy Coordinator, Topeka Independent Living Resource Center, 1981-1988, personal and systems advocacy services and training, and human services appeals representation were provided on behalf of people with disabilities. Public education was provided including the direction of a performing arts group made up of performers who have disabilities, and who were doing advocacy-targeted original performances.

Housing Specialist, Independence Inc., Lawrence, Kansas, 1980-1981, developed housing options, and provided housing counseling and advocacy for people with disabilities.

Administrative Assistant, City of Wichita, 1978-1979, Section 504 Coordinator, and staffed commission working with disability issues.

SPECIAL CONSULTING:

20 semesters of college teaching, as Adjunct Instructor or Graduate Teaching Assistant, in fields of theory of communications, public speaking, interpersonal communications, drama therapy, creative arts, and creative arts therapies. Teaching was done at: Colorado Northwestern Community College, Kansas State University, and Washburn University.

Director of Performing Arts Group, Topeka Independent Living Resource Center, 1989-1990, Continued to work with performing arts group several times per month subsequent to leaving full time employment with Topeka Independent Living Resource Center.

Hays Arts Council, Touchable Art Project, 1979-1980, Docent, and conducted workshops on arts access.

Arts for Big Lakes Project, Challenge Grant through the Kansas Arts Commission, 1976, provided arts experiences for developmentally disabled citizens in Manhattan, Kansas.

EDUCATION:

Master of Arts, Communications (emphasis Drama Therapy), Kansas State University, 1978.

B.S.E., Speech and Psychology Education, Kansas State University, 1975.

Postgraduate Courses completed at Emporia State University, University of Kansas, Washburn University, and Virginia Commonwealth University.

COMPUTER EXPERIENCE AND SKILLS:

Word Perfect
Microsoft Word
PFS First Choice

Microsoft Exchange
Microsoft Outlook
Microsoft PowerPoint
Some work with Microsoft Excel and Access
GW Micro products
Artic products
RDC products
Blazie QWERTY products
Easy Braille products
Duxberry Software
Enabling Technologies Braille printing hardware
Some work with Freedom Scientific products

ORGANIZATIONAL EXPERIENCE:

C.E.O. and Correspondent, Kansas Association for the Blind and Visually Impaired, Inc., a Statewide blindness and visual impairment advocacy group affiliated with the American Council of the Blind.

Past President, Council of Citizens with Low Vision International, an international consumer organization, having more than 2,000 members worldwide.

Chairperson, Resolutions Committee of the American Council of the Blind, 1995-2001

Past Chairperson, Deaf-Blind Committee, American Council of the Blind; and Consumer Division, Transition Study Committee, American Foundation for the Blind

National Boards of Directors, served on Boards of the American Council of the Blind, and the National Association for Drama Therapy.

Kansas Commission on Disability Concerns (KCDC), appointed by the Secretary of the Kansas Department of Human Resources, (now Department of Commerce), appointed in 1999, through 2005.

Kansas Planning Council on Developmental Disabilities Services,
gubernatorial appointment, 1979-1989

Served as Vice President of a local neighborhood improvement
association, 1981-1987

VOLUNTEER EXPERIENCE:

Directed six theatrical productions in community, university, and
professional settings

Directed The Uncivil Liberation Players, an improvisational theatre group
doing disability related theatre presentations, 1990-1991

Acted in numerous Manhattan Civic Theatre productions, and have
assisted off-stage with two Topeka Civic Theatre productions.

Telephone help-line work, 1974-1978.

PERSONAL DATA:

Date of birth: November 14, 1954

Height: 6'1"

Weight: 205 lbs.

Hair: brown with gray

Eyes: gray

(visual impairment - excellent health.)

Race: Caucasian



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 2, 2007

+ Back Print

DATE: November 13, 2007
CONTACT PERSON: Celeste Benton
SECOND PARTY/SUBJECT: City of Topeka ADA
Advisory Council
CATEGORY/SUBCATEGORY: 006 Communication / 003 Requests
CIP PROJECT: No
ACTION OF COUNCIL:
DOCUMENT #:
PROJECT #:
JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

A COMMUNICATION recommending the appointment of Brenda Eddy to the City of Topeka ADA Advisory Council for a term that would expire on November 30, 2009. (Council District No. 8)

POLICY ISSUE:

NA

STAFF RECOMMENDATION:

The Mayor is recommending the appointment of Brenda Eddy, 2411 SW Meadow Ct., to the City of Topeka ADA Advisory Council for a two year term that will end November 30, 2009. Ms Eddy was nominated by Councilman Preisner. Ms Eddy has filed a Statement of Substantial Interest with the City Clerk.

BACKGROUND:

Ordinance 18920 created the City of Topeka Americans with Disabilities Act Advisory Council to support the civil rights of full integration into Topeka community life for all people with disabilities. The ADA Council will be comprised of ten members. At least six of the members must be individuals with disabilities, with each of the six major life functions represented as much as possible. Members will serve a two year term and shall not be eligible to serve more than four consecutive terms. The ADA Council will meet quarterly at a minimum, or more frequently, if needed.

BUDGETARY IMPACT:

NA

SOURCE OF FUNDING:

NA

ATTACHMENTS:

[Eddy - ADA](#)

Item #8

BRENDA J. EDDY
2411 SW Meadow Court
Topeka, Kansas 66614
(785) 862-7252
E-mail: beddy@cox.net

QUALIFICATIONS SUMMARY:

Proven track record of multiple program implementation capitalizing on my visionary, collaborative, planning, and follow-through skills. Demonstrated ability to secure funding through personal and institutional networking and grantwriting talents.

EXPERIENCE:

- | | |
|--------------------|--|
| 2005 – 2007 | EXECUTIVE DIRECTOR , Kansas Youth Empowerment Academy. Topeka, Kansas. Founding director of non-profit organization providing empowerment services to high school youth with disabilities. |
| 2000 - 2005 | STATE COORDINATOR , Kansas Youth Leadership Forum. Topeka, Kansas. Secured funding, volunteers, and statewide support to implement a leadership training program for youth with disabilities. |
| 2000 - 2003 | POLICY ANALYST , Kansas Association of Centers for Independent Living. Topeka, Kansas. Researched policy issues, wrote position papers, tracked legislation, and provided testimony related to assistive technology for people with disabilities. |
| 1997 - 2000 | PROGRAM ADMINISTRATOR , Kansas Telecommunications Access Program. Topeka, Kansas. Designed, implemented and administered a statewide telecommunications adaptive equipment program for individuals with disabilities. |
| 1994 - 1997 | EDUCATIONAL PROGRAM CONSULTANT , Kansas State Department of Education. Topeka, Kansas. Conceptualized and implemented a statewide quality assurance program for sign language interpreters in the public schools. |
| 1990 - 1994 | EXECUTIVE DIRECTOR , Kansas Commission for the Deaf and Hard of Hearing, Topeka, Kansas. Provided leadership to state agencies, hearing impaired constituents, and governor appointed board regarding the needs of hearing impaired Kansans. |

Resume
Brenda J. Eddy

- 1984 - 1990** **REGIONAL MANAGER/PROGRAM ADVISOR**, Regional Service Centers for Hearing Impaired People, State of Minnesota. Supervised staff and provided technical assistance, training, and policy direction to human service agencies in 21 county area of northwestern MN.
- 1981 - 1982** **ACADEMIC ADVISOR**, Guidance and Academic Advisement Services, Emporia State University. Emporia, Kansas. Provided class scheduling, advising, and referral services to college students.

EDUCATION: **WESTERN OREGON UNIVERSITY**
Monmouth, Oregon. Master of Science in Counseling. 1984.

PITTSBURG STATE UNIVERSITY.
Pittsburg, Kansas. Bachelors of Science, Printing Technology. 1979.

RECOGNITIONS:

Outstanding Contribution to Kansas Youth Award, State Transition Council, 2005
Michael Lechner Leadership Award, KCDC, 2003
Special Recognition Award, KCDHH, 1994
Community Service Award, ADARA, 1993
Outstanding Service Award, ADARA, 1992
State of Minnesota Achievement Award, 1988
State of Minnesota Achievement Award, 1986

COMMUNITY CONTRIBUTIONS/MEMBERSHIPS:

- Workforce Investment Act Youth Advisory Board, Heartland Works, 2006 – 2007.
- United Way of Topeka, Board Leadership Training, 2007.
- Working Healthy Advisory Council, 2001 – present.
- Statewide Independent Living Council of Kansas, 2000 – 2006.
- Disability Mentoring Day State Organizational Committee, 2002 – 2004.
- Advisory Board and Past President, Assistive Technology for Kansans Project, 1995 – 2000.
- Co-Chair, American Deafness and Rehabilitation Association National Conference, 1996.
- Expert Advisory Panel, Topeka Shawnee County Public Library, 1996.
- Advisory Committee, Topeka Independent Living Resource Center's Communication Services Department, 1995 – 1998.
- Federal Grant Reviewer, U.S. Department of Education, 1995.
- Federal Grant Reviewer, Rehabilitation Services Administration. 1994 – 1995.
- National Advisory Committee, Rehabilitation of Individuals who are Hard of Hearing and Late Deafened, 1994.

Resume

Brenda J. Eddy

- State Coordinator, Self Help for Hard of Hearing, 1994 – 1995.
- Board of Directors, Kansas Commission for the Deaf and Hard of Hearing, 1995 – 1996.
- Advisory Committee, JCCC Interpreter Training Program, 1993 – 1997.
- The Commission on Access to Justice, Kansas Supreme Court Appointment, 1993 – 1996.
- Founding Board of Directors, Deaf Hope (Addiction Program), 1992 – 1994.
- Board of Directors, Topeka Independent Living Resource Center, 1992 – 1994.
- Board of Directors, Kansas Telecommunications Relay Services, Inc., 1990 – 1994.

COLLEGE TEACHING EXPERIENCE:

Adjunct Professor, Washburn University, 2003. *Grant and Proposal Writing*.

Adjunct Professor, Washburn University, 1995. *American Sign Language*.

Adjunct Professor, Wichita State University, 1994. *Orientation to Deafness*.



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 14, 2007

+ Back Print

DATE: November 13, 2007
CONTACT PERSON: Celeste Benton
SECOND PARTY/SUBJECT: City of Topeka ADA
Advisory Council
CATEGORY/SUBCATEGORY: 006 Communication / 003 Requests
CIP PROJECT: No
ACTION OF COUNCIL:
DOCUMENT #:
PROJECT #:
JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

A COMMUNICATION recommending the appointment of Albert Lewis to the City of Topeka ADA Advisory Council for a term that would expire on November 30, 2009. *(Council District No. 3)*

POLICY ISSUE:

NA

STAFF RECOMMENDATION:

The Mayor is recommending the appointment of Albert Lewis, 500 SE Swygart, to the City of Topeka ADA Advisory Council for a two year term that will end November 30, 2009. Mr. Lewis was nominated by Councilwoman Ortiz. Mr. Lewis has filed a Statement of Substantial Interest with the City Clerk.

BACKGROUND:

Ordinance 18920 created the City of Topeka Americans with Disabilities Act Advisory Council to support the civil rights of full integration into Topeka community life for all people with disabilities. The ADA Council will be comprised of ten members. At least six of the members must be individuals with disabilities, with each of the six major life functions represented as much as possible. Members will serve a two year term and shall not be eligible to serve more than four consecutive terms. The ADA Council will meet quarterly at a minimum, or more frequently, if needed.

BUDGETARY IMPACT:

NA

SOURCE OF FUNDING:

NA

ATTACHMENTS:

[Lewis - ADA Bio](#)

Celeste Benton

From: asl231@netzero.net
Sent: Monday, August 20, 2007 4:25 PM
To: Celeste Benton
Subject: Re: Phone Message Today

8/20/07

Dear Celeste,

My name is Albert M. Lewis. I reside at 500 S.E. Swygart in Topeka, Kansas.

I served on the Shawnee County Advisory Board in 1988 or about that year. We tried to figure out things that would make Topeka a more disabled friendly city.

I also helped start Handicap Sports here in Topeka in the late 1990's.

I spent over 25 years making orthotic and prosthetic devices and the manufacturing and fitting of these all in the Topeka area while working at Petros Medical, Kansas Orthotic and Prosthetic, Nova Care.

I have lived most of my life in Topeka.

I had polio when I was 3 years old and know fairly well what disabled persons needs are and am familiar with ADA. I have also spent time talking to Mike Mcgee at public works. I also worked with Mr. Bob Burke while on the Handicap Advisory Board in the late 1989's.

I hope this is what you needed. If not just e-mail me and I will get it to you asap.

Sincerely,

Albert M. Lewis

8/20/2007



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 28, 2007

+ Back Print

DATE: November 13, 2007
CONTACT PERSON: Celeste Benton
SECOND PARTY/SUBJECT: City of Topeka ADA
Advisory Council
CATEGORY/SUBCATEGORY: 006 Communication / 003 Requests
CIP PROJECT: No
ACTION OF COUNCIL:
DOCUMENT #:
PROJECT #:
JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

A COMMUNICATION recommending the appointment of Melissa Powers to the City of Topeka ADA Advisory Council for a term that would expire on November 30, 2009. (Council District No. 7)

POLICY ISSUE:

NA

STAFF RECOMMENDATION:

The Mayor is recommending the appointment of Melissa Powers, 817 SW Lincoln, to the City of Topeka Americans ADA Advisory Council for a two year term that will end November 30, 2009. Ms Powers was nominated by Councilman Blackburn.

Ms Powers has filed a Statement of Substantial Interest with the City Clerk.

BACKGROUND:

Ordinance 18920 created the City of Topeka Americans with Disabilities Act Advisory Council to support the civil rights of full integration into Topeka community life for all people with disabilities. The ADA Council will be comprised of ten members. At least six of the members must be individuals with disabilities, with each of the six major life functions represented as much as possible. Members will serve a two year term and shall not be eligible to serve more than four consecutive terms. The ADA Council will meet quarterly at a minimum, or more frequently, if needed.

BUDGETARY IMPACT:

NA

SOURCE OF FUNDING:

NA

ATTACHMENTS:

[Powers Bio - ADA](#)

Item #10

Melissa Dawn Wright Powers, Assoc. AIA

817 SW Lincoln Street
Topeka, KS 66606
785.235.8461
mwp@sdgarch.com

Melissa D Wright Powers is 2004 graduate of Kansas State University's NCARB accredited Bachelor of Architecture. Upon graduation, she joined Schwerdt Design Group and promptly enrolled in NCARB's Intern Development Program, working toward certification and licensure. Her training in the disciplines of, and experience in the architectural profession have equipped her such that she is well suited to advise as to the regulatory methods of ensuring public accessibility.

Having been a member of the Topeka Community for nearly five years, she has invested time in civic groups such as the Topeka Citizens Advisory Council, and Historic Old Town NIA.

She has donated her time and/or services to The Easter Seals Capper Foundation, The Villages, Inc, Cornerstone of Topeka, Let's Help, Ward-Meade Park, Historic Old Town NIA, The City of Topeka, NAWIC student competition judging, Neighborhood Cleanups, CDBG administration.

She has volunteered her time philanthropically to The Easter Seals Capper Foundation, March of Dimes, Arts Connect, Jayhawk Theater of Kansas, Historic Old Town NIA, Constitution Hall, American Institute of Architects Topeka 150 Initiative.

She has been a participating member of the Capper Foundation Wine Board Committee, Friends of the W. Clement Stone Nature Center, Friends of the Overland Station, Shawnee County/Topeka Historical Society, AIA Topeka Historic Resources Committee, AIA Topeka 150 Committee, Jayhawk Theater Board, Constitution Hall Executive Board, HOTNIA Executive Board, Chamber of Commerce Fast Forward, Topeka St. Patrick's Day Parade Committee, is one of five incorporators of a not for profit, and was a nominee to the Mayor's Economic Development Task Force.

Among her various accolades, Melissa was recognized by the Topeka Turnaround Team for pro bono (donated) design work in September of 2005.

Contact: Melissa can be reached via email: mwp@sdgarch.com, or by phone: 785.760.1112. Her mailing address is 817 SW Lincoln Street, Topeka, 66606.

Melissa Dawn Wright Powers, Assoc. AIA

817 SW Lincoln Street
Topeka, KS 66606
785.235.8461
mwp@sdgarch.com

PROFESSIONAL EXPERIENCE:

- | | |
|--|---------------|
| ■ Schwerdt Design Group, Topeka, KS
Arch Two, Project Architect, Intern Architect | 2004- Present |
| ■ Women's Healthcare Group, Lawrence, KS
Patient Billing | 2002- 2004 |
| ■ Piper-Wind Architects, Kansas City, MO
Architectural Intern | 2000- 2001 |

EDUCATION:

- | | |
|---|------|
| ■ Bachelor of Architecture, Kansas State University | 2004 |
|---|------|

COMMUNITY INVOLVMENT & HONORS:

- | | |
|---|-------------------|
| ■ Constitution Hall Executive Board Member | 2007-Present |
| ■ Jayhawk Theater Board Member | 2006-2007 |
| ■ AIA 150, Topeka | 2006-Present |
| ■ Arts Connect Campaign fundraising | Spring 2006, 2007 |
| ■ Recognized by the Topeka Turn Around Team | September, 2004 |
| ■ Assoc. Member of American Institute of Architects | 2004- Present |
| ■ AIA Historic Resources Committee | 2005 |
| ■ Old Town NIA Executive Board Officer | 2002- 2006 |
| ■ Capper Foundation Wine Board Committee | 2005- Present |
| ■ Capper Foundation Corporate Challenge | 2006, 2007 |
| ■ Topeka Citizen's Advisory Council | 2005 |

REFERENCES:

- | | |
|--|----------------------|
| ■ Greg Allen, AIA
Schwerdt Design Group
785.273.7540 x 244, gallen@sdgarch.com | Registered Architect |
| ■ Greg Schwerdt, Pricipal, AIA
Schwerdt Design Group
785.273.7540 x 241, ges@sdgarch.com | Principal |



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 8, 2007

+ Back Print

DATE: November 13, 2007
CONTACT PERSON: Celeste Benton
SECOND PARTY/SUBJECT: Human Relations Commission
CATEGORY/SUBCATEGORY: 006 Communication / 003 Requests
CIP PROJECT: No
ACTION OF COUNCIL:
DOCUMENT #:
PROJECT #:
JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

A COMMUNICATION recommending the appointment of Joshanna Stone to the Human Relations Commission for a term that would expire on November 30, 2009. (Council District No. 8)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

The Mayor is recommending the appointment of Joshanna Stone, 2525 SW Valley Glen Ct., to the Human Relations Commission for a two year appointment that would expire November 30, 2009. Ms Stone was nominated by Councilman Preisner. Ms Stone has submitted a Statement of Substantial Interest to the City Clerk.

BACKGROUND:

Ordinance 18382. The purpose of the Human Relations Commission is to endeavor to eliminate prejudice among various racial, ethnic and other groups in the city and to further goodwill among all people of the city.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Stone Bio - HRC](#)

JOSHANNA L. STONE
2525 SW Valley Glen Court
Topeka, Kansas 66614
(785) 608-9296

Education

Juris Doctor, May 2003

Washburn University School of Law, Topeka, KS

Bachelor of Arts, Political Science, May 2000

Washburn University, Topeka, KS

Kansas State University, Manhattan, KS, 1995-1996

Legal Experience

Office of the Governor

Kansas African American Affairs Commission, (September 2005 – Present)

Legislative Liaison/Special Assistant

Legal Analysis of Public Policy Issues

Legislative & Legal Research

Conduct Interviews, Draft Articles & Testimony

Program Management

Grant Research & Review

Maintain Agency Relationships

Shook, Hardy, & Bacon, LLP, Kansas City, MO (September 2004 – September 2005)

Intellectual Property Case Manager

Manage Civil Cases throughout the Legal Process Including Discovery

Draft Legal Documents Pertaining to Copyright Infringement

Provide Analytical & Trial Support

Supervise Legal Assistants, Database Editors, and Clerks

Follow Up with Defendants and Defense Counsel Regarding Settlements

Contract Attorney

Review and Analyze Civil Cases

Regional Defender's Office, Junction City, KS (Fall 2003)

Attorney

Defend Indigent Clients in Felony Criminal Cases

Certified Legal Intern (Summer 2002)

First Chair during Court Appearances

Barnett & Renner, P.A., Auburn, KS (August 2002 – March 2003)

Law Clerk

Prepare Civil Cases for Trial

Deliver Subpoenas

Washburn Law Clinic, Topeka KS (Summer 2002)

Certified Legal Intern

Co-Counsel on Habeas Corpus Case

Conduct Interviews in Office & Prison Setting

Defend Indigent Clients in Misdemeanor Criminal Cases

Activities

Leadership Greater Topeka Class of 2007

American Heart Association Kansas Public Advocacy Committee

YWCA R.A.C.E. Committee



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 25, 2007

+ Back Print

DATE: November 13, 2007
CONTACT PERSON: Bill Fiander/David Thurbon **DOCUMENT #:**
SECOND PARTY/SUBJECT: Wanamaker North Addition **PROJECT #:** P07/30
Subdivision
CATEGORY/SUBCATEGORY 017 Plats/002 Final
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

A FINAL PLAT for Wanamaker North Addition Subdivision located at 1025, 1029 and 1035 SW Wanamaker Road in the City of Topeka, Shawnee County, Kansas. (P07/30) (Council District No. 9)(Planning Commission recommended approval by a vote of 9-0-0.) (Planning Department recommended approval.)

(Approval would establish a two-lot subdivision for commercial use.)

POLICY ISSUE:

Consistent with the City of Topeka Subdivision Regulations.

STAFF RECOMMENDATION:

The Planning Commission recommended that the final plat phase of **Wanamaker North Addition Subdivision** be **APPROVED** by a vote of **9-0-0** at their October 15, 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 attached Staff Report.
- City Council options:
 - Accept the plat as presented for recording by the Shawnee County Register of Deeds.
 - Reject the plat so it would not be eligible for recording by the Shawnee County Register of Deeds.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Staff Report](#)

[Plat Sheet 1 of 2](#)

Item #12

[Plat Sheet 1 of 2](#)

[Aerial](#)

[Minutes 9-17-07](#)

October 15, 2007
Agenda Item #E-3

SUBDIVISION REPORT

(Major Plats)

CITY OF TOPEKA PLANNING DEPARTMENT

Preliminary Plat Phase

Preliminary and Final Plat Phase

Final Plat Phase

NAME: Wanamaker North Addition Subdivision - [P07/30]

OWNER/DEVELOPER: Wanamaker North L.C. by Jeffrey L. Ungerer, CFO/VP of MRV, Inc., Manager/ MRV, Inc.

ENGINEER/SURVEYOR: Bartlett and West Engineers, Inc.

GENERAL LOCATION: 1025, 1029 and 1035 SW Wanamaker Road.

PARCEL ID NUMBERS: 0993204001042000, 0993204001044000.

JURISDICTION: Class "A" subdivision within the City of Topeka.

ANNEXATION: N/A.

Area	# of Lots	Density	Proposed Land Use	Zoning *
1.90 acres	2	N/A	Commercial	"R-1" Single-Family Dwelling District, O&I-1" Office and Institutional District, "C-4 Commercial District
*Pending Zoning Case: None				
Design: The subject plat contains 1.90 acres, more or less and is rectangular in shape, measuring approximately 211.50' x 387.00' with its greatest length running parallel to SW Wanamaker Road. The proposal is a replat of Lot 1 in Vitt Acres Subdivision, Lots 1 and 2 of Vitt Acres Subdivision No. 2 and a tract of land in the SE1/4 of Sec. 32-11-15, in the City of Topeka, Shawnee County, Kansas. The proposal consists of a single block 2-Lot subdivision. The purpose of the plat is to accommodate development of the property for commercial uses.				

SERVICES AND FACILITIES:

1. **WATER SERVICE:** The development is to be serviced by the City of Topeka public water supply and distribution system by means of connection to an existing 18" water main located along SW Wanamaker

October 15, 2007
Agenda Item #E-3

Road, with all water connections to be at developer expense.

2. SEWAGE DISPOSAL: The development is to be serviced by the City of Topeka public wastewater treatment plant and collection system by means of connection to an existing 8" sewer main located along the southwest corner of the site, with all sewer line extensions and connections to be at developer expense.
3. WASTEWATER PLAN SERVICE AREA: The property is located within the Urban Service Area as reflected by the Shawnee County Wastewater Management Plan; and the proposal appears to be in full compliance with said Plan.
4. DRAINAGE CONDITIONS: The drainage report as submitted by the developer to the City of Topeka Department of Public Works as been approved per memo dated October 2, 2007.
5. STREET PLAN/ACCESS: Access to SW Wanamaker Road is to be restricted to a single 75' access opening at the northeast corner of the site. A cross access note is provided on the plat which states: "*A cross access agreement exists between Lots 1 and 2 Block "A", the location of which shall be determined at time of site plan approval. One point of access shall also be provided with property to the north to be determined at time of site plan approval.*" SW 11th street will be constructed as is necessary for development on Lot 2 with the remainder to be built when the property to the west develops.
6. FIRE DISTRICT: City of Topeka Fire District.
7. STREAM BUFFER: A Type II stream buffer affects this property. The applicant has been granted a variance to the stream buffer ordinance by the Water Pollution Control Division Superintendent, Bob Sample per memo dated September 28, 2007. This variance permits an averaging of the stream buffer along the entire length of the property north to south resulting in a 2' average stream buffer easement along the entire west side of the property north to south as indicated on the final plat.
8. SCHOOL DISTRICT: U.S.D. 437 – Auburn/Washburn District.
9. PARKS/OPEN SPACE: N/A

WAIVER/VARIANCE TO STANDARDS: A Variance is requested to Section 134-142(a) due to all utilities serving the area already being in place. A variance to the Stream Buffer regulations has been granted by the Water Pollution Control Division Superintendent as indicated.

PUBLIC CAPITAL IMPROVEMENTS IN WHICH THE DEVELOPER ANTICIPATES REQUESTING THE GOVERNING BODY TO PARTICIPATE: None anticipated.

CAPITAL IMPROVEMENT PLAN (CIP): There are currently no transportation projects in the City's CIP (2006-2011) affecting this area.

CONFORMANCE TO COMPREHENSIVE PLAN: The *Comprehensive Plan* establishes this area for *Commercial* land use. This subdivision will have full public services and therefore, is found compliant with the comprehensive plan.

October 15, 2007
Agenda Item #E-3

STAFF ANALYSIS:

As proposed the overall subdivision design conforms to the established standards and provisions of the subdivision regulations relative to design criteria; and the design appears compatible with existing and planned conditions. Based upon the above findings and staff analysis, the Planning Department recommends the final plat phase of Wanamaker North Addition Subdivision be **APPROVED** subject to:

1. The Planning Commission granting the variance to the provisions of Code Section 134-142(a) waiving the requirement of providing side lot line public utility easements on the plat, since all utilities serving the area are already in place.

Prepared by: Dean W. Diediker
Planner II

Last edit on: Oct 16, 2007 by: DJS00181 Drawing name: F:\15000\15506\000 AutoCad Plots Wanamaker North Addition\15506-000 C02 FINAL.dwg Layout name: C01 Plotted by: DJS00181 Plotted on: Oct 16, 2007 - 9:20am

A FINAL PLAT FOR : WANAMAKER NORTH ADDITION

A REPLAT OF LOT 1, VITT ACRES AND A REPLAT OF LOTS 1 AND 2,
VITT ACRES SUB. NO. 2 AND A TRACT OF LAND IN THE SOUTHEAST
QUARTER OF SECTION 32, TOWNSHIP 11 SOUTH, RANGE 15 EAST OF
THE 6th P.M., IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS,

BOOK : _____ PAGE : _____

DATE : _____ TIME : _____

THE FOLLOWING CITY
CODE-REQUIRED NOTES MUST BE
ADDED TO ANY PLAT WITH A
STREAM BUFFER:

THERE SHALL BE NO CLEARING,
GRADING, CONSTRUCTION OR
DISTURBANCE OF VEGETATION
EXCEPT AS APPROVED BY THE
DIRECTOR OF THE DEPARTMENT OF
PUBLIC WORKS OR DESIGNEE.

AND

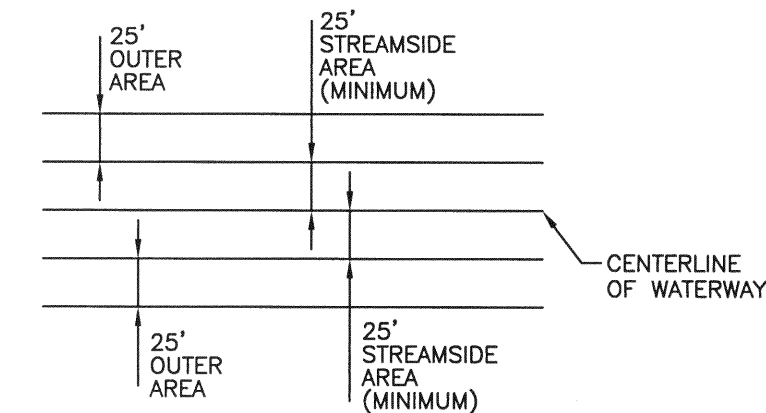
PLEASE REFER TO SECTION 6 OF
CITY OF TOPEKA CODE 66-151
FOR ALL PERTINENT MANAGEMENT
GUIDELINES AND PROHIBITED
PRACTICES AND ACTIVATES WITHIN
THE STREAM BUFFER AREAS.

STREAMSIDE AREA - USES ALLOWED

- 1.) NATIVE VEGETATION
- 2.) FLOOD CONTROL
- 3.) FOOT PATHS/ROAD CROSSINGS
- 4.) UTILITY CORRIDORS

OUTER AREA - USES ALLOWED

- 1.) NATIVE VEGETATION OR MANAGED LAWN
- 2.) BIKING/HIKING PATHS
- 3.) FLOOD CONTROL
- 4.) DETENTION/RETENTION STRUCTURE
- 5.) UTILITY CORRIDORS
- 6.) STORMWATER BMP's
- 7.) RESIDENTIAL YARDS/LANDSCAPE AREAS



TYPICAL TYPE II
STREAM BUFFER EASEMENT

LEGAL DESCRIPTION :

PART OF SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 11 SOUTH, RANGE 15
EAST OF THE 6TH P.M., IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS,
DESCRIBED AS FOLLOWS : BEGINNING 560.5 FEET SOUTH AND 50 FEET WEST OF
THE NORTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE SOUTH 182 FEET;
THENCE WEST 214 FEET; THENCE NORTH 182 FEET; THENCE EAST 214 FEET TO THE
POINT OF BEGINNING.

AND

LOT 1, ON WANAMAKER ROAD, IN VITT ACRES, IN SHAWNEE COUNTY, KANSAS, LESS
THE EAST 10 FEET THEREOF, AS TAKEN IN CONDEMNATION CASE NO. 89110.

AND

LOTS 1 AND 2, BLOCK A, VITT ACRES SUBDIVISION NO. 2, IN THE CITY OF TOPEKA,
SHAWNEE COUNTY, KANSAS.

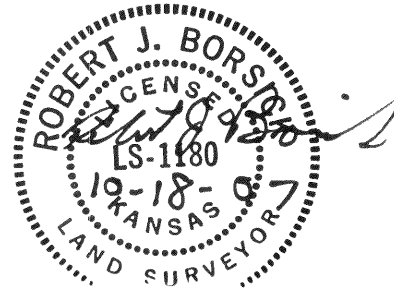
RESERVATIONS FROM THE EXCEPTIONS TO CONVEYANCE AND WARRANTY :

EASEMENTS, RIGHT-OF-WAY, AND PRESCRIPTIVE RIGHTS, WHETHER OF RECORD OR
NOT; ALL PRESENTLY RECORDED INSTRUMENTS, INCLUDING LIENS AND CONVEYANCES,
THAT AFFECT THE PROPERTY. TAXES FOR THE CURRENT YEAR HAVE BEEN PRORATED
AND ARE ASSUMED BY GRANTEE.

SURVEYOR CERTIFICATE :

I HEREBY CERTIFY THE DETAILS OF THIS PLAT TO BE CORRECT, TO THE BEST OF MY
KNOWLEDGE AND BELIEF, THAT ALL BOUNDARY CORNERS OF THIS SUBDIVISION HAVE
BEEN MONUMENTED, ACCORDING TO KANSAS STATE STATUTE,

THIS 18th DAY OF October 2007



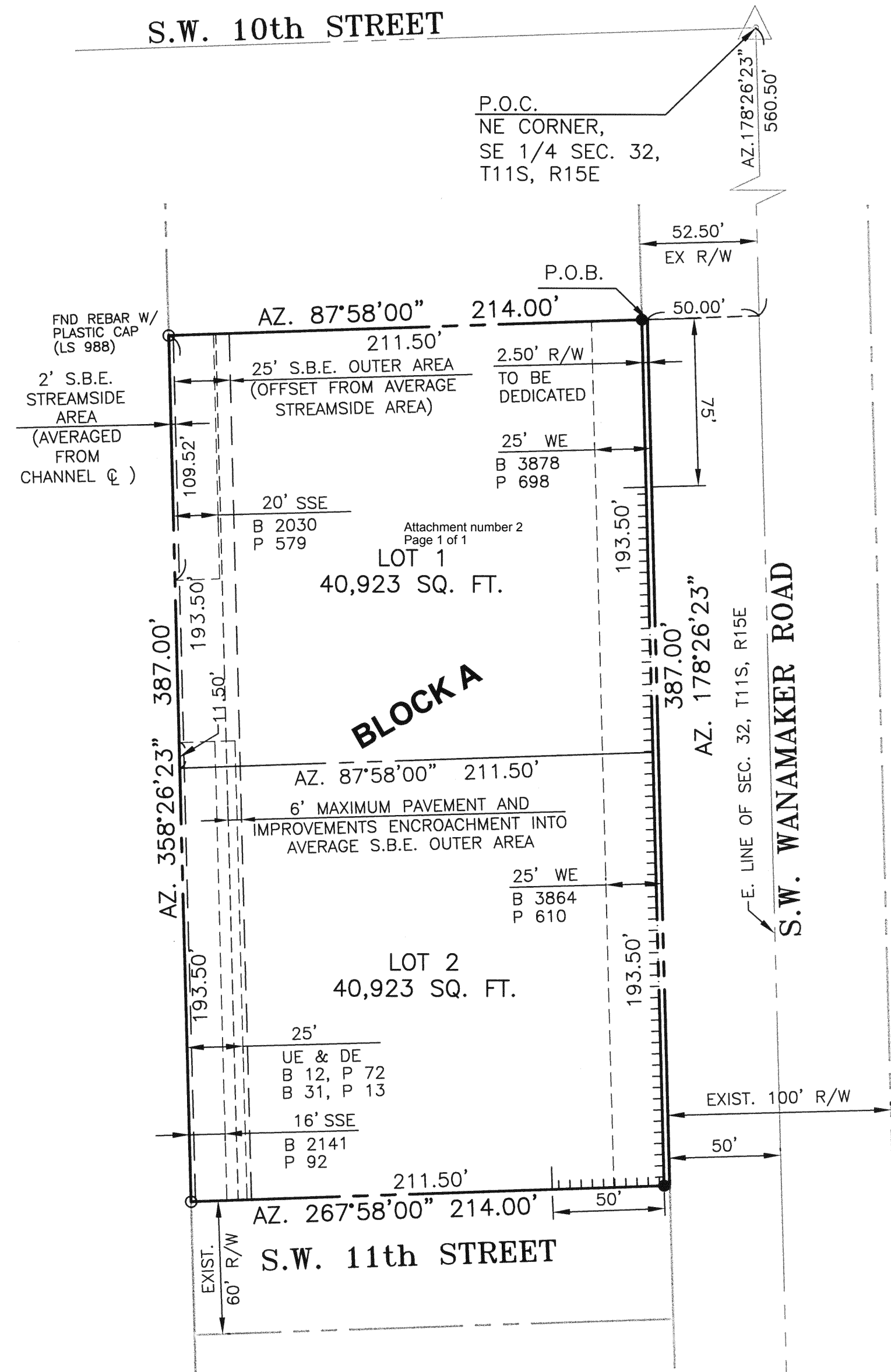
Robert J. Borsick
ROBERT J. BORSICK LS # 1180
BARTLETT & WEST ENGINEERS, INC.

REVIEWED BY THE COUNTY SURVEYOR THIS 24TH DAY OF October,
20 07, IN ACCORDANCE WITH KSA CHAPTER 58, ARTICLE 20.

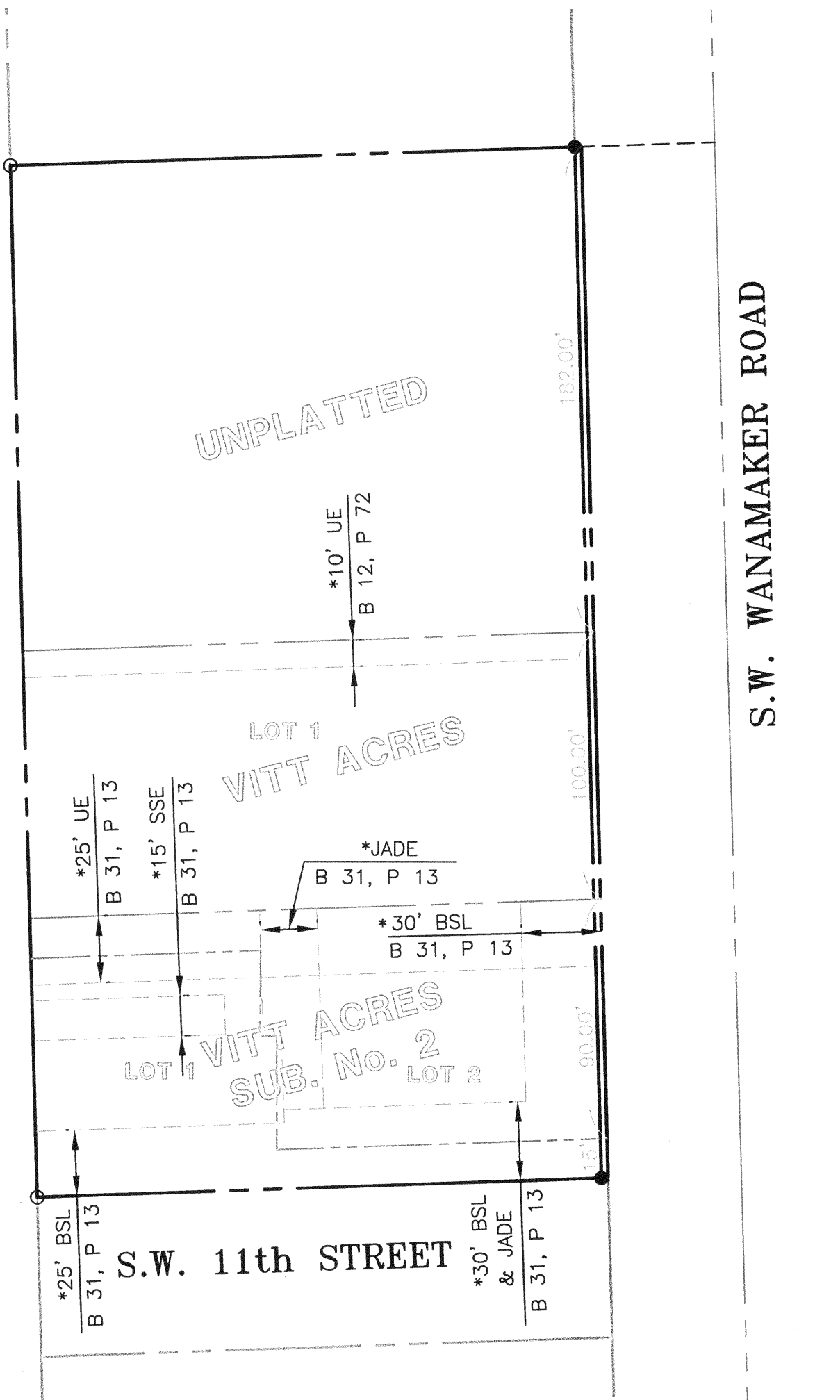
Rule A. Seymour
RULE A. SEYMOUR, P.L.S. No. 834, COUNTY SURVEYOR

LEGEND

AE	ACCESS EASEMENT	(M)	MEASURED
B	BOOK	P	PAGE
BSL	BUILDING SETBACK LINE	POC	POINT OF COMMENCEMENT
(D)	DEEDED	POB	POINT OF BEGINNING
DE	DRAINAGE EASEMENT	R/W	RIGHT-OF-WAY
EX	EXISTING	SBE	STREAM BUFFER EASEMENT
JADE	JOINT ACCESS DRIVE EASEMENT	SSE	SANITARY SEWER EASEMENT
O	FOUND 5/8" IRON BAR IN CONCRETE, ORIGIN UNKNOWN UNLESS OTHERWISE NOTED	UE	UTILITY EASEMENT
	SET 5/8" IRON BAR STAMPED "BARTLETT & WEST CLS14" IN CONCRETE	WE	WATER LINE EASEMENT



0 25 50
SCALE: 1" = 50'



EXISTING EASEMENT DETAIL

* TO BE VACATED WITH THIS PLAT

BARTLETT & WEST
ENGINEERS
1200 SW EXECUTIVE DRIVE, TOPEKA, KS 66615-3880
PHONE 785.222.2232 - FAX 785.275.8735
WWW.BARTLETTWEST.COM

FINAL PLAT
WANAMAKER NORTH ADDITION
TOPEKA, SHAWNEE COUNTY, KANSAS

DESIGNED BY: ACS
DRAWN BY: DJS/JMD
APPROVED BY: RJB
DESIGN PROJ: 15506.000
CONST PROJ: 15506.000
SCALE: 1" = 50'
DATE: 8/24/2007
DRAWING NO: **P07/30**
SHEET NO: 1 of 2

Least edit on: Oct 16, 2007 by: DJ500181 Drawing name: F:\15000 15506 15506.000 AutoCad Plats Wanamaker North Addition 15506-000 C02 FINAL.dwg Layout name: C02 Plotted by: DJ500181 Plotted on: Oct 16, 2007 - 9:20am

A FINAL PLAT FOR :
WANAMAKER NORTH ADDITION

A REPLAT OF LOT 1, VITT ACRES AND A REPLAT OF LOTS 1 AND 2,
VITT ACRES SUB. NO. 2 AND A TRACT OF LAND IN THE SOUTHEAST
QUARTER OF SECTION 32, TOWNSHIP 11 SOUTH, RANGE 15 EAST OF
THE 6th P.M., IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS,

BOOK : _____ PAGE : _____

DATE : _____ TIME : _____

NOTES :

- WATER SERVICE SHALL BE BY THE CITY OF TOPEKA.
- SANITARY SEWER SERVICE SHALL BE BY THE CITY OF TOPEKA.
- THIS PROPERTY LIES WITHIN ZONE C (AREA OF MINIMAL FLOODING) ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FLOOD INSURANCE RATE MAP NO. 200331 0100 C WITH AN EFFECTIVE DATE OF JUNE 1, 1982.
- ALL UTILITIES SHALL BE PLACED UNDERGROUND PURSUANT TO THE CITY'S RIGHT-OF-WAY MANAGEMENT STANDARDS.
- MINIMUM BUILDING OPENING ELEVATIONS WILL BE SET ONE FOOT ABOVE THE 100 YEAR WATER SURFACE ELEVATION IN THE ON SITE DETENTION STRUCTURE.
- EASEMENTS ARE HEREBY GRANTED TO THE PUBLIC AS FOLLOWS : "UTILITY EASEMENTS" TO LOCATE, CONSTRUCT AND MAINTAIN OR AUTHORIZE THE LOCATION, CONSTRUCTION, MAINTENANCE AND USE OF THE CONDUITS FOR ALL AND ANY PURPOSES, WATER, GAS, SEWER MAINS, POLES AND WIRES OR ANY OR ALL OF THEM OVER, UNDER AND ALONG THE STRIPS MARKED "UTILITY EASEMENTS". A TEMPORARY CONSTRUCTION EASEMENT OF 12 FEET ADJACENT TO THE SIDE OF THE UTILITY EASEMENT IS DEDICATED FOR THE USE OF THE PUBLIC UTILITIES WHILE INITIAL CONSTRUCTION IS IN PROGRESS.
- DRAINAGE EASEMENTS ARE HEREBY ESTABLISHED AS SHOWN TO PROVIDE FOR THE UNOBSTRUCTED OVERLAND FLOW OF SURFACE WATER AND/OR THE CONSTRUCTION AND MAINTENANCE OF PIPE, FLUME, DITCH OR ANY OR ALL IMPROVEMENT FOR THE DRAINAGE OF SAID WATER, ALL AS MAY BE DETERMINED AND/OR APPROVED BY THE DIRECTOR OF THE APPLICABLE DEPARTMENT OF PUBLIC WORKS. PROPERTY OWNERS SHALL NOT PLACE ANY PERMANENT OR SEMI-PERMANENT OBSTRUCTION IN SAID EASEMENTS. ALL MAINTENANCE WITHIN THE DRAINAGE EASEMENT (DE) SHALL BE THE RIGHT, DUTY AND RESPONSIBILITY OF THE PROPERTY OWNER(S) OF THE PROPERTY IN WHICH THE EASEMENT IS SO LOCATED, HOWEVER, IF MAINTENANCE IS NEGLECTED OR SUBJECT TO OTHER UNUSUAL CIRCUMSTANCES AND IS DETERMINED TO BE A HAZARD OR THREAT TO PUBLIC SAFETY BY THE DIRECTOR OF THE APPLICABLE DEPARTMENT OF PUBLIC WORKS, CORRECTIVE MAINTENANCE MAY BE PERFORMED BY THE GOVERNING JURISDICTION WITH COSTS ASSESSED TO AND BORNE UPON, SAID PROPERTY OWNER(S). OFFICIALS REPRESENTING THE APPLICABLE DEPARTMENT OF PUBLIC WORKS SHALL HAVE THE RIGHT TO ENTER UPON THE EASEMENT FOR PURPOSES OF PERIODIC INSPECTION AND/OR CORRECTIVE MAINTENANCE.
- PROPERTY OWNERS SHALL BE ADMONISHED ^{Attachment number 3} FROM PLACING ANY PERMANENT OR SEMI-PERMANENT OBSTRUCTION IN PERMANENT SEWER, DRAINAGE OR UTILITY EASEMENTS. THIS INCLUDES, BUT IS NOT LIMITED TO, TREES, SHRUBS, FENCES, RETAINING WALLS, BUILDINGS OR OTHER MISCELLANEOUS OBSTRUCTIONS THAT INTERFERE WITH ACCESS OR EGRESS OF MAINTENANCE VEHICLES OR EQUIPMENT FOR THE OPERATION AND MAINTENANCE OF THE UTILITIES OR PIPE LINES LOCATED IN THE EASEMENT. ANY PERMANENT OR SEMI-PERMANENT OBSTRUCTION LOCATED IN THE PERMANENT SEWER UTILITY EASEMENT MAY BE REMOVED BY PERSONNEL REPRESENTING THE GOVERNING BODY, TO PROVIDE FOR THE PROPER OPERATION AND MAINTENANCE OF THAT UTILITY LINE, WITHOUT COST OR OBLIGATION FOR REPLACEMENT, COST OF REMOVAL, AND/OR REPLACEMENT SHALL BE THE RESPONSIBILITY OF THE PROPERTY OWNER.
- RESTRICTED ACCESS LINE : DEFINES PORTION OF SUBDIVISION BOUNDARY IN WHICH THE PUBLIC IS NOT ALLOWED TO GAIN INGRESS OR EGRESS TO THE SUBDIVISION. THE GOVERNING BODY MAY GAIN INGRESS OR EGRESS ACROSS THIS LINE IN ORDER TO GAIN ACCESS TO THE SUBDIVISION.
- A CROSS ACCESS AGREEMENT EXISTS BETWEEN LOTS 1 AND 2, BLOCK A, THE LOCATION(S) OF WHICH SHALL BE DETERMINED AT THE TIME OF SITE PLAN APPROVAL. ONE POINT OF ACCESS SHALL ALSO BE PROVIDED WITH PROPERTY TO THE NORTH TO BE DETERMINED AT THE TIME OF SITE PLAN APPROVAL.
- PURSUANT WITH SECTION 134-4 OF THE CITY OF TOPEKA SUBDIVISION REGULATIONS, THE TOPEKA CITY PLANNING COMMISSION HEREBY GRANTS THE FOLLOWING DESIGN VARIANCES TO THE PROVISIONS OF THE SUBDIVISION REGULATIONS:
 - A VARIANCE TO SUBDIVISION REGULATION SECTION 134-142(a) REGARDING UTILITY EASEMENTS ALONG THE SUBDIVISION PERIMETER IS GRANTED WITH THIS PLAT.
- WITH THE APPROVAL OF THIS PLAT A VARIANCE HAS BEEN GRANTED TO CITY OF TOPEKA STREAM BUFFER ORDINANCE No. 17837. APPROVAL HAS BEEN GRANTED BY THE PUBLIC WORKS DIRECTOR OR THEIR DESIGNEE FOR THE AVERAGED LIMITS OF THE BUFFER ZONES AND USES AS SHOWN ON THIS PLAT WITH THE FOLLOWINGS AGREEMENTS :
 - WITHIN THE PROPOSED 25 FOOT OUTER AREA STREAM BUFFER ADDITIONAL TREES AND SHRUBS WILL BE PLANTED WITHIN THIS AREA TO FURTHER STABILIZE THE CHANNEL BANK AND EXISTING VEGETATION AND TO PROVIDE AESTHETIC QUALITY.
 - EVERY EFFORT WILL BE MADE TO SAVE A NUMBER OF SIGNIFICANT OLD GROWTH TREES THAT EXIST ON THE SITE. THESE TREES AND SPECIES HAVE BEEN SHOWN ON THE PRELIMINARY PLAT FOR REFERENCE AT THE SITE PLAN STAGE.
- PROPERTY OWNER(S) AGREES TO AN IRREVOCABLE WAIVER OF OBJECTION TO PARTICIPATION IN A STREET BENEFIT DISTRICT FOR THE IMPROVEMENT OF SW 11th STREET.

DEDICATION :

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNER(S) OF THE DESCRIBED TRACT OF LAND HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS AND BLOCKS AND PUBLIC WAYS, (STREETS AND ROADS). THE PUBLIC WAYS NOT HERETOFORE DEDICATED ARE DEDICATED TO THE PUBLIC. THE UTILITY EASEMENTS SHOWN HEREON ARE HEREBY DEDICATED FOR USE BY PUBLIC UTILITIES TO LOCATE, CONSTRUCT AND MAINTAIN, OR AUTHORIZE THE LOCATION, CONSTRUCTION, MAINTENANCE AND USE OF CONDUITS FOR ALL OR ANY PURPOSE INCLUDING WATER, GAS, SEWER MAINS, POLES AND WIRES OR ANY OR ALL OF THEM OVER, UNDER AND ALONG STRIPS MARKED "UE". UTILITY EASEMENTS INCLUDE A 12-FOOT TEMPORARY CONSTRUCTION EASEMENT ADJACENT TO ALL UTILITY EASEMENTS. SAID CONSTRUCTION EASEMENTS ARE AUTOMATICALLY NULL AND VOID FOLLOWING INITIAL INSTALLATION OF UTILITIES WITHIN SAID UTILITY EASEMENTS AND SHALL NOT REQUIRE ANY ACTION BY THE GOVERNING BODY TO VACATE, REMOVE OR OTHERWISE ELIMINATE. FURTHERMORE, INITIAL UTILITY CONSTRUCTION SHALL BE CONSIDERED COMPLETE ON ANY LOT ON WHICH THERE IS AN OCCUPIED STRUCTURE.

NOTICE: IN THE EVENT THERE ARE OTHER OWNER(S) OR THOSE HOLDING ANY PROPRIETARY INTEREST IN ANY LAND CONTAINED IN THIS SUBDIVISION WHOM DO NOT APPEAR AND DULY ACKNOWLEDGE THIS PLAT PRIOR TO THE TIME OF RECORDING, THE PLAT SHALL BE NULL AND VOID.

IN TESTIMONY WHEREOF, THE OWNER(S), WANAMAKER NORTH, L.C., BY JEFFREY L. UNGERER, CFO/VP OF MRV INC., MANAGER, HAS CAUSED THESE

PRESENTS TO BE SIGNED THIS 17TH DAY OF OCTOBER, 20 07.

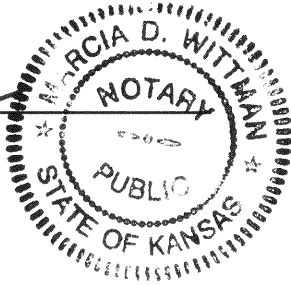
Jeffrey L. Ungerer
JEFFREY L. UNGERER, CFO/VP OF MRV INC., MANAGER, WANAMAKER NORTH, L.C.

STATE OF KANSAS, COUNTY OF SHAWNEE, SS:

BE IT REMEMBERED THAT ON THIS 17th DAY OF October, 20 07, BEFORE ME A NOTARY PUBLIC, IN AND FOR THE COUNTY AND STATE AFORESAID, CAME JEFFREY L. UNGERER, CFO/VP OF MRV INC., MANAGER, OF WANAMAKER NORTH, L.C., 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.

Margaret Wittman
NOTARY PUBLIC



October 5, 2009
MY COMMISSION EXPIRES

CERTIFICATE OF APPROVALS:

APPROVED BY THE TOPEKA PLANNING COMMISSION THIS _____ DAY OF

_____ 20_____.

CHAIRMAN, TPC

DAVID F. THURBON,
PLANNING DIRECTOR

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

WILLIAM W. BUNTEN, MAYOR

BRENDA YOUNGER, CITY CLERK

ENTERED ON THE TRANSFER RECORD OF SHAWNEE COUNTY, KANSAS

THIS _____ DAY OF _____, 20_____

CYNTHIA A. BECK, COUNTY CLERK

FILED FOR RECORD IN THE OFFICE OF THE SHAWNEE COUNTY REGISTER OF DEEDS

THIS _____ DAY OF _____, 20_____ AT _____ O'CLOCK.

MARILYN L. NICHOLS, REGISTER OF DEEDS

BARTLETT & WEST ENGINEERS 1200 NW EXECUTIVE DRIVE, TOPEKA KS 66615-3850 PHONE 786.272.3252 FAX 786.272.8735 WWW.BARTLETTWEST.COM	BY	DESCRIPTION	
	1	8/28/07	REVISIONS TO NOTES AND DRAWING AS PER COMMENT FROM TOPEKA
	2	9/22/07	PLANNING DEPARTMENT STAFF
	3	10/22/07	REVISIONS TO STREAM BUFFER EASEMENT
FINAL PLAT WANAMAKER NORTH ADDITION TOPEKA, SHAWNEE COUNTY, KANSAS		ADD LOT DIMENSION IN LOT 1	
DESIGNED BY: ACS DRAWN BY: DJS/JMD APPROVED BY: RJB DESIGN PROJ: 15506.000 CONST PROJ: 15506.000 SCALE: 1" = 50' DATE: 8/24/2007 DRAWING NO: P07/30 SHEET NO: 2 of 2			



P07/30 Wanamaker North Addition Subdivision

DRAFT

**Minutes of the
Topeka Planning Commission
September 17, 2007**

Wanamaker North Addition development – Dean Diediker summarized the staff report for both the zoning and subdivision cases discussion is for both as well.

Wanamaker North Addition (Preliminary and Final Plat Phases)(P07/30) by Wanamaker North L.C., Jeffrey L. Ungerer, CFO/VP of MRV, Inc., on property located at 1025, 1029 and 1035 SW Wanamaker Road. **(Diediker)**

Proponents:

Angela Sharp, Bartlett & West Engineers, spoke in favor of the proposal. She said this is in the commercial hub of town. We met with a number of staff members in various departments prior to our submittal. We have agreed to one access on Wanamaker and another with property to north. We plan to develop 11th Street from our property as well. We understand the property to the west is worried about the height of the building on this property. They requested the building be only one story. With straight zoning you can't restrict the height and it has been determined it can not be a plat note either. It can only be restricted within a PUD and we don't have enough land for that. She said there are many properties in this area that have more intense zoning which would allow them to have taller buildings. She said the one property has C-4 zoning right now and they could have a building 75 feet in height. She said the tenants that would occupy this building probably won't want a two story building anyway. Mr. Sanders said he doesn't understand why the height of the building would be an issue. Mrs. Sharp said there are trees west of this property and they in the stream buffer which are not to be disturbed. They will block the view more than any building would. Mr. Boyd asked if the applicant agrees to only have the preliminary plat heard tonight? Mrs. Sharp replied yes, we would have liked to have both but we understand the need to get approvals from other departments first.

Opponents:

Bryan Smith, Cavanaugh, Smith and Lemons, spoke not in opposition to the rezoning but the height allowed for the building. He said he is representing property owners of the 35 acres to the west. We are not against the zoning. We are against 60 feet in height along Wanamaker Road. He said his client has one of the last large pieces of acreage left in this area. They have had several big companies interested in the property and one of their questions is visibility. He said in C-1 zoning the building height is 35 feet and C-2 is 60 feet. That is a big jump in height. We are just concerned about the height. Mr. Boyd said this property doesn't have enough acreage for a PUD. He said maybe there could be some agreement amongst the property owners in the area regarding building heights but that is not an issue the city can stipulate. Mr. Smith said his clients aren't against restaurants because they won't build a 60 feet high building. He said obviously my client wants to preserve visibility for his site for future tenants.

Fred Sanders asked if staff had any comments regarding the height? David Thurbon said 60 feet in height is what is allowed in the C-2 zoning district. Height in this area has never been a concern. If the height is too much then parking requirements may be difficult to meet. We don't believe anything more than two stories would be built.

Doug Bassett moved approval as written by staff, seconded by Howard Blackmon. **APPROVAL. (6-0-0)**



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 4, 2007

 + Back  Print

DATE: November 13, 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

October 4, 2007

 + Back  Print

DATE: November 13, 2007

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

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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...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 15, 2007

+ Back Print

DATE: November 13, 2007

CONTACT PERSON: David Thurbon/Bill Fiander **DOCUMENT #:** N/A

SECOND PARTY/SUBJECT: Board of County Commissioners of Shawnee County **PROJECT #:** V07A/7

CATEGORY/SUBCATEGORY: 014 Ordinances – Non-Codified / 006 Vacations

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

A PUBLIC HEARING relating to vacation request V07A/7 by Board of Shawnee County Commissioners for public alley right-of-way in the Original Town of Topeka and located north of 200 SE 7th Street and east of 600 SE Quincy Street, City of Topeka, Shawnee County, Kansas.

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of public alley right-of-way in the Original Town of Topeka and located north of 200 SE 7th Street and east of 600 SE Quincy Street, City of Topeka, Shawnee County, Kansas. Final Reading. (V07A/7) (Council District No. 1)

(Approval would vacate two public alley rights-of-way and establish a necessary utility easement.)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

The Planning Department recommends **APPROVAL** of the proposed vacation conditional to retaining a necessary utility easement.

BACKGROUND:

- The Kansas Statutes and Topeka 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.
- Shawnee County would like to assume responsibility for maintaining the alleyways in order to provide improved access to the County employee parking lots served by the alleyways.
- AT&T, Westar and the City have utilities within the alley rights-of-way. The ordinance reflects retention of a utility easement over the entire width of the alleys.
- Approval of the vacation should not be construed to imply support for existing or subsequent land development.

BUDGETARY IMPACT:

N/A.

Item #15

SOURCE OF FUNDING:

N/A.

ATTACHMENTS:

[Ordinance](#)

[Legal Advertisement](#)

[Vicinity Map](#)

[Aerial](#)

[Application](#)

[Review comments](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO.

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of public alley right-of-way in the Original Town of Topeka and located north of 200 SE 7th Street and east of 600 SE Quincy Street, City of Topeka, Shawnee County, Kansas. (V07A/7) (Council District No. 1)

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 Shawnee County, as property owner, has been filed with the office of the City Clerk, requesting the vacation of the following described platted alley rights-of-way located within the City of Topeka, Shawnee County, Kansas:

Public alleys described as: Beginning at the Northeast corner of Lot 131 on 6th Avenue East in the Original Town of Topeka, Shawnee County, Kansas; thence southeasterly to the Northwest corner of Lot 133 on 6th Avenue East; thence southwesterly to the Southwest corner of said Lot 133; thence southeasterly to the Southeast corner of Lot 143 on 6th Avenue East; thence southwesterly to the Northeast corner of Lot 193 on Monroe Street; thence northwesterly to the Northwest corner of said Lot 193; thence northwesterly to the Northeast corner of Lot 194 on Quincy Street; thence northeasterly to the Southwest corner of Lot 121 on 6th Avenue East; thence southeasterly to the Southeast corner of said Lot 131; thence northeasterly 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 November 13, 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:

Public alleys described as: Beginning at the Northeast corner of Lot 131 on 6th Avenue East in the Original Town of Topeka, Shawnee County, Kansas; thence southeasterly to the Northwest corner of Lot 133 on 6th Avenue East; thence southwesterly to the Southwest corner of said Lot 133; thence southeasterly to the Southeast corner of Lot 143 on 6th Avenue East; thence southwesterly to the Northeast corner of Lot 193 on Monroe Street; thence northwesterly to the Northwest corner of said Lot 193; thence northwesterly to the Northeast corner of Lot 194 on Quincy Street; thence northeasterly to the Southwest corner of Lot 121 on 6th Avenue East; thence southeasterly to the Southeast corner of said Lot 131; thence northeasterly 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 utility 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 utility easement:

Public alleys described as: Beginning at the Northeast corner of Lot 131 on 6th Avenue East in the Original Town of Topeka, Shawnee County, Kansas; thence southeasterly to the Northwest corner of Lot 133 on 6th Avenue East; thence southwesterly to the Southwest corner of said Lot 133; thence southeasterly to the Southeast corner of Lot 143 on 6th Avenue East; thence southwesterly to the Northeast corner of Lot 193 on Monroe Street; thence northwesterly to the Northwest corner of said Lot 193; thence northwesterly to the Northeast corner of Lot 194 on Quincy Street; thence northeasterly to the Southwest corner of Lot 121 on 6th Avenue East; thence southeasterly to the Southeast corner of said Lot 131; thence northeasterly 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 October 19, 2007 and again on October 26, 2007.

IN THE MATTER OF THE PROPOSED VACATION OF:

Public alleys located north of 200 SE 7th Street and east of 600 SE Quincy Street in the Original Town of Topeka, City of Topeka, Shawnee County, Kansas. **(V07A/7)**
(Council District No. 1)

NOTICE OF PUBLIC HEARING

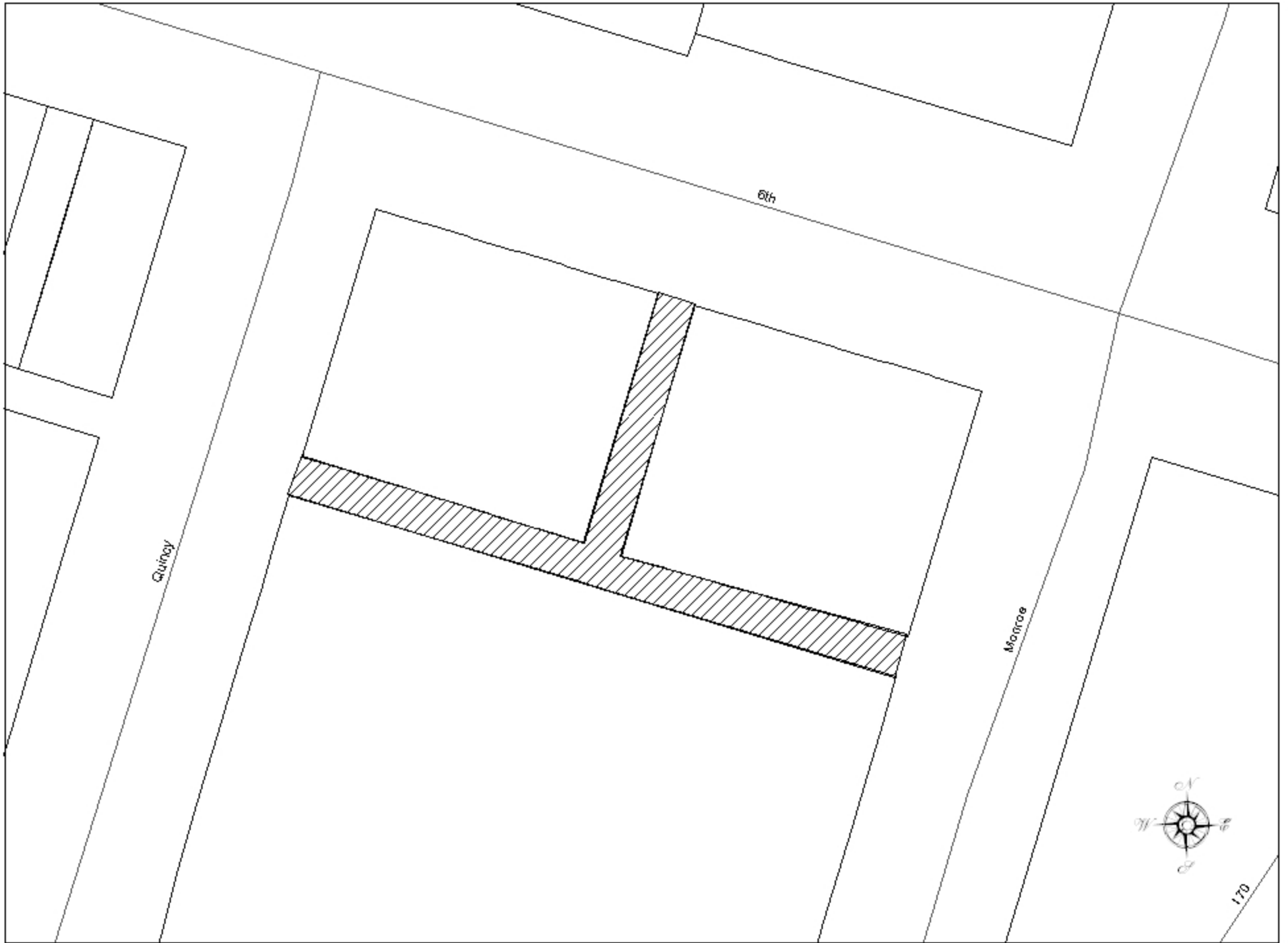
(Pursuant to K.S.A. 12-504 et seq.)

To Whom It May Concern:

Public notice is hereby given that a petition has been filed by Shawnee County, owner of the concerned property which includes two public alley rights-of-way and praying that the right-of-way located on said property be vacated.

The petition will be presented to the Council of the City of Topeka for hearing on November 13, 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**





V07A/7 The Board of County Commissioners of the County of Shawnee, Kansas and Austin Barnwell

AUG 22 2007

TOPEKA PLANNING
DEPARTMENT**TOPEKA PLANNING DEPARTMENT**620 SE Madison Street-3rd Floor
Topeka, Kansas 66607Office: (785) 368-3728
Fax: (785) 368-2535

PLANNING OFFICE USE ONLY	
Date Submitted <u>8-22-2007</u>	Date Advertised
Application No. <u>V87A/7</u>	Date of Public Hearing
TO BE COMPLETED BY CITY CLERK'S OFFICE	
Filing Fee \$ <u>250.00</u>	Receipt No. <u>30397</u>

APPLICATION**City Vacation of Streets, Alleys and Easements**

1. Applicant(s): The Board of County Commissioners of the County of Shawnee, Kansas
2. Applicant's Mailing Address: 200 SE 7th, Room 100
City Topeka State: KS Zip: 66603
3. Telephone: Area Code: 785 No.: 233-8200 ext. 4042
4. Legal description of property requested to be vacated as prepared by the City of Topeka
Department of Public Works:

See attachment "A" (Parcel map of alleyway requested to be vacated)
5. Check type of vacation: Street ☐ Alley ☒ Easement ☐ Other ☐
6. Legal description of property owned by the applicant which adjoins the street, alley or easement to be vacated:
Lots See attachment "B" (Legal Descriptions) Block No.
In Subdivision

Metes and Bounds Description, if unplatted:

RECEIVED
CITY CLERK
2007 AUG 21 A 9 48
TOPEKA, KANSAS

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 ☐

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

Austin Barnwell, 600 SE Quincy St., Topeka, KS 66603

(See attachment "C")

8. Briefly, describe the proposed development of the subject property and your reasons for vacating the property:

Shawnee County would like to assume responsibility for maintaining this alleyway in order to provide improved access to the County employee parking lots served by the alleyway.

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?

Yes

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

No

12. Will the area proposed for vacation create any unique, adverse or undesirable traffic conditions?

No

13. How are adjoining properties used?

Shawnee County Courthouse, Courthouse Employee Parking, BP Gas Station

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:

No

Signature of Applicant(s)

X Theodore Ensley
Theodore D. Ensley
Commission Chair

(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 Jonathan C. Brzon, Assistant Shawnee County Counselor

Street Address 200 SE 7th, Room 100

City Topeka

State KS

Zip Code 66603

Telephone No. (785) 233-8200 x 4042

Fax No. (785) 291-4902

STREET/ALLEY/EASEMENT/SUBDIVISION VACATION

Case No.: V07A/7 Location: Alleys located north of 200 SE 7th Street & east of 600 SE Quincy Street

DEPARTMENTS:

• **Water Division:** X No Objection Objection

• **Engineering:** X No Objection Objection

Comments: There is a sanitary sewer in the east-west alley and maps show a short segment of storm sewer in the east end of the east-west alley. The sanitary sewer on adjoining property and the east-west alley must be retained for public utility purposes as an easement. Although there are no records of public sewers in the north-south alley, there may be other utilities present. Recommend retention of the north-south alley as a public utility easement also.

• **County Refuse:** X No Objection Objection

• **Fire Department:** X No Objection Objection

• **Police Department:** X No Objection Objection

UTILITY COMPANIES:

• **AT&T:** X No Objection Objection

Comments: AT&T currently has cable/facilities in the north-south portion of right-of-way south of SE 6th and cable/facilities located in the west portion of right-of-way between Quincy and Monroe. AT&T would need to maintain a utility easement in the above portions of the alley. Those facilities serve 600 SE Quincy. The east portion of the alley running east-west between Quincy and Monroe is un-used by AT&T.

• **Westar:** X No Objection Objection

Comments: Westar has an underground electrical service that runs from a network vault on the west side of Quincy St. to the east crossing of Quincy St. & along the alley north of 200 SE 7th St. into the south side of the Amoco Station at 600 SE 6th Ave. We also have underground network conductors that run from north to south along the west side of SE Monroe St. & underground street light conductors that run from north to south along the east side of SE Quincy St. Westar would request that an easement be granted to cover the continued operation, maintenance or replacement of any of our facilities that would be affected by the vacation request.

• **Kansas Gas Service:** X No Objection Objection

Comments: Kansas Gas Service agrees to the vacation of the alley as long as a utility easement is created or maintained where existing main is located. No structures or enclosures of any type can be built over the main. Sidewalks, parking lots are acceptable. No change in grade will be allowed that would reduce the cover over the main or make it extremely deep.

• **Cox Communications:** X No Objection Objection

Cindy Johnson, Planner I

October 8, 2007

Total Cost of Project - \$240,519.50
30 units @ \$8,017.32 per unit
Debt service will be paid 100% by Improvement District.

SOURCE OF FUNDING:

100% paid by the Improvement District.

ATTACHMENTS:

[Ordinance](#)

[Public Hearing Notice](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of River Hill Subdivision with piping, manholes, engineering and all other contingencies needed to complete Lateral Sanitary Sewer Improvement Project No. 40858-03, as defined and described in Resolution No. 7526, adopted and approved September 24, 2004.

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

Section 1. For the purpose of paying the cost of piping, manholes, engineering and all other contingencies needed to complete Lateral Sanitary Sewer Improvement Project No. 40858-03, in the City of Topeka, Shawnee County, Kansas, there is hereby levied and assessed a special assessment on all lots and pieces of ground liable therefore.

Said assessments are computed as follows:

A. GENERAL NATURE OF IMPROVEMENT:

To provide sanitary sewer service to the following described area with piping, manholes, engineering and all other contingencies needed for a complete project.

B. IMPROVEMENT DISTRICT:

A tract of land in the southwest and southeast quarters of Section 29, Township 11 south, Range 15 east of the sixth principal meridian, in Shawnee County, Kansas, described as follows:

River Hill Residential, Shawnee County, Kansas
Lots 2 through 15 inclusive, Block A
Lots 1 through 16, inclusive, Block B

C. METHOD OF ASSESSMENT:

On a unit basis for all lots or individual dwelling sites which are included in the described improvement district.

D. TOTAL COST & APPORTIONMENT OF COSTS:

FINAL PROJECT COST = \$240,519.50

Improvement district will pay 100% of the costs

Section 2. The several amounts are apportioned, levied and assessed against each of said lots and pieces of ground according to the benefits to be derived by reason of the aforesaid improvements, (except the interest hereinafter mentioned) as follows:

LATERAL SANITARY SEWER IMPROVMENT PROJECT NO. 40858-03

<u>Parcel Identification Number</u>	<u>Description</u>	<u>Assessment</u>
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RIVER HILL RESIDENTIAL
Block A

0992900002007000	Lot 2	\$8,017.32
0992900002007000	Lot 3	\$8,017.32
0992900002007000	Lot 4	\$8,017.32
0992900002007000	Lot 5	\$8,017.32
0992900002007000	Lot 6	\$8,017.32
0992900002007000	Lot 7	\$8,017.32
0992900002007000	Lot 8	\$8,017.32
0992900002007000	Lot 9	\$8,017.32
0992900002007000	Lot 10	\$8,017.32
0992900002007000	Lot 11	\$8,017.32
0992900002019000	Lot 12	\$8,017.32
0992900002007000	Lot 13	\$8,017.32
0992900002007000	Lot 14	\$8,017.32
0992900002007000	Lot 15	\$8,017.32

73		<u>Block B</u>	
74	0992900002003010	Lot 1	\$8,017.32
75	0992900002003010	Lot 2	\$8,017.32
76	0992900002003010	Lot 3	\$8,017.32
77	0992900002003010	Lot 4	\$8,017.32
78	0992900002003010	Lot 5	\$8,017.32
79	0992900002003010	Lot 6	\$8,017.32
80	0992900002003010	Lot 7	\$8,017.32
81	0992900002003010	Lot 8	\$8,017.32
82	0992900002003010	Lot 9	\$8,017.32
83	0992900002003010	Lot 10	\$8,017.32
84	0992900002003010	Lot 11	\$8,017.32
85	0992900002003010	Lot 12	\$8,017.32
86	0992900002003010	Lot 13	\$8,017.32
87	0992900002003010	Lot 14	\$8,017.32
88	0992900002003010	Lot 15	\$8,017.32
89	0992900002003010	Lot 16	\$8,017.32

90
 91 Section 3. Such assessments with accrued interest are hereby levied concurrent
 92 with general property taxes and shall be payable in twenty (20) equal annual installments;
 93 the first installment to be payable at the time of the first payment of the general property
 94 taxes, following the publication of this ordinance.

95 Section 4. All assessments shall bear interest in an amount not to exceed the
 96 legal rate established by law.

97

Section 5. The owner of any property so assessed may at any time prior to 30 days from the date of publication of this ordinance, pay the whole of the assessment against any lot or parcel with interest accrued to the date of payment, to the City Treasurer.

Section 6. Assessments not paid prior to the date provided in Section 5 hereof, shall be certified, together with interest accrued, or to accrue, by the City Clerk to the County Clerk, and collected in the same manner as other taxes.

Section 7. 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

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

(Published in The Topeka Metro News November 2, 2007)

NOTICE OF PUBLIC HEARING

LATERAL SANITARY SEWER DISTRICT NO. 40858-03

Notice is hereby given that there will be a special meeting of the City Council of the City of Topeka, Shawnee County, Kansas, held on November 13, 2007, at 6:00 P.M., in the Council Chamber 214 E. 8th, for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Lateral Sanitary Sewer District No. 40858-03, authorized by Resolution No. 7526, adopted and approved September 21, 2004.

GENERAL NATURE OF IMPROVEMENT:

To provide sanitary sewer service to the following described area with piping, manholes, engineering, and all other contingencies required for a complete project.

IMPROVEMENT DISTRICT:

A tract of land in the southwest and southeast quarters of Section 29, Township 11 south, Range 15 east of the sixth principal meridian, in Shawnee County, Kansas, described as follows:

Lots 2 through 15 inclusive, Block "A" and Lots 1 through 16 inclusive, Block "B", River Hill Residential, Shawnee County, Kansas.

METHOD OF ASSESSMENT:

On a unit basis for all lots or individual dwelling sites which are included in the described improvement district.

TOTAL COST & APPORTIONMENT OF COSTS:

Total Cost of Project \$240,519.50
100% to the Improvement District
30 units at \$8,017.32 per unit

All of above described territory being situated in the City of Topeka, Shawnee County, Kansas.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City for Topeka to be affixed on October 26, 2007

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

October 2, 2007

+ Back Print

DATE: November 13, 2007

CONTACT PERSON: Robert M. Coffman **DOCUMENT #:**

SECOND PARTY/SUBJECT: Lateral Sanitary Sewer Improvement **PROJECT #:** 40906

CATEGORY/SUBCATEGORY: 018 Public Hearings / 004 Assessments

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

A PUBLIC HEARING for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Lateral Sanitary Sewer District No. 40906, authorized by Resolution No. 7334, adopted and approved April 22, 2003.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for Main and Lateral Sanitary Sewer Improvement Project No. 40906, as defined and described in Resolution No. 7334, adopted and approved April 22, 2003. Final Reading. (Council District No. 4)

(The project will be paid 100% by the Improvement District. Approval would apportion and levy a special assessment for the improvement of Main and Lateral Sanitary Sewer District No. 40906 located along SE 45th Street from SE Maryland easterly to approximately a point 600 feet east of SE California in Marlatte Center Subdivision and Southboro Subdivision.)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

Hearing is to be held in the Council Chambers at 6:00 PM on November 13, 2007. Listen to all concerns/comments in regard to the assessment cost of the project. Close the Hearing and then approve the Ordinance apportioning and levying the special assessments.

BACKGROUND:

The project will provide sanitary sewer service beginning at the northwest corner of Section 28, Township 12 South, Range 16 east of the Sixth P.M., Shawnee County, Kansas; thence easterly on the north line of Section 28 for a distance of 336.73 feet; thence southerly 300.41 feet; thence easterly 145 feet; thence northerly 300.41 feet to the north line of Section 28; thence easterly 180.80 feet; thence southerly 660.78 feet; thence westerly 662.10 feet to the west line of Section 28; thence westerly 50 feet to the southeast corner of Lot 1, Block "A," Marlatte Center Subdivision; thence westerly on the south line of said Lot 1 for a distance of 617.11 feet to the southwest corner of Lot 1, Block "A," Marlatte Center Subdivision; thence northerly on the west line of said Lot 1 and its extension northerly to the south line of Section 20,

Township 12 South, Range 16 east of the Sixth P.M., Shawnee County, Kansas; thence westerly on the south line of said Section 20 to the southwest corner of the southeast quarter of Section 20; thence continuing westerly on the south line of the southwest quarter of said Section 20 to its intersection with the east line of Oak Park Six Subdivision, extended southerly to the south line of said Section 20; thence northerly on the east line of Oak Park Six for a distance of 560 feet; thence easterly parallel with and 560 feet north of the south line of Section 20 to the west line of the southeast quarter of Section 20, Township 12 south, Range 16 east of the Sixth P.M., Shawnee County, Kansas; thence northerly to a point due west of the northwest corner of Lot 16, Block “I,” Southboro Subdivision No. 2; thence easterly 40 feet to the northwest corner of Lot 16, Block “I,” Southboro Subdivision No. 2; thence easterly along the north line of Lots 16 through 9 in said Block “I” to the northeast corner of Lot 9, Block “I” in said subdivision; thence southeasterly to the northwest corner of Lot 11, Block “H,” Southboro Subdivision No. 2; thence easterly to the northeast corner of Lot 10, Block “H” in said subdivision; thence southeasterly to the northwest corner of Lot 19, Block “J” of said subdivision; thence easterly 140 feet to the northeast corner of said Lot 19; thence southerly along the east line of Lots 19 through 13 in Block “J” to the southeast corner of Lot 13, also being the north right of way line of SE 45th Street; thence easterly on the north right of way line of SE 45th Street to the west right of way line of SE California Avenue; thence southerly on an extension of the west right of way line of SE California Avenue to the south line of the southeast quarter of Section 20, Township 12 South, Range 16 east of the Sixth P.M., Shawnee County, Kansas thence easterly on the south line of said Section 20 for a distance of 64.50 feet to the northwest corner of Section 28 and the point of beginning with piping, manholes, engineering, and all other contingencies required for a complete project.

BUDGETARY IMPACT:

TOTAL COST & APPORTIONMENT OF COSTS:

Total Cost of Project: \$327,257.00

Total Square Feet = 2,182,988

Cost Per Square Foot : \$0.14991242

Debt service will be paid 100% by Improvement District

SOURCE OF FUNDING:

100% paid by the Improvement District.

ATTACHMENTS:

[Ordinance](#)

[Public Hearing Notice](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for Main and Lateral Sanitary Sewer Improvement Project No. 40906, as defined and described in Resolution No. 7334, adopted and approved April 22, 2003.

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

Section 1. For the purpose of paying the cost of piping, manholes, engineering and all other contingencies needed to complete the project, the same being Main and Lateral Sanitary Sewer Improvement Project No. 40906, in the City of Topeka, Shawnee County, Kansas, there is hereby levied and assessed a special assessment on all lots and pieces of ground liable therefore. Said assessments are computed as follows:

A. GENERAL NATURE OF IMPROVEMENT:

To provide sanitary sewer service to the following described area with piping, manholes, engineering and all other contingencies needed for a complete project.

B. IMPROVEMENT DISTRICT:

Begin at the northwest corner of Section 28, Township 12 South, Range 16 east of the Sixth P.M., Shawnee County, Kansas; thence easterly on the north line of Section 28 for a distance of 336.73 feet; thence southerly 300.41 feet; thence easterly 145 feet; thence northerly 300.41 feet to the north line of Section 28; thence easterly 180.80 feet; thence southerly 660.78 feet; thence westerly 662.10 feet to the west line of Section 28; thence westerly 50 feet to the southeast corner of Lot 1, Block "A," Marlatte Center Subdivision; thence westerly on the south line of said Lot 1 for a distance of 617.11 feet to the southwest corner of Lot 1, Block "A," Marlatte Center Subdivision; thence northerly on the west line of said Lot 1 and its extension northerly to the south line of Section 20, Township 12 South, Range 16 east of the Sixth P.M., Shawnee County, Kansas; thence westerly on the south line of said Section 20 to the southwest corner of the southeast quarter of Section 20; thence continuing westerly on the south

line of the southwest quarter of said Section 20 to its intersection with the east line of Oak Park Six Subdivision, extended southerly to the south line of said Section 20; thence northerly on the east line of Oak Park Six for a distance of 560 feet; thence easterly parallel with and 560 feet north of the south line of Section 20 to the west line of the southeast quarter of Section 20, Township 12 south, Range 16 east of the Sixth P.M., Shawnee County, Kansas; thence northerly to a point due west of the northwest corner of Lot 16, Block "I," Southboro Subdivision No. 2; thence easterly 40 feet to the northwest corner of Lot 16, Block "I," Southboro Subdivision No. 2; thence easterly along the north line of Lots 16 through 9 in said Block "I" to the northeast corner of Lot 9, Block "I" in said subdivision; thence southeasterly to the northwest corner of Lot 11, Block "H", Southboro Subdivision No. 2; thence easterly to the northeast corner of Lot 10, Block "H" in said subdivision; thence southeasterly to the northwest corner of Lot 19, Block "J" of said subdivision; thence easterly 140 feet to the northeast corner of said Lot 19; thence southerly along the east line of Lots 19 through 13 in Block "J" to the southeast corner of Lot 13, also being the north right of way line of SE 45th Street; thence easterly on the north right of way line of SE 45th Street to the west right of way line of SE California Avenue; thence southerly on an extension of the west right of way line of SE California Avenue to the south line of the southeast quarter of Section 20, Township 12 South, Range 16 east of the Sixth P.M., Shawnee County, Kansas; thence easterly on the south line of said Section 20 for a distance of 64.50 feet to the northwest corner of Section 28 and the point of beginning.

C. METHOD OF ASSESSMENT:

On a square foot of area for all lots or individual dwelling sites which make up the improvement district.

D. TOTAL COST & APPORTIONMENT OF COSTS:

FINAL PROJECT COST = \$327,257.00

Improvement district will pay 100% of the costs

Section 2. The several amounts are apportioned, levied and assessed against

each of said lots and pieces of ground according to the benefits to be derived by reason of the aforesaid improvements, (except the interest hereinafter mentioned) as follows:

MAIN AND LATERAL SANITARY SEWER IMPROVEMENT PROJECT NO. 40906

Parcel Identification Number	Description	Assessment
<u>SECTION 20-12-16</u>		
1342003004037000	The South half of: West one-half of the Southeast quarter of the Southwest quarter of section 20-12-16.	\$53,844.34
1342003004039000	The East half of the Southeast quarter of the Southwest quarter of Section 20-12-16 less the following: Beginning 170' West of the Southeast Corner of the Southwest quarter; thence West 200'; thence North 326.7'; thence East 200'; thence South 326.7' to the point of beginning less R/W.	\$44,798.63
1342003004038000	Beginning 170' West of the Southeast Corner of the Southwest quarter; thence West 200'; thence North 326.7'; thence East 200'; thence South 326.7'; to the point of beginning less R/W.	\$9,045.72
<u>SOUTHBORO SUBDIVISION NO. 9</u> <u>BLOCK E</u>		
1342004015020000	Lot 1	\$1,763.12
1342004015019000	Lot 2	\$1,306.04
1342004015018000	Lot 3	\$1,763.12
1342004015017000	Lot 4	\$2,416.14
1342004015016000	Lot 5	\$2,677.44
1342004015015000	Lot 6	\$2,546.71
1342004015014000	Lot 7	\$2,612.07
1342004015013000	Lot 8	\$1,959.06
1342004015012000	Lot 9	\$2,873.22

1342004015011000	Lot 10	\$2,677.44
1342004015010000	Lot 11	\$2,873.22
1342004015009000	Lot 12	\$2,416.14
1342004015008000	Lot 13	\$3,461.03
1342004015007000	Lot 14	\$2,024.42

SOUTHBORO SUBDIVISION NO. 9
BLOCK F

1342004014018000	Lot 10	\$1,959.06
1342004014017000	Lot 11	\$2,089.63
1342004014016000	Lot 12	\$2,024.42
1342004014015000	Lot 13	\$1,959.06
1342004014014000	Lot 14	\$2,024.42
1342004014013000	Lot 15	\$1,763.12
1342004014012000	Lot 16	\$1,697.91
1342004014011000	Lot 17	\$1,697.91
1342004014010000	Lot 18	\$1,959.06

SOUTHBORO SUBDIVISION NO. 9
BLOCK D

1342004015004010	Lot 1	\$1,632.55
1342004015004000	Lot 2	\$1,697.91
1342004015003000	Lot 3	\$1,828.48
1342004015002000	Lot 4	\$2,481.50
1342004015001000	Lot 5	\$3,918.11
1342004015005000	Lot 15	\$2,636.51

SOUTHBORO SUBDIVISION NO. 9
BLOCK C

1342004011013000	Lot 8, Less North 45'.	\$387.52
1342004011012000	Lot 9	\$1,937.62
1342004011011000	Lot 10	\$1,937.62
1342004011010000	Lot11, Less North 45'.	\$387.67

SOUTHBORO SUBDIVISION NO. 9
BLOCK B

1342004016012020	Part of Lot 1; Beginning 70.11' North of SW Corner of Lot 1; thence North 50.57'; thence East 194.8'; thence South 31.89'; thence West 195.11' to point of beginning.	\$1,338.57
1342004016012010	Part of Lot 1; Beginning at the Southwest Corner of Lot 1; thence North 70.11'; thence East 195.11'; thence South 70.25'; thence West 195.08' to point of beginning.	\$2,052.60
1342004016012000	Lot 2	\$2,024.42
1342004016011010	Lot 3	\$1,959.06
1342004016011000	Lot 4	\$1,828.48
1342004016010000	Lot 5	\$1,697.91
1342004016009000	Lot 6	\$1,697.91
1342004016008000	Lot 7	\$1,697.91
1342004016007000	Lot 8	\$1,637.34
1342004016006000	Lot 9, Less North 18'.	\$1,259.11

SOUTHBORO SUBDIVISION NO. 2
BLOCK M

1342004015006000	Lot 14	\$23,667.87
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MARLATTE CENTER SUBDIVISION
BLOCK A

1392901001001000	Lot 1, Less beginning 290.93' South and 50' West of NW Corner of Northeast quarter; thence West 218'; thence North 251' to South line of 45 th Street; thence easterly along R/W line of 45 th Street for a distance of 178.63'; thence southeasterly 42.57'; thence Southerly 211.49' to point of beginning.	\$49,210.40
1392901001001010	Beginning 290.93' South and 50' West of Northeast Corner of Northeast quarter; thence West 218'; thence North 251' to South line of 45 th Street; thence easterly along R/W for 178.63'; thence southeasterly 42.57'; thence southerly 211.49' to point of beginning.	\$7,759.92

SECTION 28-12-16

1382802001001050	Begin at Northwest Corner of Northwest quarter; thence East 336.73'; thence South 300.41'; thence East 145'; thence North 300.41'; thence East 180.80'; thence South 660.78'; thence West 662.1'; thence North 660.27' to point of beginning, less R/W.	\$52,347.62
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89
90 Section 3. Such assessments with accrued interest are hereby levied concurrent
91 with general property taxes and shall be payable in twenty (20) equal annual installments;
92 the first installment to be payable at the time of the first payment of the general property
93 taxes, following the publication of this ordinance.

94 Section 4. All assessments shall bear interest in an amount not to exceed the
95 legal rate established by law.

96 Section 5. The owner of any property so assessed may at any time prior to 30
97 days from the date of publication of this ordinance, pay the whole of the assessment
98 against any lot or parcel with interest accrued to the date of payment, to the City Treasurer.

104 PASSED and APPROVED by the City Council_____.

William W. Buntin, Mayor

Brenda Younger, City Clerk

(Published in The Topeka Metro News November 2, 2007)

NOTICE OF PUBLIC HEARING

MAIN AND LATERAL SANITARY SEWER DISTRICT NO. 40906

Notice is hereby given that there will be a special meeting of the City Council of the City of Topeka, Shawnee County, Kansas, held on November 13, 2007, at 6:00 P.M., in the Council Chamber 214 E. 8th, for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Lateral Sanitary Sewer District No. 40906, authorized by Resolution No. 7334, adopted and approved April 22, 2003.

GENERAL NATURE OF IMPROVEMENT:

To provide sanitary sewer service to the following described area with piping, manholes, engineering, and all other contingencies required for a complete project.

IMPROVEMENT DISTRICT:

Begin at the northwest corner of Section 28, Township 12 South, Range 16 east of the Sixth P.M., Shawnee County, Kansas; thence easterly on the north line of Section 28 for a distance of 336.73 feet; thence southerly 300.41 feet; thence easterly 145 feet; thence northerly 300.41 feet to the north line of Section 28; thence easterly 180.80 feet; thence southerly 660.78 feet; thence westerly 662.10 feet to the west line of Section 28; thence westerly 50 feet to the southeast corner of Lot 1, Block "A," Marlatte Center Subdivision; thence westerly on the south line of said Lot 1 for a distance of 617.11 feet to the southwest corner of Lot 1, Block "A," Marlatte Center Subdivision; thence northerly on the west line of said Lot 1 and its extension northerly to the south line of Section 20, Township 12 South, Range 16 east of the Sixth P.M., Shawnee County, Kansas; thence westerly on the south line of said Section 20 to the southwest corner of the southeast quarter of Section 20; thence continuing westerly on the south line of the southwest quarter of said Section 20 to its intersection with the east line of Oak Park Six Subdivision, extended southerly to the south line of said Section 20: thence northerly on the east line of Oak Park Six for a distance of 560 feet; thence easterly parallel with and 560 feet north of the south line of Section 20 to the west line of the southeast quarter of Section 20, Township 12 south, Range 16 east of the Sixth P.M., Shawnee County, Kansas; thence northerly to a point due west of the

northwest corner of Lot 16, Block "I," Southboro Subdivision No. 2; thence easterly 40 feet to the northwest corner of Lot 16, Block "I," Southboro Subdivision No. 2; thence easterly along the north line of Lots 16 through 9 in said Block "I" to the northeast corner of Lot 9, Block "I" in said subdivision; thence southeasterly to the northwest corner of Lot 11, Block "H," Southboro Subdivision No. 2; thence easterly to the northeast corner of Lot 10, Block "H" in said subdivision; thence southeasterly to the northwest corner of Lot 19, Block "J" of said subdivision; thence easterly 140 feet to the northeast corner of said Lot 19; thence southerly along the east line of Lots 19 through 13 in Block "J" to the southeast corner of Lot 13, also being the north right of way line of SE 45th Street; thence easterly on the north right of way line of SE 45th Street to the west right of way line of SE California Avenue; thence southerly on an extension of the west right of way line of SE California Avenue to the south line of the southeast quarter of Section 20, Township 12 South, Range 16 east of the Sixth P.M., Shawnee County, Kansas thence easterly on the south line of said Section 20 for a distance of 64.50 feet to the northwest corner of Section 28 and the point of beginning.

METHOD OF ASSESSMENT:

On a square foot of area basis for all lots, or individual dwelling sites which make up the improvement district.

TOTAL COST & APPORTIONMENT OF COSTS:

Total Cost of Project \$327,257.00

100% to the Improvement District

Total Square Foot of Area 2,182,988

Cost Per Square Foot \$0.14991242

All of above described territory being situated in the City of Topeka, Shawnee County, Kansas.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City for Topeka to be affixed on October 26, 2007.

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

October 2, 2007

+ Back Print

DATE: November 13, 2007

CONTACT PERSON: Jeff Hunt **DOCUMENT #:**

SECOND PARTY/SUBJECT: Sanitary Sewer Improvement **PROJECT #:** 40915-02

CATEGORY/SUBCATEGORY: 018 Public Hearings / 004 Assessments

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

A PUBLIC HEARING for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Sanitary Sewer Improvement Project No. 40915-02, authorized by Resolution No. 7592, adopted and approved March 8, 2005.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of a portion of Woodglen Subdivision with piping, manholes, engineering and all other contingencies needed to complete Sanitary Sewer Improvement Project No. 40915-02, as defined and described in Resolution No. 7592, adopted and approved March 8, 2005. Final Reading. (Council District No. 4)

(The project will be paid 100% by the Improvement District. Approval would apportion and levy a special assessment for the improvement of Sanitary Sewer Improvement District No. 40915-02 located on SE Greenwood Court, SE Spruce Court, and SE Baldwin, all north of 22nd Terrace in Woodglen Subdivision.)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

Hearing is to be held in the Council Chambers at 6:00 PM on November 13, 2007. Listen to all concerns/comments in regard to the assessment cost of the project. Close the Hearing and then approve the Ordinance apportioning and levying the special assessments.

BACKGROUND:

The project will provide sanitary sewer service to Lots 9 through 32, Block "A", all in the Woodglen Subdivision with piping manholes, engineering and all other contingencies required for a complete project.

BUDGETARY IMPACT:

TOTAL COST & APPORTIONMENT OF COSTS:
Total Cost of Project - \$73,170.85

Item #18

Total Square Feet = 278,569
Cost Per Square Feet = \$0.26266685
Debt service will be paid 100% by the Improvement District.

SOURCE OF FUNDING:

100% paid by the Improvement District.

ATTACHMENTS:

[Ordinance](#)

[Public Hearing Notice](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of a portion of Woodglen Subdivision with piping, manholes, engineering and all other contingencies needed to complete Sanitary Sewer Improvement Project No. 40915-02, as defined and described in Resolution No. 7592, adopted and approved March 8, 2005.

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

Section 1. For the purpose of paying the cost of piping, manholes, engineering and all other contingencies needed to complete the project, the same being Sanitary Sewer Improvement Project No. 40915-02, in the City of Topeka, Shawnee County, Kansas, there is hereby levied and assessed a special assessment on all lots and pieces of ground liable therefore. Said assessments are computed as follows:

A. GENERAL NATURE OF IMPROVEMENT:

To provide sanitary sewer service to the following described area with piping, manholes, engineering and all other contingencies needed for a complete project.

B. IMPROVEMENT DISTRICT:

Lots 9 through 32, Block A, all in the Woodglen Subdivision, City of Topeka, Shawnee County, Kansas.

C. METHOD OF ASSESSMENT:

On a square foot of area basis for all lots, parcels or tracts which are included in the described improvement district.

D. TOTAL COST & APPORTIONMENT OF COSTS:

FINAL PROJECT COST = \$73,170.85

Improvement district will pay 100% of the costs

Section 2. The several amounts are apportioned, levied and assessed against each of said lots and pieces of ground according to the benefits to be derived by reason of the aforesaid improvements, (except the interest hereinafter mentioned) as follows:

SANITARY SEWER IMPROVEMENT PROJECT NO. 40915-02

<u>Parcel Identification Number</u>	<u>Description</u>	<u>Assessment</u>
WOODGLEN SUBDIVISION <u>BLOCK A</u>		
1311102001029000	Lot 9	\$3,194.03
1311102001028000	Lot 10	\$2,827.08
1311102001027000	Lot 11	\$2,919.54
1311102001026000	Lot 12	\$3,128.89
1311102001025000	Lot 13	\$3,129.94
1311102001024000	Lot 14	\$2,937.93
1311102001023000	Lot 15	\$2,827.08
1311102001022000	Lot 16	\$3,194.03
1311102001021000	Lot 17	\$3,194.03
1311102001020000	Lot 18	\$2,827.08
1311102001019000	Lot 19	\$2,937.93
1311102001018000	Lot 20	\$3,149.38
1311102001017000	Lot 21	\$3,150.43
1311102001016000	Lot 22	\$2,956.32
1311102001015000	Lot 23	\$2,827.08
1311102001014000	Lot 24	\$3,194.03

71	1311102001013000	Lot 25	\$3,194.03
72	1311102001012000	Lot 26	\$2,827.08
73	1311102001011000	Lot 27	\$2,956.32
74	1311102001010000	Lot 28	\$3,169.86
75	1311102001009000	Lot 29	\$3,306.45
76	1311102001008000	Lot 30	\$3,088.17
77	1311102001007000	Lot 31	\$2,940.56
78	1311102001006000	Lot 32	\$3,293.58

79
80 Section 3. Such assessments with accrued interest are hereby levied concurrent
81 with general property taxes and shall be payable in twenty (20) equal annual installments;
82 the first installment to be payable at the time of the first payment of the general property
83 taxes, following the publication of this ordinance.

84 Section 4. All assessments shall bear interest in an amount not to exceed the
85 legal rate established by law.

86 Section 5. The owner of any property so assessed may at any time prior to 30
87 days from the date of publication of this ordinance, pay the whole of the assessment
88 against any lot or parcel with interest accrued to the date of payment, to the City Treasurer.

89 Section 6. Assessments not paid prior to the date provided in Section 5 hereof,
90 shall be certified, together with interest accrued, or to accrue, by the City Clerk to the
91 County Clerk, and collected in the same manner as other taxes.

92 Section 7. This ordinance shall take effect and be in force from and after its
93 passage, approval and publication in the official city newspaper.

94

PASSED and APPROVED by the City Council_____.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

(Published in The Topeka Metro News November 2, 2007)

NOTICE OF PUBLIC HEARING

SANITARY SEWER IMPROVEMENT PROJECT NO. 40915-02

Notice is hereby given that there will be a special meeting of the City Council of the City of Topeka, Shawnee County, Kansas, held on November 13, 2007, at 6:00 P.M., in the Council Chamber 214 E. 8th, for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Sanitary Sewer Improvement Project No. 40915-02, authorized by Resolution No. 7592, adopted and approved March 8, 2005.

GENERAL NATURE OF IMPROVEMENT:

To provide sanitary sewer service to the following described area with piping, manholes, engineering and all other contingencies required for a complete project.

IMPROVEMENT DISTRICT:

Lots 9 through 32, Block A, all in the Woodglen Subdivision, City of Topeka, Shawnee County, Kansas

METHOD OF ASSESSMENT:

On a square foot of area basis for all lots, parcels or tracts which are included in the described improvement district.

TOTAL COST & APPORTIONMENT OF COSTS:

Final Project Cost = \$73,170.85

Total Square Feet = 278,569

Cost Per Square Feet = \$0.26266685

Paid 100% by the Improvement District

All of above described territory being situated in the City of Topeka, Shawnee County, Kansas.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City for Topeka to be affixed on October 26, 2007.

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

November 7, 2007

+ Back Print

DATE: November 13, 2007

CONTACT PERSON: Jim Langford **DOCUMENT #:**

SECOND PARTY/SUBJECT: Capital Improvement Program **PROJECT #:**

CATEGORY/SUBCATEGORY 020 Resolutions / 005 Miscellaneous

CIP PROJECT: No

ACTION OF COUNCIL: 11/06/07 Defer one week. **JOURNAL #:** 07

PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., authorizing and adopting the 2008-2012 Capital Improvement Program for the City of Topeka, Kansas. *(Deferred from the meeting of November 6, 2007.)*

(The resolution approves the 2008-2012 Capital Improvement Program.)

POLICY ISSUE:

To determine which projects should be included in the 2008-2012 Capital Improvement Plan.

STAFF RECOMMENDATION:

Approve the resolution.

BACKGROUND:

The City passes a five-year CIP annually in accordance with the Capital Improvement Policy.

BUDGETARY IMPACT:

Approval of the CIP alone has no budgetary impact. The CIP is a long-term plan that represents City priorities for outyear capital projects. The first two years of the CIP represent the Capital Improvement Budget (CIB). Individual projects in the CIB can be brought before the City Council for approval of a project budget and ordinance or resolution.

SOURCE OF FUNDING:

Projects are funded by a variety of sources, including utility operating funds, the General Improvement Fund, federal funds, transfers from the General Fund, revenue bonds, general obligation (GO) bonds, and other sources. Debt service for the revenue bonds is generally paid from the utility funds, while GO debt is serviced from the Bond and Interest Fund.

ATTACHMENTS:

[Resolution adopting 2008-12 CIP](#)

[2008-2012 CIP](#)

Item #19

RESOLUTION NO. _____

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., authorizing and adopting the 2008-2012 Capital Improvement Program for the City of Topeka, Kansas.

WHEREAS, the 2008-2012 Capital Improvement Program has been prepared by staff; and

WHEREAS, the City Manager has considered and recommends said Program.

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Topeka, Kansas, approves and adopts the 2008-2012 Capital Improvement Program, as contained in Attachment "A," for the purpose of preliminary planning, long-range financial implications and analysis leading to the prioritization of projects to be included in the respective Capital Budget for the succeeding years.

BE IT FURTHER RESOLVED, that prior to the initiation and commencement of preliminary plans, acquisition of land or right-of-way, or other activities requiring the use of resources for any proposed project herein, the City Manager and, if appropriate, City Council shall approve and authorize the same.

ADOPTED and APPROVED by City Council _____.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

2008 - 2012 Capital
Improvement ProgramCity Manager
2008City Manager
2009City Manager
2010City Manager
2011City Manager
2012**Enterprise Funded Projects****Pub Wrks/Water Pollution Control Fund**

Rehab Oakland Plant Phase 2	7,243,243	-	-	-	-
Deer Creek Force Main	4,581,500	-	-	-	-
50th & Kendall Pump Station	-	-	-	-	-
N Topeka Distributed Control Sys.	1,000,000	-	-	-	-
Inflow/Infiltration correction Prg.	700,000	700,000	700,000	700,000	700,000
SKRPS Project	500,000	4,500,000	-	-	-
Southwest Interceptor	150,000	1,350,000	-	-	-
Sewer Service Extension	-	-	1,000,000	1,000,000	1,000,000
Grant/Jefferson Pump Station Rehab	-	800,000	1,800,000	10,000,000	-
Rehab/Replace Adams Interceptor	-	-	300,000	4,000,000	4,000,000
Rehab/Replace Pump Stations	-	-	-	1,000,000	1,000,000
N Topeka Pump Station	1,000,000	-	-	-	5,000,000
New & Rehab Sanitary Sewer	-	-	-	-	-
Heartland Park Service Extension	-	-	-	-	1,800,000
Subtotal Water Pollution Control	15,174,743	7,350,000	3,800,000	16,700,000	13,500,000

Public Works/Stormwater Fund

Septic Tank Elimination Program	1,000,000	1,000,000	600,000	-	-
Hwy 24 Storm Project	500,000	500,000	-	-	-
Source Water Protection "Wanamaker Wetlands"	300,000	300,000	400,000	-	-
Furman Road Wetland	500,000	-	-	-	-
Retrofit/New Storm Sewer System	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
Levee Work	200,000	200,000	700,000	1,650,000	3,300,000
Subtotal Stormwater	3,500,000	3,000,000	2,700,000	2,650,000	4,300,000

Public Works/Water Fund

Heartland Park Water Line Extension	-	-	-	-	-
College Hill Redevelopment	-	-	-	-	-
Main Replacement Program	-	-	-	-	-
California - 21st to 34th, Part A in 2007 is for California from 29th to 34th	-	-	-	-	-
Routine Mains, Valves, Etc.	-	-	-	-	-
Chemical Feed System at the WTP 07	-	-	-	-	-
Water Treatment Plant Rehabilitation	2,500,000	2,500,000	-	-	-
Indian Hills Rd-33d to 41st, E to Sherwood Tower	1,325,000	-	-	-	-
Portage Route - Water Treatment Plant	300,000	-	-	-	-
Skyline Dr-37th & Fairlawn to 41st and Wanamaker	120,000	980,000	-	-	-
California from 33rd to 41st Street	105,000	860,000	-	-	-
Reo -Kansas Ave to Topeka Blvd	67,000	483,000	-	-	-
17th & Belle Pressure Improvement	28,000	222,000	-	-	-
Burlingame, 49th to 57th, E to Tpk Blvd	-	580,000	1,500,000	1,913,000	-
Croco Rd 36th to North of 45th	-	110,000	1,057,000	-	-
Berryton Rd 50th to 53rd	-	-	218,000	-	-
34th & California to 29th & Golden	-	-	275,000	-	-
29th Street - Golden to Granger	-	-	275,000	-	-
Fairlawn, Skyline Dr to 53d, E to Burl.	-	-	80,000	590,000	-

2008 - 2012 Capital Improvement Program	City Manager 2008	City Manager 2009	City Manager 2010	City Manager 2011	City Manager 2012
45th St from Fairlawn to Gage	-	-	-	590,000	-
12th St from Monroe to California	-	-	215,000	2,025,000	-
Croco Rd from 29 to 36	-	-	-	1,167,000	-
Fairlawn Booster St-New East Pump	-	-	-	407,000	-
W. Elevated Tank on Indian Hills Rd	-	-	-	435,000	5,110,000
Disinfection Modification at WTP	-	-	-	-	2,988,200
California-12th to 6th to Market	-	-	-	140,000	1,049,000
41st & Cal E. to W. Edge and so. to 45th	-	-	-	-	1,064,000
Kirkclawn Booster St-Modify Pump Units	-	-	-	-	320,000
Warehouse - Water Treatment Plt	-	-	-	-	1,180,000
Chemical Feed System at the WTP 08	-	-	-	-	-
MacVicar 29th to 37th & Burlingame	-	-	-	-	-
Rochester Campdoras to 43 to N 46th	-	-	-	-	-
Crane Topeka Bridge E to Jefferson	-	-	-	-	-
6th from Market to Norwood	-	-	-	-	-
Fairlawn 45 to 53 East to Burlingame	-	-	-	-	-
HWY 75 from Westgate Bridge to Furman and HWY24	-	-	-	-	-
5th & Norwood Booster Station	-	-	-	-	-
S. Elevated Tank-65th and Morrill Rd	-	-	-	-	-
Morrill Rd from New Tower to 69th	-	-	-	-	-
Hiway 75-57th St S. to New Tank	-	-	-	-	-
Kansas Ave-Gordon to Soldier	-	-	-	-	-
Subtotal Water	4,445,000	5,735,000	3,620,000	7,267,000	11,711,200

Sub-Total Enterprise Fund	23,119,743	16,085,000	10,120,000	26,617,000	29,511,200
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General Improvement Fund

Housing & Neighborhood Dev.

Affordable Housing Projects	200,000	200,000	200,000	200,000	200,000
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Police Department

Fleet Replacement Vehicles	-	650,000	650,000	650,000	650,000
Radios: Base, Mobile, and Portable	-	-	2,350,000	-	-

Fire Department

Lease Pmt. on Breathing Apparati	100,000	100,000	100,000	-	-
Fleet Replacement Vehicles	353,850	750,000	750,000	790,000	820,000
Digital Mobile and Portable Radios	-	-	710,000	-	-

Zoo

Zoo Infrastructure	-	50,000	50,000	50,000	50,000
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City Wide Projects (except utilities)

ERP Purchase Payment	-	643,000	643,000	643,000	643,000
Rehabilitation and Repair for City Facilities	-	300,000	350,000	500,000	500,000
PW-Sidewalk Repair 50-50	25,000	35,000	35,000	35,000	35,000
City Wide Security	-	-	-	-	-
All Other Projects and Expenses	446,150	-	-	-	-

Sub-Total General Improvement Fund	1,125,000	2,728,000	5,838,000	2,868,000	2,898,000
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**2008 - 2012 Capital
Improvement Program**

City Manager
2008

City Manager
2009

City Manager
2010

City Manager
2011

City Manager
2012

Other Revenue Funded

Public Works/Transportation

Elevation Parkway--Phase I

5,800,000

-

-

-

-

Elevation Parkway--Phase II

-

5,200,000

-

-

-

Heartland Park

Replace concrete on drag strip

-

-

-

-

-

Modification to road course

-

-

-

-

-

Zoo

African Canid Exhibit

-

-

-

-

-

African Primate/Bird Exhibit

-

-

-

-

-

Animal Kingdom/Hertpetarium

1,000,000

-

-

-

-

Creatures of the Night

-

675,000

-

-

-

Sub-Total Other Revenue

6,800,000

5,875,000

-

-

-

2008 - 2012 Capital
Improvement ProgramCity Manager
2008City Manager
2009City Manager
2010City Manager
2011City Manager
2012**GO Bonded Projects****Fire Department**

Refurbish Stations 1, 6 and 7	318,240	-	-	-	-
Build Fire Station #13 (6th & Fairlawn)	2,500,000	-	-	-	-
Refurbish Station #11*	-	-	-	-	-
Refurbish Stations 3, 9 and 11	-	265,200	-	-	-
Refurbish Station #2*	-	-	-	-	-
Build Fire Station --South	-	-	-	-	150,000
Subtotal	2,818,240	265,200	-	-	150,000

Police Department

	-	-	-	-	-
Subtotal	-	-	-	-	-

Neighborhoods/Citywide

Neighborhood Infrastructure	1,400,000	1,400,000	1,400,000	1,400,000	1,400,000
Heartland Park Phase II	-	-	-	-	-
Washburn-Lane TIF District	-	-	-	-	-
College Hill Parking Lot	-	-	-	-	-
City Wide Facilities ADA	519,000	-	-	-	-
Washburn Lane Parkway	-	100,000	-	-	-
Citywide Neighborhood Infrastructure	-	-	598,000	590,000	595,000
Wayfinding Signs	-	-	-	-	-
Subtotal	1,919,000	1,500,000	1,998,000	1,990,000	1,995,000

Signals

STP Safety Projects	78,000	120,000	120,000	185,000	185,000
Signals Replacement	620,000	640,000	640,000	640,000	640,000
Traffic Controller Upgrade	102,400	102,400	102,400	-	-
Subtotal	800,400	862,400	862,400	825,000	825,000

Streets

California: 29th to 33rd	-	-	-	-	-
Lower Silver Lake Rd over UP Railroad	-	-	-	-	-
ADA Street Curb Repair	500,000	500,000	500,000	500,000	360,000
6th St. Golden to Maket	-	-	-	-	-
Ped. Walkway on Calif. @ Bridge	-	-	-	-	-
SW 10th Sidewalk-Meadow to Civitan	250,000	-	-	-	-
SW 29th Street and Fairlawn Rd	150,000	500,000	-	-	-
California: 33rd to 37th	150,000	2,108,400	-	-	-
California: 37th to 41st	-	-	2,104,000	-	-
US HWY 24 and Topeka Blvd	-	-	1,500,000	-	-
California: 41st to 45th	-	240,000	120,000	2,840,000	-
Wanamaker Rd: 29th to 33rd	-	-	250,000	100,000	3,050,000
Wanamaker Rd: 33rd to 37th	-	-	-	250,000	100,000
SW 6th Street - Gage to Westchester	-	-	-	-	300,000
Subtotal	1,050,000	3,348,400	4,474,000	3,690,000	3,810,000

**2008 - 2012 Capital
Improvement Program**

	City Manager 2008	City Manager 2009	City Manager 2010	City Manager 2011	City Manager 2012
Bridges					
Topeka Blvd. Over Soldier Cutoff	157,040	-	-	-	-
E 10th St. Bridge over Deer Creek	35,000	186,000	-	-	-
Bridge SW 49th W or Topeka Blvd	-	84,000	70,000	286,000	-
Bridge Overlay on SE 21st Street	-	-	-	-	300,000
Subtotal	192,040	270,000	70,000	286,000	300,000
Parks & Recreation					
Trail Development	100,000	100,000	100,000	100,000	100,000
Playground Equipment	-	100,000	100,000	100,000	100,000
Central Park Center ADA Renovation	-	-	-	-	-
Golf Course Pump Station (NEW)	125,000	-	-	-	-
Gage Park Playland Renovation	315,000	-	-	-	-
Water Spray Park - Jackson Park	250,000	-	-	-	-
Outdoor Sport Court Resurfacing	-	-	-	-	-
Ballfield Lighting (Phase 2)	-	444,000	-	-	-
CC Window and Door Replacement	-	269,200	332,500	-	-
Bandshell Replacement	-	125,000	-	-	-
Helen Hocker Theater Office & Classroom (NEW)	-	-	400,000	-	-
Gage Park ADA Walkways	-	-	150,000	-	150,000
Oakland Center Gym Floor Replace.	-	-	110,000	-	-
Parks System Security Lightning	-	-	210,000	-	-
Gage Park Victorian Lighting (Phase 1)	-	-	255,000	-	-
Park Restrooms - B Shunga, M Palm	-	-	-	308,100	-
Gage Park Snyders' Cabin Shelter	-	-	-	614,800	-
Gage Park Accessible Ball Field (NEW)	-	-	-	291,900	-
Garfield Center Gym Floor Replace	-	-	-	112,900	-
Park Maintenance Building	-	-	-	250,000	-
Water Spray Park – Crestview Park	-	-	-	-	843,700
Kossover Tennis Center Courts Resurfacing (NEW)	-	-	-	-	-
Westlake Shelterhouse Renovation	-	-	-	456,300	-
Little Russia Park (Phase 1)	-	-	-	-	-
Subtotal	790,000	1,038,200	1,657,500	2,234,000	1,193,700
Zoo					
Australian Down Under Adventure	-	-	-	600,000	-
Indoor Lowland Gorilla Exhibit	-	-	-	-	-
Upgrade HVAC Tropical Rain Forest	150,000	-	-	-	-
Tropical Rain Forest Roof	-	-	-	-	1,500,000
Animals and Man Roof Replacement	-	-	-	150,000	-
Animal Quarantine Facility Phase II	-	-	-	-	-
Subtotal	150,000	-	-	750,000	1,500,000
Subtotal GO Bond Projects	7,719,680	7,284,200	9,061,900	9,775,000	9,773,700
Contingency	-	-	-	500,000	500,000
TOTAL GO Bond PROJECTS	7,719,680	7,284,200	9,061,900	10,275,000	10,273,700
Total Annual Target	10,275,000	10,275,000	10,275,000	10,275,000	10,275,000
Difference Target to Subtotal	2,555,320	2,990,800	1,213,100	-	1,300
Running Total	(4,203,245)	(1,212,445)	655	NA	NA
Total CIP	38,764,423	31,972,200	25,019,900	39,760,000	42,682,900

**2008 - 2012 Capital
Improvement Program****Other
Source****Enterprise Funded Projects****Pub Wrks/Water Pollution Control Fund**

Rehab Oakland Plant Phase 2	SRF Loan
Deer Creek Force Main	SRF Loan
50th & Kendall Pump Station	
N Topeka Distributed Control Sys.	Operations
Inflow/Infiltration correction Prg.	Operations
SKRPS Project	SRF Loan
Southwest Interceptor	SRF Loan
Sewer Service Extension	Operations
Grant/Jefferson Pump Station Rehab	Rev Bond
Rehab/Replace Adams Interceptor	Rev Bond
Rehab/Replace Pump Stations	RB--increase fees
N Topeka Pump Station	Rev Bond
New & Rehab Sanitary Sewer	Operations
Heartland Park Service Extension	RB--increase fees
Subtotal Water Pollution Control	

Public Works/Stormwater Fund

Septic Tank Elimination Program	Operations
Hwy 24 Storm Project	Operations
Source Water Protection "Wanamaker Wetlands"	Operations
Furman Road Wetland	Operations
Retrofit/New Storm Sewer System	Operations
Levee Work	Operations
Subtotal Stormwater	

Public Works/Water Fund

Heartland Park Water Line Extension	RB--increase fees
College Hill Redevelopment	RB-Water
Main Replacement Program	RB-Water
California - 21st to 34th, Part A in 2007 is for California from 29th to 34th	
Routine Mains, Valves, Etc.	
Chemical Feed System at the WTP 07	
Water Treatment Plant Rehabilitation	
Indian Hills Rd-33d to 41st, E to Sherwood Tower	
Portage Route - Water Treatment Plant	
Skyline Dr-37th & Fairlawn to 41st and Wanamaker	
California from 33rd to 41st Street	
Reo -Kansas Ave to Topeka Blvd	
17th & Belle Pressure Improvement	
Burlingame, 49th to 57th, E to Tpk Blvd	
Croco Rd 36th to North of 45th	
Berryton Rd 50th to 53rd	
34th & California to 29th & Golden	
29th Street - Golden to Granger	
Fairlawn, Skyline Dr to 53d, E to Burl.	

2008 - 2012 Capital Improvement Program	Other Source
--	-----------------

45th St from Fairlawn to Gage
12th St from Monroe to California
Croco Rd from 29 to 36
Fairlawn Booster St-New East Pump
W. Elevated Tank on Indian Hills Rd
Disinfection Modification at WTP
California-12th to 6th to Market
41st & Cal E. to W. Edge and so. to 45th
Kirkclawn Booster St-Modify Pump Units
Warehouse - Water Treatment Plt
Chemical Feed System at the WTP 08
MacVicar 29th to 37th & Burlingame
Rochester Campdoras to 43 to N 46th
Crane Topeka Bridge E to Jefferson
6th from Market to Norwood
Fairlawn 45 to 53 East to Burlingame
HWY 75 from Westgate Bridge to Furman and HWY24
5th & Norwood Booster Station
S. Elevated Tank-65th and Morrill Rd
Morrill Rd from New Tower to 69th
Hiway 75-57th St S. to New Tank
Kansas Ave-Gordon to Soldier
Subtotal Water

Sub-Total Enterprise Fund

General Improvement Fund

Housing & Neighborhood Dev.

Affordable Housing Projects

Police Department

Fleet Replacement Vehicles
Radios: Base, Mobile, and Portable

Fire Department

Lease Pmt. on Breathing Apparati
Fleet Replacement Vehicles
Digital Mobile and Portable Radios

Zoo

Zoo Infrastructure

City Wide Projects (except utilities)

ERP Purchase Payment	
Rehabilitation and Repair for City Facilities	
PW-Sidewalk Repair 50-50	Assessments
City Wide Security	
All Other Projects and Expenses	

Sub-Total General Improvement Fund

2008 - 2012 Capital Improvement Program	Other Source
--	-----------------

Other Revenue Funded

Public Works/Transportation

Elevation Parkway--Phase I	Fed & other non- GO bond sources
Elevation Parkway--Phase II	Fed & other non- GO bond sources

Heartland Park

Replace concrete on drag strip	Go Topeka
Modification to road course	Go Topeka

Zoo

African Canid Exhibit	FOTZ
African Primate/Bird Exhibit	FOTZ
Animal Kingdom/Hertpetarium	FOTZ
Creatures of the Night	FOTZ

Sub-Total Other Revenue

2008 - 2012 Capital Improvement Program	Other Source
--	-----------------

GO Bonded Projects

Fire Department

Refurbish Stations 1, 6 and 7	
Build Fire Station #13 (6th & Fairlawn)	
Refurbish Station #11*	
Refurbish Stations 3, 9 and 11	
Refurbish Station #2*	
Build Fire Station --South	
Subtotal	

Police Department

Subtotal

Neighborhoods/Citywide

Neighborhood Infrastructure	
Heartland Park Phase II	
Washburn-Lane TIF District	
College Hill Parking Lot	
City Wide Facilities ADA	
Washburn Lane Parkway	
Citywide Neighborhood Infrastructure	
Wayfinding Signs	Any available
Subtotal	

Signals

STP Safety Projects	FHWA Safety
Signals Replacement	
Traffic Controller Upgrade	
Subtotal	

Streets

California: 29th to 33rd	FHWA STP
Lower Silver Lake Rd over UP Railroad	KDOT/UP RR
ADA Street Curb Repair	
6th St. Golden to Maket	
Ped. Walkway on Calif. @ Bridge	
SW 10th Sidewalk-Meadow to Civitan	
SW 29th Street and Fairlawn Rd	KDOT
California: 33rd to 37th	FHWA STP
California: 37th to 41st	FHWA STP
US HWY 24 and Topeka Blvd	
California: 41st to 45th	Fed/KDOT
Wanamaker Rd: 29th to 33rd	
Wanamaker Rd: 33rd to 37th	
SW 6th Street - Gage to Westchester	
Subtotal	

2008 - 2012 Capital Improvement Program	Other Source
--	-----------------

Bridges

Topeka Blvd. Over Soldier Cutoff	FHWA STP
E 10th St. Bridge over Deer Creek	FHWA STP
Bridge SW 49th W or Topeka Blvd	FHWA STP
Bridge Overlay on SE 21st Street	
Subtotal	

Parks & Recreation

Trail Development
Playground Equipment
Central Park Center ADA Renovation
Golf Course Pump Station (NEW)
Gage Park Playland Renovation
Water Spray Park - Jackson Park
Outdoor Sport Court Resurfacing
Ballfield Lighting (Phase 2)
CC Window and Door Replacement
Bandshell Replacement
Helen Hocker Theater Office & Classroom (NEW)
Gage Park ADA Walkways
Oakland Center Gym Floor Replace.
Parks System Security Lightning
Gage Park Victorian Lighting (Phase 1)
Park Restrooms - B Shunga, M Palm
Gage Park Snyders' Cabin Shelter
Gage Park Accessible Ball Field (NEW)
Garfield Center Gym Floor Replace
Park Maintenance Building
Water Spray Park – Crestview Park
Kossover Tennis Center Courts Resurfacing (NEW)
Westlake Shelterhouse Renovation
Little Russia Park (Phase 1)
Subtotal

Zoo

Australian Down Under Adventure	FOTZ
Indoor Lowland Gorilla Exhibit	FOTZ
Upgrade HVAC Tropical Rain Forest	
Tropical Rain Forest Roof	
Animals and Man Roof Replacement	
Animal Quarantine Facility Phase II	
Subtotal	

Subtotal GO Bond Projects

Contingency

TOTAL GO Bond PROJECTS

Total Annual Target

Difference Target to Subtotal

Running Total

Total CIP



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 7, 2007

+ Back Print

DATE:	November 13, 2007		
CONTACT PERSON:	Jim Langford	DOCUMENT #:	
SECOND PARTY/SUBJECT:	Capital Improvement Budget	PROJECT #:	
CATEGORY/SUBCATEGORY	020 Resolutions / 005 Miscellaneous		
CIP PROJECT:	No		
ACTION OF COUNCIL:	11/06/07 Defer for one week	JOURNAL #:	07
		PAGE #:	

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., adopting the 2008-2009 Capital Improvement Budget for the City of Topeka, Kansas. *(Deferred from the meeting of November 6, 2007.)*

(The resolution would approve the two-year Capital Improvement Budget.)

POLICY ISSUE:

The policy question is to determine which projects and financing should be included in the two-year capital improvement budget.

STAFF RECOMMENDATION:

Approve the resolution.

BACKGROUND:

Under the City's Capital Improvement Policy, a two-year capital improvement budget (CIB) is adopted for the next two years, in this case 2008 and 2009. Projects contained in the CIB may be brought forth as capital projects for the City Council's consideration and approval. The CIB represents the first two years of the five-year capital improvement program (CIP).

BUDGETARY IMPACT:

Passing the CIB alone has no budgetary impact. As projects are approved by the City Council, there is financial impact from payment from operating budgets or from debt service.

SOURCE OF FUNDING:

Projects in the CIB are funded by a variety of sources, including utility operating funds, the General Improvement Fund, federal funds, transfers from the General Fund, revenue bonds, general obligation (GO) bonds, and other sources. Debt service for the revenue bonds is generally paid from the utility funds, while GO debt is serviced from the Bond and Interest Fund.

Item #20

ATTACHMENTS:

[2008-2009 Capital Budget Resolution](#)

[2008-09 CIB](#)

RESOLUTION NO. _____

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., adopting the 2008-2009 Capital Improvement Budget for the City of Topeka, Kansas.

WHEREAS, a 2008-2009 Capital Improvement Budget has been prepared and recommended to the City Manager; and

WHEREAS, the City Manager has considered the 2008-2009 Capital Improvement Budget and recommends approval to the City Council.

NOW, THEREFORE, BE IT RESOLVED, the City Council hereby approves and adopts the 2008-2009 Capital Improvement Budget consisting of the following improvement projects and funding source as contained in Attachment "A," attached hereto.

The City Council shall not authorize any other capital improvement projects for the 2008-2009 period without rescinding this Resolution and adopting a new resolution. All proposed changes shall be accompanied by a fiscal analysis demonstrating the financial implications and the ability of the City to fund such projects.

Implementation of the projects contained in the 2008-2009 Capital Improvement Budget shall be approved by applicable ordinance or resolution as required by law. This Resolution shall be rescinded and a new resolution adopted when the project budget exceeds the amount identified.

THEREFORE, BE IT RESOLVED, this Resolution shall become effective upon passage and approval by the City Council.

25 ADOPTED and APPROVED by the City Council _____.

26 CITY OF TOPEKA, KANSAS

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William W. Bunten, Mayor

30 ATTEST:

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34 _____
Brenda Younger, City Clerk

2008 - 2012 Capital Improvement Program	City Manager 2008	City Manager 2009
Pub Wrks/Water Pollution Control Fund		
Rehab Oakland Plant Phase 2	7,243,243	-
Deer Creek Force Main	4,581,500	-
50th & Kendall Pump Station	-	-
N Topeka Distributed Control Sys.	1,000,000	-
Inflow/Infiltration correction Prg.	700,000	700,000
SKRPS Project	500,000	4,500,000
Southwest Interceptor	150,000	1,350,000
Sewer Service Extension	-	-
Grant/Jefferson Pump Station Rehab	-	800,000
Rehab/Replace Adams Interceptor	-	-
Rehab/Replace Pump Stations	-	-
N Topeka Pump Station	1,000,000	-
New & Rehab Sanitary Sewer	-	-
Heartland Park Service Extension	-	-
Subtotal Water Pollution Control	15,174,743	7,350,000
Public Works/Stormwater Fund		
Septic Tank Elimination Program	1,000,000	1,000,000
Hwy 24 Storm Project	500,000	500,000
Source Water Protection "Wanamaker Wetlands"	300,000	300,000
Furman Road Wetland	500,000	-
Retrofit/New Storm Sewer System	1,000,000	1,000,000
Levee Work	200,000	200,000
Subtotal Stormwater	3,500,000	3,000,000
Public Works/Water Fund		
Heartland Park Water Line Extension	-	-
College Hill Redevelopment	-	-
Main Replacement Program	-	-
California - 21st to 34th, Part A in 2007 is for California from 29th to 34th	-	-
Routine Mains, Valves, Etc.	-	-
Chemical Feed System at the WTP 07	-	-
Water Treatment Plant Rehabilitation	2,500,000	2,500,000
Indian Hills Rd-33d to 41st, E to Sherwood Tower	1,325,000	-
Portage Route - Water Treatment Plant	300,000	-
Skyline Dr-37th & Fairlawn to 41st and Wanamaker	120,000	980,000
California from 33rd to 41st Street	105,000	860,000
Reo -Kansas Ave to Topeka Blvd	67,000	483,000
17th & Belle Pressure Improvement	28,000	222,000
Burlingame, 49th to 57th, E to Tpk Blvd	-	580,000
Croco Rd 36th to North of 45th	-	110,000
Berryton Rd 50th to 53rd	-	-
34th & California to 29th & Golden	-	-
29th Street - Golden to Granger	-	-
Fairlawn, Skyline Dr to 53d, E to Burl.	-	-
45th St from Fairlawn to Gage	-	-
12th St from Monroe to California	-	-

2008 - 2012 Capital Improvement Program	City Manager 2008	City Manager 2009
Croco Rd from 29 to 36	-	-
Fairlawn Booster St-New East Pump	-	-
W. Elevated Tank on Indian Hills Rd	-	-
Disinfection Modification at WTP	-	-
California-12th to 6th to Market	-	-
41st & Cal E. to W. Edge and so. to 45th	-	-
Kirkclawn Booster St-Modify Pump Units	-	-
Warehouse - Water Treatment Plt	-	-
Chemical Feed System at the WTP 08	-	-
MacVicar 29th to 37th & Burlingame	-	-
Rochester Campdoras to 43 to N 46th	-	-
Crane Topeka Bridge E to Jefferson	-	-
6th from Market to Norwood	-	-
Fairlawn 45 to 53 East to Burlingame	-	-
HWY 75 from Westgate Bridge to Furman and HWY24	-	-
5th & Norwood Booster Station	-	-
S. Elevated Tank-65th and Morrill Rd	-	-
Morrill Rd from New Tower to 69th	-	-
Hiway 75-57th St S. to New Tank	-	-
Kansas Ave-Gordon to Soldier	-	-
Subtotal Water	4,445,000	5,735,000

Sub-Total Enterprise Fund	23,119,743	16,085,000
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General Improvement Fund

Housing & Neighborhood Dev.

Affordable Housing Projects	200,000	200,000
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Police Department

Fleet Replacement Vehicles	-	650,000
Radios: Base, Mobile, and Portable	-	-

Fire Department

Lease Pmt. on Breathing Apparati	100,000	100,000
Fleet Replacement Vehicles	353,850	750,000
Digital Mobile and Portable Radios	-	-

Zoo

Zoo Infrastructure	-	50,000
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City Wide Projects (except utilities)

ERP Purchase Payment	-	643,000
Rehabilitation and Repair for City Facilities	-	300,000
PW-Sidewalk Repair 50-50	25,000	35,000
City Wide Security	-	-
All Other Projects and Expenses	446,150	-

Sub-Total General Improvement Fund	1,125,000	2,728,000
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**2008 - 2012 Capital
Improvement Program**

City Manager
2008

City Manager
2009

Other Revenue Funded

Public Works/Transportation

Elevation Parkway--Phase I	5,800,000	-
Elevation Parkway--Phase II	-	5,200,000

Heartland Park

Replace concrete on drag strip	-	-
Modification to road course	-	-

Zoo

African Canid Exhibit	-	-
African Primate/Bird Exhibit	-	-
Animal Kingdom/Hertpetarium	1,000,000	-
Creatures of the Night	-	675,000

Sub-Total Other Revenue	6,800,000	5,875,000
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2008 - 2012 Capital
Improvement Program

City Manager	City Manager
2008	2009

GO Bonded Projects**Fire Department**

Refurbish Stations 1, 6 and 7	318,240	-
Build Fire Station #13 (6th & Fairlawn)	2,500,000	-
Refurbish Station #11*	-	-
Refurbish Stations 3, 9 and 11	-	265,200
Refurbish Station #2*	-	-
Build Fire Station --South	-	-
Subtotal	2,818,240	265,200

Police Department

-	-
Subtotal	-

Neighborhoods/Citywide

Neighborhood Infrastructure	1,400,000	1,400,000
Heartland Park Phase II	-	-
Washburn-Lane TIF District	-	-
College Hill Parking Lot	-	-
City Wide Facilities ADA	519,000	-
Washburn Lane Parkway	-	100,000
Citywide Neighborhood Infrastructure	-	-
Wayfinding Signs	-	-
Subtotal	1,919,000	1,500,000

Signals

STP Safety Projects	78,000	120,000
Signals Replacement	620,000	640,000
Traffic Controller Upgrade	102,400	102,400
Subtotal	800,400	862,400

Streets

California: 29th to 33rd	-	-
Lower Silver Lake Rd over UP Railroad	-	-
ADA Street Curb Repair	500,000	500,000
6th St. Golden to Maket	-	-
Ped. Walkway on Calif. @ Bridge	-	-
SW 10th Sidewalk-Meadow to Civitan	250,000	-
SW 29th Street and Fairlawn Rd	150,000	500,000
California: 33rd to 37th	150,000	2,108,400
California: 37th to 41st	-	-
US HWY 24 and Topeka Blvd	-	-
California: 41st to 45th	-	240,000
Wanamaker Rd: 29th to 33rd	-	-
Wanamaker Rd: 33rd to 37th	-	-
SW 6th Street - Gage to Westchester	-	-
Subtotal	1,050,000	3,348,400

2008 - 2012 Capital Improvement Program	City Manager 2008	City Manager 2009
Bridges		
Topeka Blvd. Over Soldier Cutoff	157,040	-
E 10th St. Bridge over Deer Creek	35,000	186,000
Bridge SW 49th W or Topeka Blvd	-	84,000
Bridge Overlay on SE 21st Street	-	-
Subtotal	192,040	270,000
Parks & Recreation		
Trail Development	100,000	100,000
Playground Equipment	-	100,000
Central Park Center ADA Renovation	-	-
Golf Course Pump Station (NEW)	125,000	-
Gage Park Playland Renovation	315,000	-
Water Spray Park - Jackson Park	250,000	-
Outdoor Sport Court Resurfacing	-	-
Ballfield Lighting (Phase 2)	-	444,000
CC Window and Door Replacement	-	269,200
Bandshell Replacement	-	125,000
Helen Hocker Theater Office & Classroom (NEW)	-	-
Gage Park ADA Walkways	-	-
Oakland Center Gym Floor Replace.	-	-
Parks System Security Lightning	-	-
Gage Park Victorian Lighting (Phase 1)	-	-
Park Restrooms - B Shunga, M Palm	-	-
Gage Park Snyders' Cabin Shelter	-	-
Gage Park Accessible Ball Field (NEW)	-	-
Garfield Center Gym Floor Replace	-	-
Park Maintenance Building	-	-
Water Spray Park – Crestview Park	-	-
Kossover Tennis Center Courts Resurfacing (NEW)	-	-
Westlake Shelterhouse Renovation	-	-
Little Russia Park (Phase 1)	-	-
Subtotal	790,000	1,038,200
Zoo		
Australian Down Under Adventure	-	-
Indoor Lowland Gorilla Exhibit	-	-
Upgrade HVAC Tropical Rain Forest	150,000	-
Tropical Rain Forest Roof	-	-
Animals and Man Roof Replacement	-	-
Animal Quarantine Facility Phase II	-	-
Subtotal	150,000	-
Subtotal GO Bond Projects	7,719,680	7,284,200
Contingency	-	-
TOTAL GO Bond PROJECTS	7,719,680	7,284,200
Total Annual Target	10,275,000	10,275,000
Difference Target to Subtotal	2,555,320	2,990,800
Running Total	(4,203,245)	(1,212,445)
Total CIP	38,764,423	31,972,200



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 26, 2007

+ Back Print

DATE: November 13, 2007
CONTACT PERSON: Linda Voss
SECOND PARTY/SUBJECT:
CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 004 Public Improvements
CIP PROJECT: Yes
ACTION OF COUNCIL:
DOCUMENT #:
PROJECT #: 141280
JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

A PROJECT BUDGET in the amount of \$204,800 and **AN ORDINANCE** introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 141280, which provides for approximately 64 new traffic signal controllers, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka. *Final Reading. (All Council Districts)*

(The project would provide for approximately 64 new traffic signal controllers as part of an ongoing replacement program to replace all city-owned traffic signal controllers, upgrading them to current technology.)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

Adopt the Project Budget.
Approve the Ordinance as presented.

BACKGROUND:

This project is part of an ongoing replacement program to replace all city-owned traffic signal controllers. They need to be updated to current technology. Some of our controllers date back to 1974. They are difficult to repair and in some cases replacement equipment is no longer available.

BUDGETARY IMPACT:

Project Budget: \$204,800.00
\$102,400.00 is included in the 2007 CIP
\$102,400.00 is included in the 2008 CIP
Total Debt Service: \$335,677.00

SOURCE OF FUNDING:

General Obligation Bonds

ATTACHMENTS:

Item #21

[Project Budget](#)

[Debt Service](#)

[Ordinance](#)

PROJECT BUDGET

Project No. T-141000.00

City Wide Replacement - Controllers

LOCATION:

64 locations, city wide

DESCRIPTION OF PROJECT:

This project will procure approximately 64 new traffic signal controllers model 2070. This project is part of an ongoing replacement program to replace all city-owned traffic signal controllers, upgrading them to current technology. The existing traffic signal controllers being replaced are outdated equipment for which part and repairs are no longer available, some being as old as 1974 vintage.

SOURCE OF FUNDS:

General Obligation Bonds

COST ESTIMATE:

	City of Topeka	Other	Total
Construction:	\$195,048.00	\$0.00	\$195,048.00
Design:	\$0.00	\$0.00	\$0.00
Construction Service Fees:			
<i>Construction Inspection</i>	\$0.00	\$0.00	\$0.00
<i>Construction Staking</i>	\$0.00	\$0.00	\$0.00
Administrative Fees:			
<i>Legal Dept. Admin.</i>	\$0.00	\$0.00	\$0.00
<i>Engineering Admin.</i>	\$0.00	\$0.00	\$0.00
Right-of Way Acquisition:	\$0.00	\$0.00	\$0.00
Contingency Amount:	\$0.00	\$0.00	\$0.00
Temporary Notes:	\$9,752.00	\$0.00	\$9,752.00
Total:	\$204,800.00	\$0.00	\$204,800.00

PUBLIC HEARING:

PROJECT AUTHORITY:

- a. Statutes: _____
- b. Ord./Res. No.: _____
- c. Improvement District: _____
- d. City at Large: _____
- e. Method of Assessment: _____

Date: _____

PROJECT MANAGER:

Linda Voss / Carlos Salazar

GO Bond Cost of Project

PROJECT: T-141000.00

Interest rate	5.25%
Number of Years	20

Cost of Issuance	2.00%
Temp Note interest	5.000%

Principal (project cost)	\$195,048
Plus Temp Note Interest (unless included in Principal)	<u>\$9,752</u>
Subtotal	\$204,800
Plus Cost of Issuance	<u>\$0</u>
Total	\$204,800

Annual Debt Service	\$16,784
Annual Debt Service as Percent of Total	8.2%

Total Debt Service (principal and interest)	\$335,677
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Difference Project Cost and Total Debt Service	\$140,629
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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	\$10,946,214
Approved, not Included in GO Bond Issue or Temporary Notes--Special Assessment Projects	<u>\$2,552,885</u>

Total Indebtedness	<u><u>\$190,604,099</u></u>
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Plus Project	\$190,808,899
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(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-141000 (Finance Account No. 141280), which provides for approximately 64 new traffic signal controllers, 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 procure approximately 64 new traffic controllers model 2070. This project is part of an ongoing replacement program to replace all city-owned traffic signal controllers, upgrading them to current technology. The existing traffic signal controllers being replaced are outdated equipment for which parts and repairs are no longer available, some being as old as 1974 vintage.

B. TOTAL PROJECT BUDGET COST:

\$204,800.00

C. SOURCE OF FUNDS:

General Obligation Bonds or any other lawfully available funds.

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

36 PASSED and APPROVED by the City Council _____.

37 CITY OF TOPEKA, KANSAS

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William W. Bunten, Mayor

42 ATTEST:

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47 _____
Brenda Younger, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 12, 2007

+ Back Print

DATE: November 13, 2007

CONTACT PERSON: Shawn Bruns **DOCUMENT #:**

SECOND PARTY/SUBJECT: Trafficway Improvement **PROJECT #:** 70142-04

CATEGORY/SUBCATEGORY: 014 Ordinances – Non-Codified / 004 Public Improvements

CIP PROJECT: Yes

ACTION OF COUNCIL: 05/22/07 First Reading. **JOURNAL #:** 07
06/05/07 Deferred until
09/11/07 Deferred until
11/13/07

PAGE #:

DOCUMENT DESCRIPTION:

A PROJECT BUDGET in the amount of \$215,000 and **AN ORDINANCE** introduced by City Manager Norton N. Bonaparte, Jr., authorizing Trafficway Improvement Project No. 70142-04, Part A, which provides for the design of the reconstruction and widening of SE California Avenue, as more specifically described herein, all pursuant to **Section A12-1 of the Code of the City of Topeka. Final Reading.** *(Council District No. 4) (Deferred from the meeting of September 11, 2007.)*

(Approval would authorize the design of the reconstruction and widening of SE California Avenue, from SE 33rd Street to the SE 37th Street Intersection.)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

Approve the Project Budget.
Adopt the Ordinance as presented.

BACKGROUND:

This project is listed in the 2007 Capital Improvement Program for \$215,000.00 to begin design of the project. This project will design improvements to S.E. California Avenue from S.E. 33rd Street through the S.E. 37th Street intersection including widening the pavement to three lanes. The project will provide new pavement, sidewalk, storm sewers and other incidentals.

BUDGETARY IMPACT:

Project Budget for Design: \$215,000.00 from General Obligation Bonds.
The annual debt service for this project is estimated at \$17,620 for 20 years, for a total of \$214,998.

SOURCE OF FUNDING:

General Obligation Bonds or any other lawfully available funds.

Item #22

ATTACHMENTS:

[Project Budget](#)

[Debt Service](#)

[Vicinity Map](#)

[Ordinance](#)

PROJECT BUDGET
Project No. 70142-04
Part A - Design Only
S.E. California Avenue -- S.E. 33rd Street to S.E. 37th Street

LOCATION:

S.E. California Avenue from S.E. 33rd Street to S.E. 37th Street

DESCRIPTION OF PROJECT:

This improvement project will reconstruct and widen S.E. California Avenue to 3 lanes with curb & gutter, sidewalks, and storm drainage facilities between S.E. 33rd Street and S.E. 37th Street.

The project is included in the City's 2009 Capital Improvement Program and the City/State 5-year Construction Plan.

SOURCE OF FUNDS:

General Obligation Bonds and Any
Other Legally Available Funds

COST ESTIMATE:

Construction:	\$0.00
Design (Consultant):	\$204,760.00
Construction Service Fees:	
<i>Construction Inspection</i>	\$0.00
<i>Construction Staking</i>	\$0.00
Administrative Fees:	
<i>Legal Dept. Admin.</i>	\$0.00
<i>Engineering Admin.</i>	\$0.00
Right-of Way Acquisition:	\$0.00
Contingency Amount:	\$0.00
Temporary Notes:	\$10,240.00
Total:	\$215,000.00

PUBLIC HEARING:

PROJECT AUTHORITY:

- a. Statutes: _____
b. Ord./Res. No.: _____
c. Improvement District: _____
d. City at Large: _____
e. Method of Assessment: _____

Date: _____

PROJECT ENGINEER: Shawn P. Bruns

PROJECT: 70142-04

Interest rate	5.25%
Number of Years	20

Cost of Issuance	0.00%
Temp Note interest	5.000%

Principal (project cost)	<u>\$204,760</u>
Plus Temp Note Interest (unless included in Principal)	<u>\$10,238</u>
Subtotal	\$214,998
Plus Cost of Issuance	<u>\$0</u>
Total	\$214,998

Attachment number 2
Page 1 of 1

Annual Debt Service	\$17,620
Annual Debt Service as Percent of Total	8.2%

Total Debt Service (principal and interest)	\$352,392
---	-----------

Difference Project Cost and Total Debt Service	\$147,632
--	-----------

GO Bonded Indebtedness as of January 2007	\$165,635,000
2006 Temporary Notes that Finance Future GO Bond projects	\$11,470,000

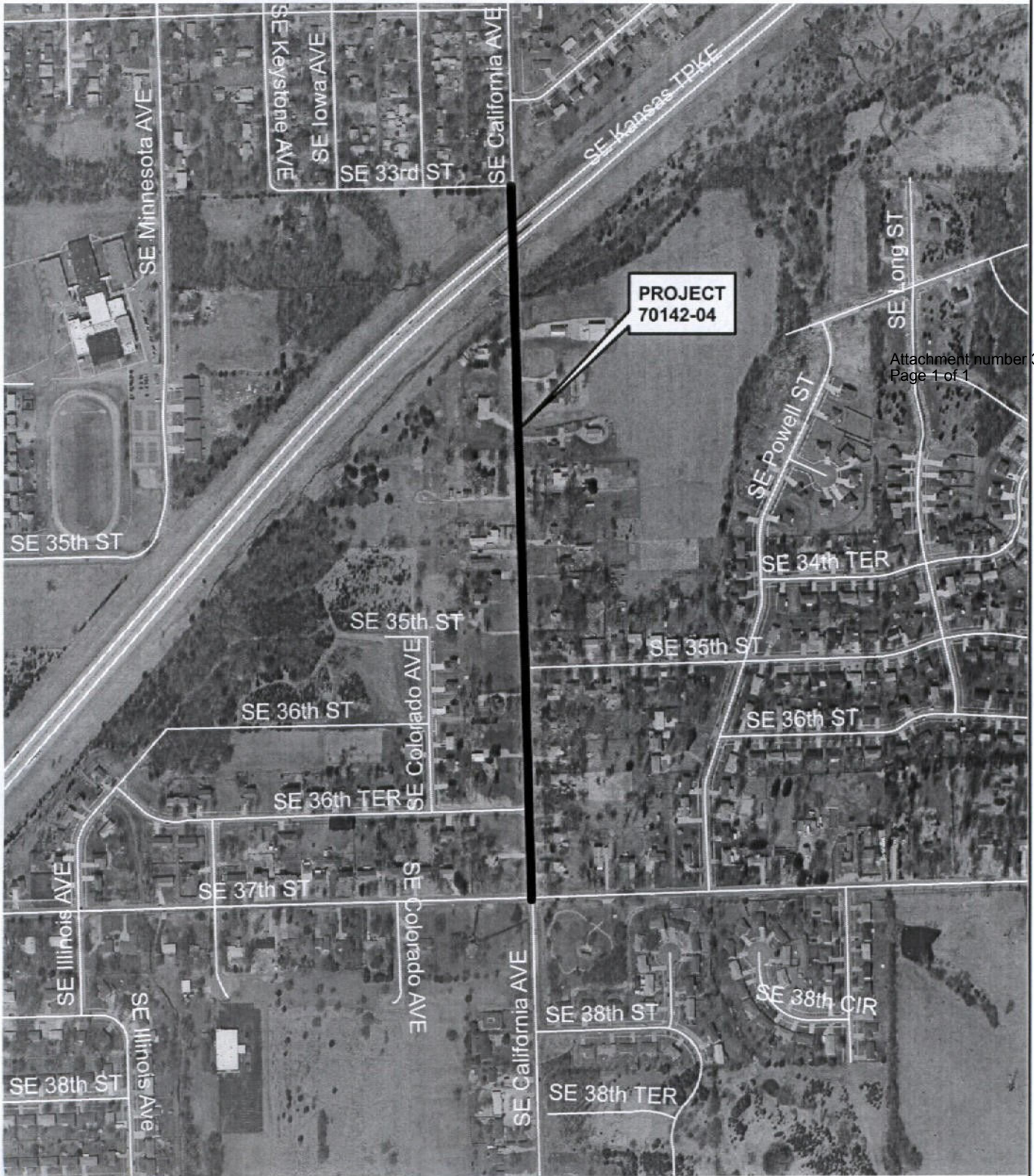
Approved, not Included in GO Bond Issue or Temporary Notes--City Projects	\$7,082,446
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Approved, not Included in GO Bond Issue or Temporary Notes--Special Assessment Projects	<u>\$940,612</u>
---	------------------

Total Indebtedness	<u>\$185,128,058</u>
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Plus Project	\$185,343,056
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4/27/2007



Attachment number 3
Page 1 of 1

CITY OF TOPEKA, KS

Data Disclaimer

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California Ave from 33rd St to 37th St



1 inch equals 500 feet

(Published in the Topeka Metro News_____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 70142-04, Part A, which provides for the design for the reconstruction and widening of S.E. California Avenue, 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 for the design for the reconstruction and widening of S.E. California Avenue to three lanes between S.E. 33rd Street and S.E. 37th Street and construction of a roundabout at the intersection of S.E. California Avenue and S.E. 37th Street. The project will provide new pavement, sidewalks, storm sewers and other incidentals.

B. TOTAL PROJECT BUDGET COST:

\$215,000.00

C. SOURCE OF FUNDS:

General Obligation Bonds or any other lawfully available funds.

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

William W. Bunten, Mayor

ATTEST:

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

October 26, 2007

+ Back Print

DATE: November 13, 2007

CONTACT PERSON: Rusty Rakestraw **DOCUMENT #:**

SECOND PARTY/SUBJECT: Trafficway Improvement Project **PROJECT #:** 70198-01

CATEGORY/SUBCATEGORY: 014 Ordinances – Non-Codified / 002 Condemnations

CIP PROJECT: Yes

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing the initiation of condemnation proceedings to acquire property by eminent domain for City of Topeka Improvement Project No. 70198-01, which provides for the construction of a roundabout at the intersection of SW Urish and SW 21st Street. Final Reading. (Council District No. 8)

(Approval would initiate condemnation proceedings to acquire property interests for the improvement project.)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

Staff recommends Council approve Condemnation Ordinance.

BACKGROUND:

KSA-26-201 states that the governing body shall by ordinance authorize and provide for the acquisition of the interests to be condemned and for what purpose the same is to be used. The ordinance sets out the individual parcels and specific interests to be acquired. Negotiations are in progress to acquire the property interests for the construction of the project. If successful negotiations are completed, the respective parcel will be deleted from the proceedings.

BUDGETARY IMPACT:

To be determined by Condemnation appraisers.

SOURCE OF FUNDING:

Sales Tax

ATTACHMENTS:

[Ordinance](#)

Item #23

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing the initiation of condemnation proceedings to acquire property by eminent domain for the City of Topeka Improvement Project No. 70198-01, which provides for the construction of a roundabout at the intersection of SW Urish and SW 21st Street.

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

Section 1. That it is hereby declared necessary to condemn and appropriate for the use of the City of Topeka certain lands within the City of Topeka for Improvement Project No. 70198-01, which provides for the construction of a roundabout at the intersection of SW Urish and SW 21st Street and for other public purposes including acquisition of permanent public right-of-way easements, said lands being described as follows:

Parcel No. 1

Owner of Record: John Kirk Romary, Trustee
John Kirk Romary Living Trust
7026 SW 21st St
Topeka, KS 66615

Contract Purchaser: NONE

Lienholder of Record: NONE

Party in Possession: Owner of Record

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

Portions of Tract 7 and 8 in Busby's Subdivision, in Shawnee County, Kansas, described as:

Commencing at the Southeast corner of the Southeast Quarter of Section 6, Township 12 South, Range 15 east of the 6th P.M; thence westerly on the South line of said Southeast Quarter, 1225 feet; thence northerly at a right angle to an intersection with the South line of Tract 8, being the point of beginning; thence continuing northerly normal from the South line of said Southeast Quarter, 10 feet; thence northeasterly to a point 1192 feet west and 55 feet north of the Southeast corner of said Southeast Quarter, measured on and normal from the South line of said quarter section; thence easterly parallel with the South line of said Southeast Quarter, 3 feet; thence southeasterly to a point on the East line of Tract 8 which is 40 feet north normal from the South line of said Southeast Quarter; thence easterly on a line which is 40 feet north of the South line of said Southeast Quarter, to a point which is 1100 feet west of the Southeast corner of said quarter section, as measured on and normal from the last said South line; thence easterly to a point on the East line of Tract 7 which is 45.46 feet north normal from the South line of said Southeast Quarter; thence southerly to the Southeast corner of Tract 7; thence westerly on the South lines of Tracts 7 and 8 to the point of beginning.

The above-described property to be acquired contains 3,168 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires two (2) years after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Parcel No. 2

Owner of Record:	Gordon L Spencer 6948 SW 21 st St Topeka, KS 66615
Contract Purchaser:	NONE
Lienholder of Record:	NONE
Party in Possession:	1. Owner of Record 2. Oneok, Inc., formerly WAI, Inc. 501 SW Gage Blvd Topeka, KS 66606 3. Doralie K. & Michael J. Johnson 2942 SE 69 th St Berryton, KS 66409

4. Matthew Works
1900 SW Medford Avenue
Topeka, KS 66604

Party of Interest: Unpaid judgment through
Case No. 02-U-2962
Clerk of the District Court
Shawnee County Courthouse
200 SE 7th Street
Topeka, KS 66603

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

A portion of Tract 6 in Busby's Subdivision, in Shawnee County, Kansas, described as:

Commencing at the Southeast corner of the Southeast Quarter of Section 6, Township 12 South, Range 15 east of the 6th P.M; thence westerly on the South line of said Southeast Quarter, 900 feet; thence northerly at a right angle, 42.5 feet to the point of beginning; thence easterly to a point on the East line of Tract 6 which is 51.80 feet north normal from the South line of said Southeast Quarter; thence southerly on the East line of Tract 6 to an intersection with a line which is 42.5 feet north of the South line of said Southeast Quarter; thence westerly to the point of beginning.

The above-described property to be acquired contains 3,168 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires two (2) years after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Permanent Right-of-Way Easement:

All of Tract 6 in Busby's Subdivision, in Shawnee County, Kansas, which is south of a line which is 42.5 feet north of the South line of the Southeast Quarter of Section 6, Township 12 South, Range 15 east of the 6th P.M.

The above-described property to be acquired contains 2,063 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

125 **Parcel No. 3**

126 Owner of Record: Dover 2000, L.L.C.
127 Freeman Glenn, LLC
128 Michael A. Gassen
129 c/o Richard Bassett
130 2858 SW Villa West Dr., Ste 102
131 Topeka, KS 66614

132
133 Contract Purchaser: NONE

134
135 Lienholder of Record: Landmark National Bank
136 6100 SW 21st Street
137 Topeka, KS 66615

138
139 Party in Possession: James Prout
140 6938 SW 21st Street
141 Topeka, KS 66615

142
143 PROPERTY TO BE ACQUIRED:

144
145 **Temporary Construction Easement:**

146
147 Portions of Tracts 4 and 5 in Busby's Subdivision, in Shawnee County, Kansas,
148 described as: Commencing at the Southeast corner of Tract 4; thence on an
149 assumed bearing of North 0°08'11" East on the East line of Tract 4, 12.52 feet to the
150 point of beginning; thence South 87°02'39" West on a line which is 12.50 feet north
151 of the South line of Tracts 4 and 5, 321.52 feet to a point on the West line of Tract
152 5; thence North 0°14'17" West on the West line of Tract 5. 9.31 feet; thence North
153 79°56'09" East, 25.90 feet; thence North 70°53'52" East, 73.68 feet; thence South
154 82°19'21" East, 29.74 feet; thence North 89°54'13" East, 100.12 feet; thence South
155 84°25'15" East, 96.89 feet to a point on the East line of Tract 4; thence South
156 0°08'11" West on the East line of Tract 4, 8.14 feet to the point of beginning.

157
158 The above-described property to be acquired contains 6,741 square feet, more or
159 less, and is subject to all rights-of-way, easements, restrictions, and covenants of
160 record, if any.

161
162 This easement expires two (2) years after legal possession through condemnation
163 or ninety (90) days after completion of the construction for which this easement is
164 acquired or whichever comes first.

Permanent Right-of-Way Easement:

All of those portions of Tracts 4 and 5 in Busby's Subdivision, in Shawnee County, Kansas, which are south of a line which is 42.5 feet north of the South line of the Southeast Quarter of Section 6, Township 12 South, Range 15 east of the 6th P.M.

The above-described property to be acquired contains 4,009 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Permanent Drainage Easement:

A portion of Tract 5 in Busby's Subdivision, in Shawnee County, Kansas, described as: Commencing at the Southeast corner of Tract 5; thence on an assumed bearing of South 87°02'39" West on the South line of Tract 5, 93.35 feet; thence North 02°57'21" West, 12.50 feet to the point of beginning; thence North 39°27'05" East, 44.68 feet; thence South 50°32'55" East, 30.00 feet; thence South 39°27'05" West, 17.28 feet; thence South 87°02'39" West, 40.63 feet to the point of beginning.

The above-described property to be acquired contains 929 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Parcel No. 4

Owner of Record: Ruth Fisher
Thomas R. Fisher
Robert B. Fisher
Peggy M. Baker
6838 SW 21st St
Topeka, KS 66615

Contract Purchaser: NONE

Lienholder of Record: NONE

Party in Possession: Thomas R. Fisher, Owner of Record

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

A portion of Tract 3 in Busby's Subdivision, in Shawnee County, Kansas, described as: Commencing at the Southeast corner of Tract 3; thence on a n assumed bearing of North 0°19'24"East on the East line of Tract 3, 12.52 to the point of beginning; thence South 87°02'39" West on a line which is 12.50 feet north of the South line of Tract 3, 160.76 feet to a point on the West line of Tract 3; thence North 0°08'11" East on the West line of Tract 3, 8.14 feet; thence South 84°25'15" East, 4.23 feet; thence North 89°54'24" East, 100.16 feet; thence North 87°02'39" East, 56.23 feet to a point on the East line of Tract 3; thence South 0°19'24" West on the East line of Tract 3, 2.50 feet to the point of beginning.

The above-described property to be acquired contains 675 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires two (2) years after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Permanent Right-of-Way Easement:

All of that portion of Tract 3 in Busby's Subdivision, in Shawnee County, Kansas, which is south of a line which is 42.5 feet north of the South line of the Southeast Quarter of Section 6, Township 12 South, Range 15 east of the 6th P.M.

The above-described property to be acquired contains 2,009 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Parcel No. 5

Owner of Record: Freeman Glenn, LLC
2858 SW Villa West Dr., #102
Topeka, KS 66614

Contract Purchaser: NONE

Lienholder of Record: First National Bank of Missouri
609 North M – 291 Highway
Lee's Summit, MO 64063

- Party in Possession:
1. Create Hair Studio
2025 SW Urish Rd, Suite 101
Topeka, KS 66615
 2. State Farm Insurance
2025 SW Urish Rd, Suite 102
Topeka, KS 66615
 3. Sunsations Tanning Salon
2025 SW Urish Rd, Suite 103
Topeka, KS 66615
 4. Wine Cellar
2025 SW Urish Rd, Suite 104
Topeka, KS 66615
 5. Supper Thyme USA
2025 SW Urish Rd, Suite 105
Topeka, KS 66615
 6. Home Connections
2025 SW Urish Rd, Suite 106
Topeka, KS 66615
 7. Tailgaters Sports Pub & Grub
2025 SW Urish Rd, Suite 108
Topeka, KS 66615
 8. Sherwood Animal Clinic
2025 SW Urish Rd, Suite 109
Topeka, KS 66615
 9. 2 Hart's
2025 SW Urish Rd, Suite 110
Topeka, KS 66615

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

A portion of Lot 1, Block 'A' in Urish Center Subdivision, in the City of Topeka, Shawnee County, Kansas, described as: Commencing at the Southwest corner of said Lot 1; thence on an assumed bearing of North 87°02'38" East on the South line

of Lot 1, 218.29 feet to the point of beginning; thence North 36°29'18" East, 99.33 feet; thence North 0°41'49" East on a line which is 17.50 feet west of the East line of Lot 1, 57.00 feet; thence North 21°44'04" East, 13.93 feet; thence North 32°59'35" West, 18.03 feet; thence North 0°41'49" East, on a line which is 22.50 feet west of the East line of Lot 1, 265.28 feet; thence North 87°02'38" East on the North line of Lot 1, 22.54 feet; thence South 0°41'49" West, on the East line of Lot 1, 349.14 feet; thence South 28°51'26" West, 54.78 feet; thence on a curve concave northwesterly having a radius measure of 88.00 feet and an arc length of 47.00 feet, the chord of which bears South 44°09'27" West, 46.44 feet; thence South 87°02'38" West on the South line of Lot 1, 17.82 feet to the point of beginning;

AND a portion of said Lot 1 described as: Commencing at the Southwest corner of Lot 1; thence on an assumed bearing of North 87°02'38" East on the South line of Lot 1, 28.29 feet to the point of beginning; thence North 2°57'22" West, 37.50 feet; thence North 87°02'38" East, 40.00 feet; thence South 2°57'22" East, 37.50 feet; thence South 87°02'38" West on the South line of Lot 1, 40.00 feet to the point of beginning.

The above-described property to be acquired contains 10,699 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires two (2) years after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Permanent Right-of-Way Easement:

A portion of Lot 1, Block 'A' in Urish Center Subdivision, in the City of Topeka, Shawnee County, Kansas, described as: Commencing at the Southwest corner of said Lot 1; thence on an assumed bearing of North 87°02'38" East on the South line of Lot 1, 236.16 feet to the point of beginning; thence on a non-tangential curve which is concave northwesterly, having a radius measure of 88.00 feet and an arc length of 47.00 feet, the chord of which bears North 44°09'27" East, 46.44 feet; thence North 28°51'26" East, 54.78 feet; thence South 0°41'49" West on the East line of Lot 1, 25.82 feet; thence South 43°52'13" West on the Southeast line of Lot 1, 76.57 feet; thence South 87°02'38" West on the South line of Lot 1, 5.42 feet to the point of beginning.

The above-described property to be acquired contains 455 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Parcel No. 6

Owner of Record: Dover 2000 LLC
c/o Richard Bassett
2858 SW Villa West Dr., #103
Topeka, KS 66614

Contract Purchaser: NONE

Lienholder of Record: Landmark National Bank
6100 SW 21st Street
Topeka, KS 66615

Party in Possession: 1. Vacant Land
2. Board of County Commissioners
c/o Shawnee County Counselor
200 SE 7th
Topeka, KS 66603

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

Portions of Lots 2 and 3 in Block 'A', Urish Center Subdivision in the City of Topeka, Shawnee County, Kansas, described as:

Beginning at the Southwest corner of said Lot 2; thence on an assumed bearing of South 87°02'38" West on the South line of Lot 2, 22.54 feet; thence North 0°41'49" East on a line which is 22.50 feet west of the East line of Lot 2, 24.72 feet; thence North 16°00'08" West, 52.20 feet; thence North 22°29'54" East, 53.85 feet; thence North 10°37'23" East, 101.52 feet; thence South 0°41'49" West on the East lines of Lots 3 and 2, 223.29 feet to the point of beginning;

ALSO: Commencing at the Northeast corner of Lot 3; thence South 0°41'49" West on the East line of Lot 3, 391.52 feet to the point of beginning; thence South 6°24'27" West, 25.12 feet; thence South 5°00'49" East, 25.12 feet; thence North 0°41'49" East on the East line of Lot 3, 50.00 feet to the point of beginning.

The above-described property to be acquired contains 4,353 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires two (2) years after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Parcel No. 7

Owner of Record: Robert and Beverly Steinmeyer
1910 SW Urish Road
Topeka, KS 66615

Contract Purchaser: NONE

Lienholder of Record: NONE

Party in Possession: Owner of Record

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

A tract in the Southwest Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M., in Shawnee County, Kansas, described as:

Commencing at the Southwest corner of said Southwest Quarter; thence on an assumed bearing of North 0°43'59" East on the West line of said Southwest Quarter, 1102.23 feet; thence North 88°57'46" East, 25.02 feet to the point of beginning; thence North 0°43'59" East, 46.77 feet; thence South 89°16'01" East, 15.00 feet; thence South 0°43'59" West, 46.53 feet; thence South 88°57'46" West, 15.01 feet to the point of beginning.

The above-described property to be acquired contains 695 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires two (2) years after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Parcel No. 8

Owner of Record: Thomas E. Mulligan, Jr.
1924 SW Urish Rd
Topeka, KS 66614

Contract Purchaser: NONE
Lienholder of Record: NONE
Party in Possession: Owner of Record

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

A tract in the Southwest Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M., in Shawnee County, Kansas, described as:

Commencing at the Southwest corner of said Southwest Quarter; thence on an assumed bearing of North 0°43'59" East on the West line of said Southwest Quarter, 752.00 feet; thence North 88°01'18" East, 35.04 feet to the point of beginning; thence North 0°43'59" East, 350.22 feet; thence North 88°57'46" East, 5.00 feet; thence South 0°43'59" West, 103.47 feet; thence South 4°58'39" East, 150.74 feet; thence South 0°43'59" West, 50.00 feet; thence South 3°35'44" West, 45.56 feet; thence South 88°01'18" West, 17.74 feet to the point of beginning.

The above-described property to be acquired contains 4,260 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires two (2) years after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Permanent Right-of-Way Easement:

The West 35 feet of the two following described tracts, less existing right of way:
A tract of land in the Southwest Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M., in Shawnee County, Kansas, described as follows: Beginning at a point on the West line of said Southwest Quarter, said point being North 00°00'00" East 752 feet north of the Southwest corner of said Southwest Quarter; thence North 0°00'00" East, 214.00 feet; thence North 87°17'19" East, 622.28 feet; thence South 0°00'00" West, 214.00 feet; thence South 87°17'19" West, 622.28 feet to the point of beginning;

The above-described property to be acquired contains 2,140 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

464 AND
465

466 A tract of land in the Southwest Quarter of Section 5, Township 12 South, Range 15
467 east of the 6th P.M., in Shawnee County, Kansas, described as follows: Beginning at
468 a point on the West line of said Southwest Quarter, said point being North 00°00'00"
469 East 966.00 feet from the Southwest corner of said Southwest Quarter; thence
470 North 0°00'00" East, 136.23 feet; thence North 88°13'47" East, 621.58 feet; thence
471 South 0°00'00" West, 136.00 feet; thence South 87°17'19" West, 622.28 feet to the
472 point of beginning.
473

474 The above-described property to be acquired contains 1,360 square feet, more or
475 less, and is subject to all rights-of-way, easements, restrictions, and covenants of
476 record, if any.
477

478 The combined above-described property to be acquired contains 3,500 total square
479 feet, more or less, and is subject to all rights-of-way, easements, restrictions, and
480 covenants of record, if any.
481

482 **Parcel No. 9**
483

484 Owner of Record: Terry L. and Lacey V. Schnurr
485 1930 SW Urish Road
486 Topeka, KS 66615
487

488 Contract Purchaser: NONE
489

490 Lienholder of Record: 1. Federal National Mortgage Association
491 c/o Chase Mortgage Company
492 3415 Vision Drive
493 Columbus, OH 43219
494
495 2. Chase Manhattan Bank USA, N.A.
496 200 White Clay Center Drive
497 Newark, DE 19711
498

499 Party in Possession: Owner of Record
500

501 PROPERTY TO BE ACQUIRED:
502

503 **Temporary Construction Easement:**
504

505 A tract in the Southwest Quarter of Section 5, Township 12 South, Range 15 east of
506 the 6th P.M., in Shawnee County, Kansas, described as:
507

Commencing at the Southwest corner of said Southwest Quarter; thence on an assumed bearing of North 0°43'59" East on the West line of said Southwest Quarter, 625.00 feet; thence North 87°54'29" East, 42.55 feet to the point of beginning; thence North 0°43'59" East, 127.00 feet; thence North 87°54'29" East, 10.24 feet; thence South 3°35'49" West, 54.67 feet; thence South 0°43'59" West, 72.53 feet; thence South 87°54'29" West, 7.51 feet to the point of beginning.

The above-described property to be acquired contains 1,027 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires two (2) years after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Permanent Right-of-Way Easement:

The West 42.5 feet of the following described tract, less existing right of way:

Part of the West Half of the Southwest Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M., in Shawnee County, Kansas, described as follows: Beginning 625 feet north of the Southwest corner of said Section 5; thence east 375 feet; thence north 127 feet; thence west 375 feet; thence south 127 feet to the point of beginning.

The above-described property to be acquired contains 2,223 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Parcel No. 10

Owner of Record:	Gamma, LLC 6114 SW 21 st Terrace Topeka, KS 66615
Contract Purchaser:	NONE
Lienholder of Record:	Kaw Valley Bank 1110 N Kansas Avenue Topeka, KS 66608
Party in Possession:	Vacant house

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

The East 7.5 feet of the West 50 feet of the following described tract:

Part of the West Half of the Southwest Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M., described as follows: Beginning at a point 515 feet north of the Southwest corner of said Section 5; thence east 375 feet; thence north 110 feet; thence west 375 feet; thence south 110 feet to the place of beginning, in Shawnee County, Kansas.

The above-described property to be acquired contains 825 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires two (2) years after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Permanent Right-of-Way Easement:

The West 42.5 feet of the following described tract, less existing right of way:

Part of the West Half of the Southwest Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M., described as follows: Beginning at a point 515 feet north of the Southwest corner of said Section 5; thence east 375 feet; thence north 110 feet; thence west 375 feet; thence south 110 feet to the place of beginning, in Shawnee County, Kansas.

The above-described property to be acquired contains 1,925 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Parcel No. 11

Owner of Record: Ina Mae and Wilbur E. Levering
Co-Trustees of Ina Mae Levering Trust
2018 SW Urish Road
Topeka, KS 66615

Contract Purchaser: NONE

Lienholder of Record: NONE

Party in Possession: Owner of Record

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

The East 7.5 feet of the West 50 feet of the following described tract:

Part of the West Half of the Southwest Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M., described as follows: Beginning at a point 440 feet north of the Southwest corner of said Section 5; thence east 375 feet; thence north 75 feet; thence west 375 feet; thence south along the West line of said Section 5, to the place of beginning, in Shawnee County, Kansas.

The above-described property to be acquired contains 563 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires two (2) years after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Permanent Right-of-Way Easement:

The West 42.5 feet of the following described tract, less existing right of way:

Part of the West Half of the Southwest Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M., described as follows: Beginning at a point 440 feet north of the Southwest corner of said Section 5; thence east 375 feet; thence north 75 feet; thence west 375 feet; thence south along the West line of said Section 5, to the place of beginning, in Shawnee County, Kansas.

The above-described property to be acquired contains 1,313 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Parcel No. 12

Owner of Record: Genevieve M. Beseau
2024 SW Urish Rd
Topeka, KS 66614

Contract Purchaser: NONE

Lienholder of Record: NONE

Party in Possession: Owner of Record

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

The East 7.5 feet of the West 50 feet of the following described tract:

Part of the West Half of the Southwest Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M., in Shawnee County, Kansas, described as follows: Beginning at a point on the West line of Southwest Quarter of Section 5, Township 12 South, Range 15, 284 feet north of the Southwest corner of said Southwest Quarter; thence east 375 feet; thence north 156 feet; thence west 375 feet; thence south 156 feet along the West line of said Section to the place of beginning.

The above-described property to be acquired contains 1,170 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires two (2) years after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Permanent Right-of-Way Easement:

The West 42.5 feet of the following described tract, less existing right of way:

Part of the West Half of the Southwest Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M., in Shawnee County, Kansas, described as follows: Beginning at a point on the West line of Southwest Quarter of Section 5, Township 12 South, Range 15, 284 feet north of the Southwest corner of said Southwest Quarter; thence east 375 feet; thence north 156 feet; thence west 375 feet; thence south 156 feet along the West line of said Section to the place of beginning.

The above-described property to be acquired contains 2,730 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Parcel No. 13

Owner of Record: Gamma, LLC
6114 SW 21st Terrace
Topeka, KS 66615

Contract Purchaser: NONE

Lienholder of Record: The Kaw Valley State Bank and Trust Company
1110 N Kansas Avenue
Topeka, KS 66608

Party in Possession: Mr. and Mrs. Troy Smith
6748 SW 21st St
Topeka, KS 66615

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

A tract in the Southwest Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M., in Shawnee County, Kansas, described as follows: Beginning at the Southwest corner of the West Half of said Southwest Quarter; thence north 284 feet; thence east 195 feet; thence south 284 feet to the South line of said Southwest Quarter; thence west 195 feet to the point of beginning.

LESS: Existing right of way;

ALSO LESS: Right of way and permanent utility easement to be acquired for City of Topeka Trafficway Project 70198-01 on Parcel 13.

The above-described property to be acquired contains 33,159 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires two (2) years after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Permanent Right-of-Way Easement:

A tract in the West Half of the Southwest Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M., in Shawnee County, Kansas, described as: Beginning at the Southwest corner of said West Half; thence on an assumed

bearing of North 0°43'59" East, on the West line of said West Half, 284 feet; thence North 87°54'29" East, 42.55 feet; thence South 0°43'59" West on a line which is 42.5 feet east of the West line of said West Half, 132.75 feet; thence southeasterly on a curve concave northeasterly, having a radius measure of 88.00 feet and an arc length of 99.25 feet, the chord of which bears South 31°34'35" East, 94.07 feet; thence South 63°53'09" East, 36.83 feet; thence southeasterly on a curve concave northeasterly, having a radius measure of 78.00 feet and an arc length of 38.40 feet, the chord of which bears South 78°00'41" East, 38.09 feet; thence North 87°54'29" East on a line which is 42.5 feet north of the South line of said West Half, 31.46 feet; thence South 0°43'59" West, 42.55 feet; thence South 87°54'29" West on the South line of said West Half, 195 feet to the point of beginning; LESS: Existing right of way.

The above-described property to be acquired contains 9,597 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Permanent Storm Sewer Easement:

A tract in the West Half of the Southwest Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M., in Shawnee County, Kansas, described as: Commencing at the Southwest corner of said West Half; thence on an assumed bearing of North 0°43'59" East, on the West line of said West Half, 160.02 feet; thence South 89°16'01" East, 42.50 feet to the point of beginning; thence South 0°43'59" West on a line which is 42.5 feet east of the West line of said West Half, 6.78 feet; thence southeasterly on a curve concave northeasterly, having a radius measure of 88.00 feet and an arc length of 66.73 feet, the chord of which bears South 20°59'28" East, 65.14 feet; thence North 19°00'26" West, 71.39 feet to the point of beginning.

The above-described property to be acquired contains 354 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Parcel No. 14

Owner of Record: Richard W. and Anita Nelson Urish
6742 SW 21st St
Topeka, KS 66615

Contract Purchaser: NONE

Lienholder of Record: NONE

Party in Possession: Owner of Record

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

The North 37.5 feet of the South 80 feet of the following described tract:

Part of the West Half of the Southwest Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M., described as follows: Beginning at a point on the South line of Southwest Quarter of Section 5, Township 12 South, Range 15, 195 feet east of the Southwest corner of said Southwest Quarter; thence north parallel with the West line of said quarter section 284 feet; thence east 142.43 feet; thence south 284 feet to South line of said quarter section; thence west 142.43 feet to the place of beginning.

The above-described property to be acquired contains 5,341 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires two (2) years after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Permanent Right-of-Way Easement:

The South 42.5 feet of the following described tract, less existing right of way:

Part of the West Half of the Southwest Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M., described as follows: Beginning at a point on the South line of Southwest Quarter of Section 5, Township 12 South, Range 15, 195 feet east of the Southwest corner of said Southwest Quarter; thence north parallel with the West line of said quarter section 284 feet; thence east 142.43 feet; thence south 284 feet to South line of said quarter section; thence west 142.43 feet to the place of beginning.

The above-described property to be acquired contains 1,780 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Parcel No. 15

Owner of Record: Brian Treadwell
6740 SW 21st St
Topeka, KS 66615

Contract Purchaser: NONE

Lienholder of Record: Mortgage Electronic Registration Systems, Inc.
(MERS) as nominee for Countrywide Home Loans, Inc.
4500 Park Garden
MSN# SVB-314
Calabasa, CA 91302-1613

Party in Possession: Owner of Record

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

A tract in the Southwest Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M., in Shawnee County, Kansas, described as: Commencing at the Southwest corner of said Southwest Quarter; thence on an assumed bearing of North 87°54'29" East on the South line of said Southwest Quarter, 337.43 feet; thence North 0°43'59" East, 42.55 feet to the point of beginning; thence continuing on North 0°43'59" East, 7.51 feet; thence North 87°54'29" East, 60.10 feet; thence South 89°13'46" East, 82.22 feet; thence South 0°43'59" West, 3.40 feet; thence South 87°54'29" West, 142.425 feet to the point of beginning.

The above-described property to be acquired contains 899 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires two (2) years after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Permanent Right-of-Way Easement:

The South 42.5 feet of the following described tract, less existing right of way:

Part of the Southwest Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M., Shawnee County, Kansas, described as follows: Beginning at a point

on the South line which is 337.43 feet east of the Southwest corner of said quarter section; thence north parallel with the West line of said quarter section 284 feet; thence east 142.425 feet; thence south 284 feet to South line of said quarter section; thence west 142.425 feet to the place of beginning.

The above-described property to be acquired contains 1,780 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Parcel No. 16

Owner of Record: E. H. Carter a/k/a E. H. Carter, Trustee
E. H. Carter, Jr. Revocable Living Trust
3831 SW Cambridge Terrace
Topeka, KS 66610

Contract Purchaser: NONE

Lienholder of Record: Community National Bank
5431 SW 29th
Topeka, KS 66614

Party in Possession: Stacey Robinson
6728 SW 21st St
Topeka, KS 66615

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

A tract in the Southwest Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M., in Shawnee County, Kansas, described as: Commencing at the Southwest corner of said Southwest Quarter; thence on an assumed bearing of North 87°54'29" East on the South line of said Southwest Quarter, 479.855 feet; thence North 0°43'59" East, 42.55 feet to the point of beginning; thence continuing on North 0°43'59" East, 3.40 feet; thence South 89°13'46" East, 67.97 feet; thence South 87°54'29" West, 68.05 feet to the point of beginning.

The above-described property to be acquired contains 116 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires two (2) years after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Permanent Right-of-Way Easement:

The South 42.5 feet of the following described tract, less existing right of way:

Part of the West Half of the Southwest Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M., Shawnee County, Kansas, described as follows: Beginning at a point on the South line of said Southwest Quarter, 479.855 feet east of the Southwest corner of said quarter section; thence north, parallel with the West line of said quarter section 284 feet; thence east, 142.425 feet; thence south, 284 feet to said South line; thence west, 142.425 feet to place of beginning.

The above-described property to be acquired contains 1,780 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Parcel No. 19

Owner of Record: Silver Lake Bank
2100 SW Urish Road
Topeka, KS 66614

Contract Purchaser: NONE

Lienholder of Record: NONE

Party in Possession: Vacant land

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

A portion of Lot 2, Block 'A' in Brookfield West Subdivision No. 6, in the City of Topeka, Shawnee County, Kansas, described as: Beginning at the Northeast corner of said Lot 2; thence on an assumed bearing of South 87°54'29" West on the North line of Lot 2, 94.44 feet; thence South 75°23'33" East, 98.60 feet; thence North 2°05'31" East on the East line of Lot 2, 28.33 feet to the point of beginning.

ALSO:

The South 89.44 feet of the West 10 feet of Lot 3, Block 'A' in Brookfield West Subdivision No. 6, in the City of Topeka, Shawnee County, Kansas.

The above-described property to be acquired contains 2,232 total square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires two (2) years after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Parcel No. 20

Owner of Record: Silver Lake Bank
2100 SW Urish Road
Topeka, KS 66614

Contract Purchaser: NONE

Lienholder of Record: NONE

Party in Possession: Owner of Record

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

A portion of Lot 1, Block 'A' in Brookfield West Subdivision No. 6, in the City of Topeka, Shawnee County, Kansas, described as:

Beginning at the Southwest corner of said Lot 1; thence on an assumed bearing of North 1°26'43" West on the West line of Lot 1, 156.84 feet; thence northeasterly on a curve which is concave southeasterly, having a radius measure of 88.00 feet and an arc length of 51.61 feet, the chord of which bears North 43°30'40" East, 50.87 feet; thence South 87°54'29" West on the North line of Lot 1, 5.52 feet; thence South 43°14'00" West on the Northwest line of Lot 1, 73.96 feet; thence South 1°26'43" East on the West line of Lot 1, 23.66 feet to the point of beginning;

The above-described property to be acquired contains 3,438 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires two (2) years after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Permanent Right-of-Way Easement:

Two portions of Lot 1, Block 'A' in Brookfield West Subdivision No. 6, in the City of Topeka, Shawnee County, Kansas, described as:

Commencing at the Southwest corner of said Lot 1; thence on an assumed bearing of North 1°26'43" West on the West line of Lot 1, 156.84 feet to the point of beginning; thence continuing on North 1°26'43" West on the West line of Lot 1, 23.66 feet; thence North 43°14'00" East on the Northwest line of Lot 1, 52.04 feet; thence southwesterly on a curve which is concave southeasterly, having a radius measure of 88.00 feet and an arc length of 25.38 feet, the chord of which bears South 34°58'19" West, 25.29 feet to the point of beginning;

ALSO:

Commencing at the Southwest corner of said Lot 1; thence on an assumed bearing of North 1°26'43" West on the West line of Lot 1, 180.50 feet; thence North 43°14'00" East on the Northwest line of Lot 1, 52.04 feet to the point of beginning; thence continuing on North 43°14'00" East on the Northwest line of Lot 1, 21.92 feet; thence North 87°54'29" East on the North line of Lot 1, 5.52 feet; thence southwesterly on a curve which is concave southeasterly, having a radius measure of 88.00 feet and an arc length of 26.23 feet, the chord of which bears South 51°46'21" West, 26.13 feet to the point of beginning.

The above-described property to be acquired contains 360 total square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Section 2. That the City Attorney of the City of Topeka, Kansas, on behalf of the Council of the City of Topeka, Kansas shall present a written application to the District Court of Shawnee County, Kansas, for the appointment of appraisers to make the appraisal and assessment required by law when land is taken for public purposes, and said City Attorney shall do all things necessary for the condemnation of said land completing the appropriation of the same for public purposes.

1017 PASSED and APPROVED by the City Council_____

1018
1019
1020 William W. Bunten, Mayor

1021 ATTEST:

1022
1023
1024
1025 Brenda Younger, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 22, 2007

 + Back  Print

DATE:	November 13, 2007		
CONTACT PERSON:	David Thurbon/Bill Fiander	DOCUMENT #:	P07/33
SECOND PARTY/SUBJECT:	ADR Industrial Park Subdivision	PROJECT #:	N/A
CATEGORY/SUBCATEGORY	017 Plats/002 Final		
CIP PROJECT:	No		
ACTION OF COUNCIL:	JOURNAL #:		
	PAGE #:		

DOCUMENT DESCRIPTION:

A FINAL PLAT for the **ADR Industrial Park Subdivision** on property located at the northeast corner of U.S. 75 Highway and NW 25th Street, all being within the **Municipal Service Area** and contiguous to the **City of Topeka, Shawnee County, Kansas**. (P06/33) (Council District No. 2) (Planning Commission recommended approval by a vote of 8-1-0.)

(Approval would allow the property to develop for industrial use and require annexation for sanitary sewer service.)

POLICY ISSUE:

The proposal is inconsistent with City of Topeka Subdivision Regulations relative to design criteria because it excludes two substandard size non-conforming tracts currently being used for two billboards, that do not meet minimum lot depth, minimum lot size and street frontage criteria of Subdivision Regulations. There are future negative implications of removing the two tracts from the plat regarding the uncertainty of what will happen to these tracts if the billboard lease is not renewed and the billboards are removed. At that time, two unplatted tracts will exist that are unbuildable because they do not have street frontage and are substandard size.

However, the Planning Department forwarded the final plat on to the Planning Commission for a recommendation due to the benefits of the proposed industrial park and annexation that may outweigh any potential liabilities of excluding the billboard tracts from the plat.

STAFF RECOMMENDATION:

The Planning Commission recommended that the final plat of **ADR Industrial Park Subdivision** be **APPROVED** by a vote of **8-1-0** at their **October 15, 2007** meeting as referenced in their attached minutes. The Planning Department found the final plat does not conform to Subdivision Regulations. However, in this case, found that the benefits of the industrial park and future annexation may exceed the negative liabilities of excluding the two billboard tracts.

BACKGROUND:

- See staff report.
- City Council options:
 - **Accept** the plat as presented for recording by the County Register of Deeds; or,
 - **Reject** the plat so it would not be eligible for recording by the County Register of Deeds.

Item #24

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[staff report](#)

[aerial map](#)

[Preliminary Plat- PC minutes](#)

[plat](#)

DRAFT

**Minutes of the
Topeka Planning Commission
February 19, 2007**

ADR Industrial Park Subdivision (Preliminary Plat Phase)(P06/33) by ADR Enterprises L.L.C. on property located on the northeast corner of NW 25th Street and U.S. Highway 75 contiguous to the corporate limits of the City of Topeka, all within the City's Municipal Service Area and three-mile extraterritorial jurisdiction of the City of Topeka all being within unincorporated Shawnee County, Kansas. **(Driver)** Annie Driver summarized the staff report.

Discussion by members:

Fred Sanders said the street configuration will create landlocked parcels? Aren't these parcels owned by the same land owner? David Thurbon replied yes. He stated landlocked parcels are not the issue. The issue is connectivity to the property to the east. Mr. Sanders said he understands that I-2 zoning should be protected from encroachment by residential zoning. Mr. Thurbon said that is true.

Proponents:

Ben Kramer, Kramer Engineering, spoke in favor of the proposal. He said the developer bought the property to bring his business to the city. He has been approached by several businesses to buy lots. Mr. Kramer stated the property owner will consent to annexation. He said they agree with conditions #2 and #4 in the staff report. He said the developer would like to have the plat approved as presented. There is access to the properties to the east off of 25th Street. The parcels aren't landlocked due to this. There are also access points further east onto 25th Street. He said the cul-de-sac variance is to allow for large trucks and emergency vehicles to turn around. Mr. Kramer stated the developer is planning a low volume not a high traffic area. Mark Boyd made a suggestion to put 60 feet of right of way between Lots 9 and 10 to the east and agree to a street benefit district. He added land connectivity is a good idea. Mr. Kramer asked if we agree to this would there be any restrictions on building permits? Mr. Boyd said he could see himself agreeing with the variance to the cul-de-sac length.

Kimberly Scott left the meeting: 9:45pm.

Rylie Reece, property owner, spoke in favor of the proposal. Mr. Boyd stated the benefit district goes with the land. Mr. Reece asked what if at the time the benefit district goes into affect I can't afford to be part of it? Mr. Boyd said you just have to agree to it. It may not happen for years. Mr. Thurbon stated the city could establish a benefit district whether the note is on the plat or not. The plat note will only state the owner won't oppose creation of a benefit District. Bill Fiander said during the creation of a benefit district you need 51% of the property owners in favor of it for the district to be established. Mr. Sanders asked if the street could be narrower? Mr. Thurbon replied that is the minimum. Mr. Sanders asked if the applicant agrees to the easement between Lots 9 and 10 and he sells them then he has no obligation to put the street in correct? Mr. Thurbon replied yes. Mr. Sanders said he has no liability if he sells the lots. Mr. Sanders asked if the right of way could be utilized until the street is put in? Mr. Thurbon said it would actually be street right-of-way not an easement and yes the property could be used but nothing could be there that would be a permanent obstruction. He said for example a fence would not be permitted. Ms. Hoferer asked if the purchaser of Lots 9 and 10 and want to move the right of way, how would they do that? Mr. Thurbon replied through a re-plat and rededication of the right of way. Mr. Boyd said he doesn't see this as a residential subdivision but you still need to allow for street connectivity through industrial areas. We don't want a series of cul-de-sacs running down a road. Mr. Reece said he understands what Mr. Boyd is saying but there hasn't been development out here for years. The street is a good idea if there was development out there. He said the property next door is only 200 feet wide. There is a residential home on that property right now. Mr. Boyd said we are trying to look at the long term not just what is there now. It is understandable it could be years before the property to the east of this develops. It is just good practice to dedicate right-of-way for the next guy. Mr. Sanders said he doesn't want to see an easement coming out of this property. We should not let other zonings encroach upon industrial zonings. Mr. Sanders said how do we control the property to the east not become residential? Mr. Thurbon added the property to the east is I-2. Mr. Sanders said he has a problem asking them to put in connectivity for industrial zoning. Mr. Thurbon stated the connectivity would help the properties to the east develop as industrial in the future. Providing the street will help keep the property to the east industrial and prevent it from changing to residential. Mr. Sanders asked if the applicant could have a gated industrial park? Mr. Thurbon replied yes with a PUD and privately maintained streets. Mr. Sanders asked if the whole area could be gated with a cul-de-sac? He added he doesn't see a need for connectivity between industrial parks. We need to protect the I-2 zoning. Mr. Thurbon said he feels the connectivity is crucial for truck routing and travel between the two industrial areas. He added with the connection between the two properties it will help insure that the property to the east remains heavy industrial. Mr. Boyd said he could agree to an extent with Mr. Sanders but this whole area is zoned I-2 and street

connectivity is needed. He asked if anyone could imagine the Shawnee County annex area out north not having street connectivity. Mr. Sanders asked what is currently on this property? Ms. Hoferer replied there are a lot of different buildings and uses. Mr. Boyd added there is quite a bit of activity going on along NW 25th Street and he could see this area being developed to a great extent in the future. Mr. Kramer said there are many small tracts it is not one large piece of property. If it was then the connection would be warranted. As it is each one of the tracts are going to have to be bought up or combined to allow for that street connectivity. He said there are some residential homes in between some of this. There are 3 other connections to 25th Street within ¼ mile that could be utilized by the property to the east. He said the property to the east is not landlocked. Terry Simnitt said the property to the north is I-1 and they have about 200 ft of I-2 frontage on 25th Street that will go back about 1000 feet to the I-1. He said the property to the east is not landlocked. Where would you put your right-of-way? Mr. Boyd said about 600 to 700 feet off of 25th Street with an east/west connection. With 200 foot of frontage wouldn't they be able to take care of their own ingress/egress? Mr. Boyd said sure they would. Does that make it a good subdivision design? Mr. Simnitt said I-2 is very special. Mr. Thurbon said it is getting too far back from 25th Street. He added this is twice the footage we usually allow for a cul-de-sac. If you want to develop the property to the north you have to go back several hundred feet. Mr. Sanders stated everything is subjective. He gave some examples of what the property owner to the north options may be in the future. We are throwing ideas out that may never happen. Mr. Boyd said it is not subjective it is simply good planning to have connectivity. It is a rare circumstance that we let a development develop only within itself.

Mr. Sanders asked if there were any streets leading out of the Target Industrial Park to the west? Mr. Boyd replied they front 57th Street and Winger Drive which isn't built but it is dedicated. Mr. Thurbon said a connection can't be to the west because the highway runs along the west edge of the property. Ms. Hoferer said there is another subdivision adjacent to Target Industrial Park and we allowed for connection for future use. Mr. Sanders stated there is only one connection to that subdivision. Mr. Hoferer said yes because there was a connection to the main road already. Mr. Boyd said that is correct but it opens it up for connection to the property in the back. Mr. Simnitt asked the applicant if they have any problem with the right-of-way dedication? Mr. Reece said he would like the Commission to work with the proposal as presented. Mr. Sanders asked if the applicant understands why the Commission is requesting public right of way? Mr. Sanders said you do understand they want dedication of a public right-of-way. Mr. Boyd said if the applicant wants to sell Lots 9 and 10 he could move the right of way between Lots 8 and 9. You have options to re-plat and move the lot lines. The issue is there needs to be a connection between the cul-de-sac and the property to the east. Mr. Sanders asked if connectivity could be out of the cul-de-sac? Mr. Fiander stated connectivity could be anywhere. Mr. Sanders asked the applicant if they would be agreeable to dedicate 30 feet of Lots 8 and 9 for right-of-way? Mr. Reece said the cul-de-sac would have to be reconfigured. He added putting the street connection to the north won't work because that land is always flooded. He said the cul-de-sac was made larger to help the big trucks. Mr. Thurbon stated we aren't requiring you to build the street. Mr. Reece said he understands that but you are asking me to give away the property. Ms. Hoferer asked what happens to the property to the east in the future, should it develop, if this proposal is approved as written? Would the city have to go in and buy the property? Mr. Thurbon said it would have to be condemned. It is better to get it now or you may not get it. Mr. Blackmon said what about right-of-way dedication between Lots 7 and 8? Mr. Boyd said it would be in the swamp. Mr. Blackmon said it is obvious the applicant doesn't want to dedicate the right-of-way. He asked what happens if he agrees to the dedication between Lots 7 and 8? Ms. Hoferer said it would be into the swamp. Mr. Blackmon asked if that was his problem. Mr. Thurbon stated the topography doesn't look good either. Mr. Fiander said we want connection to the east and a connection to the north doesn't accomplish that. Mr. Boyd said street plans will need to be approved by public works in the city and county. Mr. Sanders asked if this is approved without the street, is this the only place we have this problem. Mr. Thurbon said he is not sure what happened in the past but we want to do it correctly now as far as connectivity.

Fred Sanders moved to approve as written by staff with conditions 2 and 4 and revising #3 to read..."The Topeka Planning Commission granting a variance to Section 134-135(c) regarding the cul-de-sac length greater than 500'." Terry Simnitt seconded the motion.

Restated motion: Fred Sanders moved to approve as written by staff but with conditions 2 and 4 and revising #3 to read..."The Topeka Planning Commission granting a variance to Section 134-135(c) regarding the cul-de-sac length greater than 500'." Terry Simnitt seconded the motion. **APPROVAL. (4-1-0) Commissioner Boyd voted no.**

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Agenda Item # E-1

SUBDIVISION REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

Preliminary Plat Phase

Preliminary and Final Plat Phase

Final Plat Phase

NAME: ADR Industrial Park Subdivision - [P06/33]

OWNER/DEVELOPER: ADR Enterprises L.L.C.

ENGINEER/SURVEYOR: Kramer Engineering , P.A.

GENERAL LOCATION: Property located at the northeast corner of U.S. 75 Highway and NW 25th Street

JURISDICTION: Class "B" subdivision contiguous to the corporate city limits and within the City's Municipal Service Area, all being within unincorporated Shawnee County

ANNEXATION: Class "B" Subdivisions are required to consent to annexation per the City's Subdivision Regulations. Current City Code requires annexation into the City prior to providing sanitary sewer services for new or redeveloped parcels established by preliminary or final plat within the MSA after November 1, 2005. The applicant needs to consent to annexation with recording of the final plat. Consent to annexation by separate instrument is not required since the property is contiguous to city limits.

Area	# of Lots	Residential Density	Proposed Land Use	Zoning
25.87 acres	11	N/A	Industrial uses	I-2
Pending Zoning Case: None.				
Design: The subdivision contains 25.87 acres and is irregular in shape, measuring approximately 1350' X 1000' with its longest length running parallel to U.S. 75 Highway. The plat creates eleven (11) lots planned for office use. The 1100' long cul-de-sac, NW Cat Court, will provide access to Lots 2-11. Lot 1 will have access off of NW 25 th Street with the remainder of the frontage along NW 25 th Street keeping restricted access. Access to the unplatted parcels used for the existing billboards will be achieved by means of a north-south access easement from NW 25 th Street. This easement shall be for billboard maintenance only.				

BACKGROUND: There are two existing parcels (90' X 90') along U.S. 75 that are not being included in this plat and are currently used for two existing billboards. The previous property owner owned this whole tract of land (that containing the subject plat and the two parcels used for billboards) and illegally subdivided the property into three tracts of land in 1994, two of which along Highway 75 were used for the billboards. In 2006, this previous property owner sold off the remainder of the property to this applicant and retained the tracts used for the two existing billboards. Therefore, the platting of this property leaves two substandard size lots without street frontage and under the minimum lot size requirements.

The Planning Commission approved the preliminary plat for ADR Industrial Park Subdivision on February 19, 2007, which included these tracts on the preliminary plat. The applicant indicated to planning staff that he was in the process of obtaining ownership of these parcels in order to include them on the plat, thereby rectifying the present situation where the parcels are left landlocked. However, since the time of preliminary plat approval the applicant has chosen to remove these parcels from the plat. The final plat is presented that leaves these parcels out and varies from what was approved by the Planning Commission. Pursuant to Section 134-78, as it has been over six months since approval of the preliminary plat, the Planning Commission must grant an extension to its approval of the preliminary plat.

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SERVICES AND FACILITIES:

1. WATER SERVICE: Upon annexation, the development is to be serviced by the City of Topeka, with all extensions being at developer expense, by an existing 12" water main extending along the southern boundary of this property
2. SEWAGE DISPOSAL: Upon annexation, the development is to be serviced by the City of Topeka, by an existing 6" sewer main to be extended along NW 25th Street. All extensions will be at developer expense. Water Pollution Control has stated that the existing sewer main may not have the capacity to handle heavy water users, such as those permitted under the existing heavy industrial zoning, although the main could handle less intensive water users. Therefore, a plat note has been added to state, "Until such time as sanitary sewer improvements are made within the area, no building permits shall be issued without approval by the City of Topeka Water Pollution Control relative to the capacity of the existing main and the volume of discharge for each use in order to maintain adequate water capacity."
3. WASTEWATER PLAN SERVICE AREA: The property is located within the Primary Urban Service Area as reflected by the Shawnee County Wastewater Management Plan. The proposal appears in full compliance with said Plan by requiring sanitary sewer connections.
4. DRAINAGE CONDITIONS: The Drainage Report as submitted by the Consultant to the City of Topeka Department of Public Works has been approved per memo dated September 7, 2007. As required by the City Engineer, drainage detention facility easements are dedicated to cover any detention ponds and drainage ways. The Drainage Report as submitted by the Consultant to the Kansas Department of Transportation has not been approved per memo dated September 27, 2007. The Drainage Report is still under review by KDOT and KDOT has requested the final plat be continued until approval of the Drainage Report. An update on KDOT's status regarding their review of the Drainage Report will be given at the hearing.
5. STREET PLAN/ACCESS: The Preliminary Street Plans as submitted by the Consultant to the City of Topeka Department of Public Works have been approved per memo dated January 30, 2007 provided a variance was granted for the cul-de-sac length in excess of 500'. The subject plat currently creates an 1100' long cul-de-sac that that allows for no secondary access into the subdivision. Planning staff recommended with the preliminary plat that for future street connectivity and secondary access into this subdivision, Cat Court be extended to the northeast or east. The platting and extension of Cat Court would open up more land for development in the future by providing a second means of access to these properties. The extension of Cat Court would also provide for better and safer circulation patterns in the future by not forcing all traffic to travel NW 25 Street. The final plat leaves two landlocked tracts of land without street frontage and access for billboard maintenance only provided for by an egress-ingress easement running north-south along the east side of lot 1 and the west side of the property off of NW 25th Street. A plat note should be added stating, "The ingress-egress easement is for billboard maintenance purposes only" since restricted access is required along 25th Street.
6. FIRE DISTRICT: City of Topeka (upon annexation)
7. STREAM BUFFER: N/A
8. SCHOOL DISTRICT: 345- Seaman School District
9. PARKS/OPEN SPACE: N/A

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WAIVER/VARIANCE TO STANDARDS: Pursuant to Section 134-78, approval of the preliminary plat was over six months ago and an extension to that approval must be granted by the Planning Commission.

A variance to Section 134-135 (c) regarding the cul-de-sac length greater than 500 ft. was approved by the Planning Commission with the preliminary plat on February 19, 2007.

Cat Court is proposed as a dead-end 1100' long cul-de-sac and would not have a second means of access right now if platted to the property's boundary. Ten (10) proposed lots front on to Cat Court that are planned to be developed for office uses. However, the existing zoning of "I-2" Heavy Industrial permits heavy industrial uses, as well as light industrial and commercial uses that are large traffic generators. The proposed design and use would generate well over the 200 trips/day permitted on a dead-end street in excess of 500 ft. When the preliminary plat was presented to the Planning Commission, planning staff was in support of the variance only if the applicant considered the options of rezoning to a "PUD" for appropriate office and light industrial uses, provided phasing on the plat to limit building permits until Cat Court was extended, or platted and constructed the easterly extension of Cat Court. However, the Planning Commission approved the preliminary plat on February 19, 2007 that included a variance for the cul-de-sac length in excess of 500' and did not require the applicant to dedicated right-of-way for an easterly connection of Cat Court.

PUBLIC CAPITAL IMPROVEMENTS IN WHICH THE DEVELOPER ANTICIPATES REQUESTING THE GOVERNING BODY TO PARTICIPATE: None anticipated.

CAPITAL IMPROVEMENT PLAN (CIP): The CIP (2006-2011) does not include any project planned for this area.

CONFORMANCE TO COMPREHENSIVE PLAN: The property is located within the Employment Growth Area of the *Land Use and Growth Management Plan 2025*.

STAFF ANALYSIS: The overall design of the final plat does not conform to the established standards and provisions of the City Subdivision Regulations relative to design criteria. The subject plat creates two substandard size (90' X 90') non-conforming unplatted lots that do not meet the minimum lot depth, the minimum lot size, and street frontage requirements. These parcels were originally part of this property and illegally subdivided by the previous property owner, who retained those two parcels and sold off the remainder of the property to the applicant. This illegality occurred prior to the current applicant's ownership of the parcels and awareness of the illegal subdivision. Regardless, the splitting of these parcels did create the current situation where the parcels are substandard size without street frontage. Approval of the final plat will leave these two small tracts out of the plat and essentially remove any chance they have for future uses, if the billboards are removed.

There are future negative implications of leaving these tracts out of the plat. Currently, these tracts are too small to be buildable lots. It is unclear what will become of these tracts of land in the future if the present landowner of these tracts chooses not to renew his lease and the billboards are then removed. By that time, the new owners of the adjoining lots may have already fenced off the property and constructed buildings and associated parking lots. In other words, they will have done everything they intend to do with their property and not wish to include additional vacant tracts of land, which would essentially provide them with no new benefits. The potential exists for these tracts to become unmaintained and tax delinquent vacant parcels. Once the property is annexed, the City will have to assume maintenance and responsibility of these tracts whose current site characteristics would not allow them to be used for any future uses, unless re-platted with the adjoining lots 4 and 7.

The preliminary plat approved by the Planning Commission on February 19, 2007 included these billboard tracts as part of lots 4 and 7 and therefore, the preliminary plat for ADR Industrial Park Subdivision conformed to the established standards and provisions of the City Subdivision Regulations relative to design criteria. The final plat removes these billboard tracts and creates an illegal subdivision that does not conform to Section 134 of City Code.

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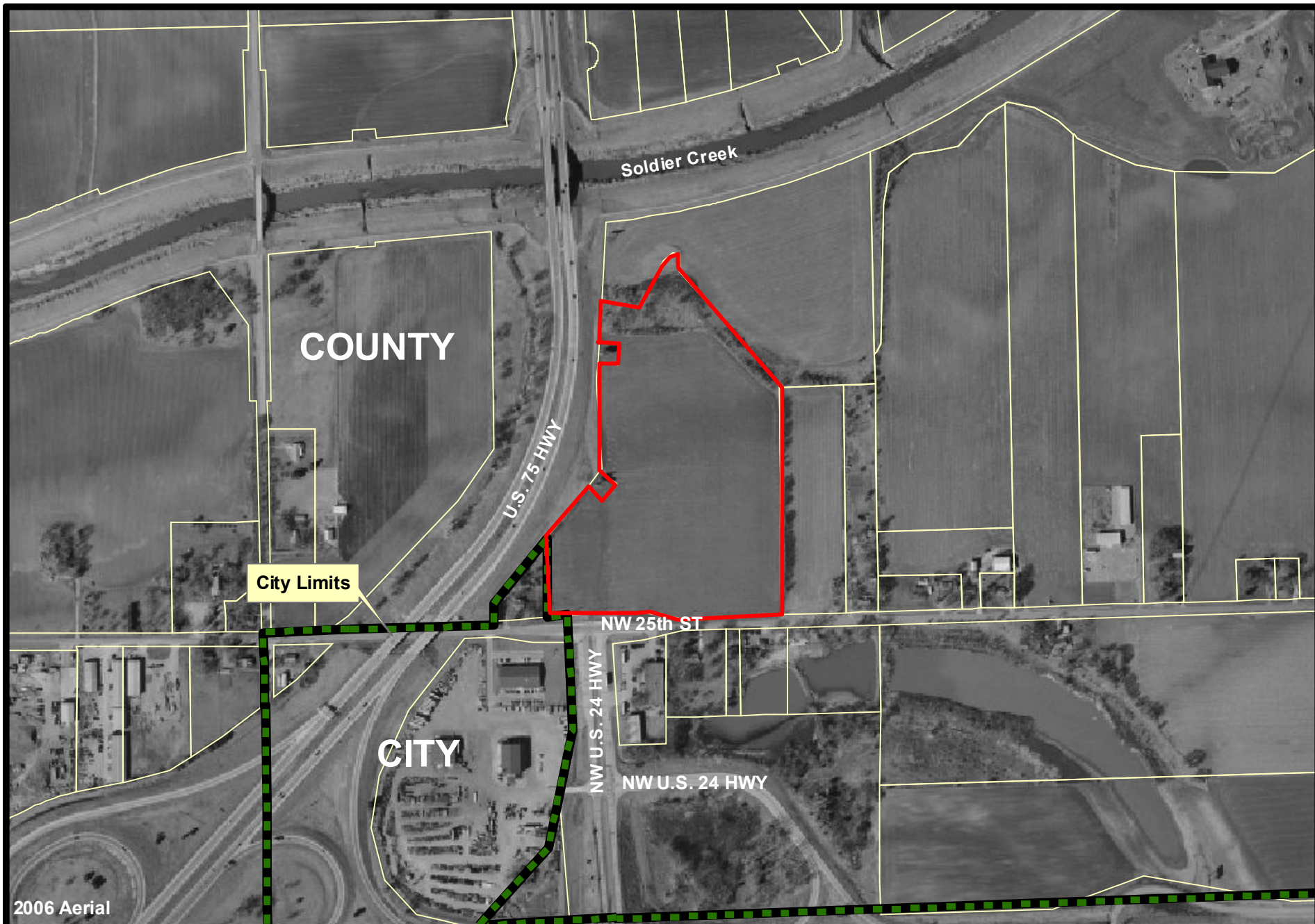
In considering the final plat for ADR Industrial Park Subdivision, the Planning Commission must first decide whether to:

1. Grant an extension to their approval of the preliminary plat for ADR Industrial Park pursuant to Section 134-78. The Planning Department recommends the Planning Commission approve an extension to the preliminary plat since conditions have not changed in the surrounding area.
2. Approve the final plat for ADR Industrial Park that does not conform to the preliminary plat that was approved by the Planning Commission on February 19, 2007 and that is an illegal subdivision no longer conforming to Section 134 of City Code. The Planning Commission may choose to approve the final plat, without including the two small billboard tracts in order to move this proposed industrial park forward. The benefits of the industrial park and annexation of the new land in the city limits may outweigh any potential future liabilities of the billboard tracts. The City's Legal Department can consult with administration and decide whether to institute legal action against the previous owner.

If the Planning Commission chooses to approve the final plat for ADR Industrial Park Subdivision, the following notes should be included on the final plat:

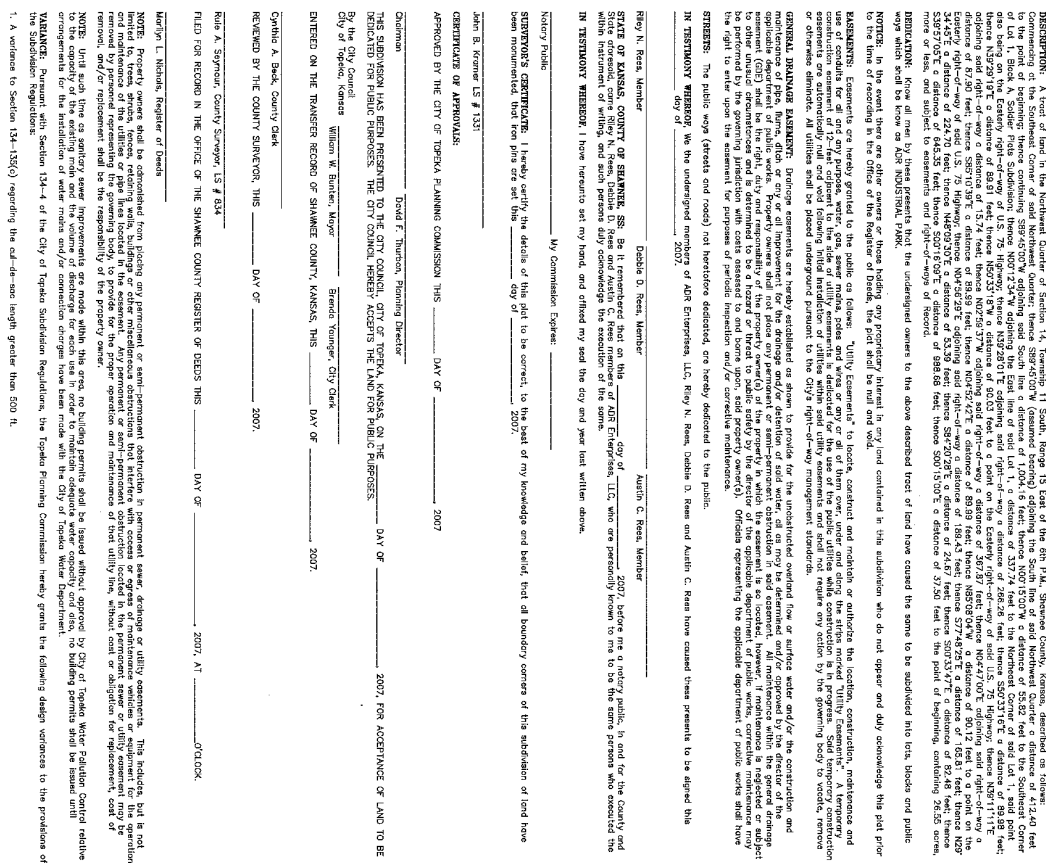
1. Addition of consent to annexation note to final plat prior to City Council acceptance.
2. Addition of note to the final plat stating, "The ingress-egress easement shall be used for billboard maintenance purposes only."

Prepared by:
Annie Driver, Planner I



P06/33 ADR Industrial Park Subdivision

A TRACT OF LAND IN THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 11 SOUTH,
RANGE 15 EAST OF THE 6TH P.M. SHAWNEE COUNTY, KANSAS

[illegible]



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 29, 2007

+ Back Print

DATE: November 13, 2007
CONTACT PERSON: Randy L. Speaker **DOCUMENT #:**
SECOND PARTY/SUBJECT: Community First, Inc. **PROJECT #:**
CATEGORY/SUBCATEGORY 006 Communication / 003 Requests
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

A COMMUNICATION approving a Real Estate Purchase Agreement between the City of Topeka and Community First, Inc., for the sale of the Sumner School property located at 330 SW Western, City of Topeka, Kansas and specifically authorizing the City Manager to execute the Agreement and all documents and instruments necessary to close the transaction.

(The City has issued request for proposals and Community First, Inc., responded and shall attempt to raise and/or borrow necessary funds on or before May 31, 2008 for the acquisition of \$22,000 and rehabilitation of the structure estimated at \$3,600,000. In the event adequate funds are not raised and/or borrowed, the contract will become null and void.)

POLICY ISSUE:

Should the contract to sell be approved and City Manager authorized to execute the agreement and any other documents or instruments to close the real estate transaction contemplated in the Agreement.

STAFF RECOMMENDATION:

Approval of the purchase agreement and authorize the City Manager to execute the agreement and any other documents or instruments to close the real estate transaction contemplated.

BACKGROUND:

The city has issued a request for proposals and Community First, Inc. responded and shall attempt to raise and or borrow necessary funds on or before May 31, 2008 for the acquisition of \$22,000.00 and rehabilitation of the structure estimated at \$3,600,000.00. In the event adequate funds are not raised and or borrowed the contract will become null and void.

BUDGETARY IMPACT:

\$22,000 less any closing costs, would be returned to the general fund and the city would be relieved of the costs associated with maintenance and upkeep.

SOURCE OF FUNDING:

No funds required from the City of Topeka.

Item #25

ATTACHMENTS:

[Purchase Agreement](#)

CITY OF TOPEKA CONTRACT NO. _____

THIS REAL ESTATE PURCHASE AGREEMENT made this _____ day
of _____, 2007, between, the City of Topeka, a municipal
corporation, hereinafter referred to as "Seller," and Community First, Inc. hereinafter
referred to as "Purchaser."

FOR GOOD AND VALUABLE CONSIDERATION, Seller and Purchaser agree
as follows:

1. a. Seller agrees to sell and Purchaser agrees to buy the following
described real estate located in Shawnee County, Kansas:

Legal Description:

The South Half of Lot 82 and all of lots 84, 86, 88, 90, 92, 94, 96
98, 100, 102, 104, 106 and 108 on Western Avenue, and lot 83
except the North 7 ½ feet thereof, and all Lots 85, 87, 89, 91, 93,
95, 97, 99, 101, 103, 105 and 107, all on Taylor Street, in the City
of Topeka Shawnee County, Kansas along with the vacated alley
lying between the South 7 ½ feet of Lot 99, and all lots 101, 103,
105, and 107 on Taylor Street, and South 7 ½ feet of Lot 100 and
all of lots 102, 104, 106, and 108 on Western Avenue, in the City of
Topeka, Shawnee County Kansas.

(Commonly known as and described as 330 SW Western, Topeka,
Kansas.)

b. Together with the appurtenances, permanent improvements and
fixtures thereto belonging, including all of the following items, if any, now located
upon the above described property: wall-to-wall carpeting, plumbing fixtures, all
built-in appliances, garbage disposal, attached incinerators and trash
compactors, built-in heating and cooling systems, boilers, elevator equipment,
tools or equipment for any and all mechanical systems, fire extinguishers, attic
fans, hot water heaters, towel racks, attached kitchen and bathroom cabinets,

light fixtures, ceiling fans, linoleum, curtain rods, traverse drapery rods, window shades, venetian blinds, screens, screen doors, awnings, storm doors, storm windows, T.V. and F.M. antennae.

c. The foregoing legal description is subject to correction after obtaining survey of the subject property.

2. The total purchase price is twenty-two thousand dollars (\$22,000.00), payable as follows:

a. Five hundred (\$500.00) in the form of earnest money, the receipt of which is hereby acknowledged; and

b. Twenty-one thousand five hundred dollars (\$21,500.00) as follows:
Payable in full upon closing. Purchaser shall be responsible for any and all closing costs, fees, inspections, and title costs, with net proceeds to Seller in the amount of twenty-two thousand dollars (\$22,000.00).

3. Seller shall convey marketable title by General Warranty Deed to be delivered to Purchaser at the closing of this Real Estate Purchase Agreement upon completion or waiver of all contingencies stated in this Agreement, receipt of the total purchase price, free of all liens and encumbrances except:

a. Zoning, conditions, restrictions, deed restrictions, reservations, rights-of-way and easements of record, if any, which do not materially affect the value or prohibit the use of the property for a legal purpose;

b. Encumbrances created by the Purchaser;

c. Installments, if any, of special assessments not yet due; and

d. Other exceptions if any.

4. Seller shall order and make available to Purchaser within fifteen (15) days after the date of this Real Estate Purchase Agreement, as evidence of marketable title, a standard owner's preliminary title insurance report, and after closing of this Real Estate Purchase Agreement, a standard owner's title insurance policy which will insure Purchaser against loss or damage to the extent of the total purchase price by reason of defects in the title of Seller to said real estate, subject to the above exceptions. It is understood and agreed by Purchaser and Seller, that Purchaser shall be responsible for paying the cost of said report as well as the cost of any title insurance. Upon delivery of said preliminary owner's title insurance report, and copies of all documents relating to all exceptions shown on the title report, Purchaser shall have a reasonable time not to exceed thirty (30) days to examine the same and return the same to Seller with any written objections concerning the marketability of the title or the same shall be deemed waived. If the Seller shall be unable to deliver marketable title as herein provided, this Real Estate Purchase Agreement shall be of no further force or effect; provided, however, Seller shall have a reasonable time not to exceed thirty (30) days to satisfy any valid objections to title. If Seller does not correct valid objections to title within thirty (30) days, Purchaser shall have the right to terminate this Real Estate Purchase Agreement or waive such objections and to close this Real Estate Purchase Agreement even though such objections have not been corrected by Seller.

5. Lawyer's Title of Topeka, Inc. is hereby designated as escrow agent of both parties. All moneys paid and to be paid, prior to the closing of this transaction, and the deed and other papers that may be delivered hereunder, shall be paid and delivered to said escrow agent, who shall hold and then pay and deliver the same to the

respective parties entitled thereto upon full performance by the parties of all the terms of this Real Estate Purchase Agreement.

6. Taxes and Assessments due and payable for the calendar year 2007, and all prior years, and a pro rata share of the 2008, taxes and assessments as of date of closing, (based on 2007 general taxes and 2007 special assessments, if any) shall be paid by Seller, and all taxes and assessments that may be levied, imposed or become payable after the closing shall be assumed and paid by the Purchaser. The parties acknowledge that the taxes may be substantially higher or lower than the previous year's taxes due to Kansas law requiring periodic re-appraisal. Purchaser is aware the property is currently tax exempt and the property shall be returned to the tax rolls effective from the date of closing.

7. Seller agrees to maintain in force until the closing of this Real Estate Purchase Agreement, all casualty insurance now in effect on the improvements, at which time said insurance shall be canceled. In the event of loss or damage to the improvements prior to closing of this Real Estate Purchase Agreement, the proceeds of such insurance, plus any deductible to be paid by the Seller, shall, at the option of the Purchaser, be used to repair such damage or applied to reduce the purchase price. If such proceeds are inadequate to restore the improvements to substantially their same condition as before such loss or damage or in the event of an uninsured loss or filing of a condemnation petition to acquire all or any part of said real estate before the closing of this Real Estate Purchase Agreement, this Real Estate Purchase Agreement may be canceled at the option of either Seller or Purchaser. In such event, this Real Estate Purchase Agreement will be of no further force or effect.

8. Unless additional time is required to provide marketable title, this Real Estate Purchase Agreement shall be closed on or before the 31st day of May 2008, with possession to be delivered to Purchaser on or before 5:00 PM, the 31st day of May 2008.

9. Seller shall pay all contractors, subcontractors, laborers, materialmen or suppliers for all work done or material furnished to the above property prior to the closing of this Real Estate Purchase Agreement, which might form the basis of a mechanic's lien. Seller shall indemnify and hold Purchaser harmless from any obligation for payment of any amounts by reason of any mechanic's liens, which may be filed for labor performed, or material furnished prior to the closing of this Real Estate Purchase Agreement.

10. Time is of the essence of this Real Estate Purchase Agreement. In the event Purchaser fails to comply with any of the terms of this Real Estate Purchase Agreement, then this Real Estate Purchase Agreement shall, at the option of the Seller, become null and void, and all rights of Purchaser hereunder shall then terminate, and all moneys paid and improvements made hereunder shall then be retained by Seller as rent and as liquidated damages for said default by Purchaser. In such event, Seller shall be entitled to possession of said real estate free of all right, title and interest of the Purchaser, and all parties shall then be released from all further liability hereunder. If Seller does not exercise this option to terminate this Real Estate Purchase Agreement, Seller may exercise any other legal rights and remedies available to Seller under Kansas law. Notwithstanding any other terms of this Real Estate Purchase Agreement providing for forfeiture or refund of the earnest money deposit, the parties understand

that applicable Kansas real estate laws prohibit the escrow agent from distributing the earnest money, once deposited, without the consent of all parties to this Real Estate Purchase Agreement. Purchaser and Seller agree that failure by either to respond in writing to a certified letter from broker within seven days of receipt thereof or failure to make written demand for return or forfeiture of an earnest money deposit within 30 days of notice of cancellation of this Real Estate Purchase Agreement shall constitute consent to distribution of the earnest money as suggested in any such certified letter or as demanded by the other party hereto.

11. This Real Estate Purchase Agreement is subject to and contingent upon the Purchaser submitting to the City's Planning department complete applications for appropriate zoning and any variances from the zoning regulations, if necessary, in order to accommodate the use of the subject property for Purchaser's proposed use. Seller, as owner of the real estate shall provide reasonable assistance to Purchaser to request a change in zoning and obtain any variances from the zoning regulations needed for the use of the property for Purchaser's proposed use. In the event Purchaser is unable to obtain the necessary zoning for the desired use or the variance(s) from the zoning regulations, this Real Estate Purchase Agreement shall be considered null and void and of no further force or effect.

12. Purchaser understands and agrees that the subject property is subject to a certain historic preservation covenant as set forth is City of Topeka Contract No. 32398, incorporated by reference as if fully set forth herein. Purchaser understands that the proposed use shall be subject to and require the consent of the Kansas State Historic Preservation Officer (KSHPO) and may require the consent of the appropriate

individual from the U.S. Department of Interior. Purchaser shall prior to closing provide written assurance from the KSHPO and U.S. Department of Interior approving Purchaser's proposed use.

13. The subject property must be utilized for a use that meets a HUD National Objective for at a minimum one (1) year following the date of operations commencement. The Purchaser hereby agrees the following national objective shall be met or the entire \$50,000 HUD planning grant sum shall be re-payable to the City of Topeka upon demand. This requirement shall survive the closing and be enforceable by the City of Topeka. In order to comply with this stipulation, at the end of the one-year operations commencement period the Purchaser shall make available to the Department of Housing & Neighborhood Development proof of income of each family, individual or person that utilizes the facility. At least 51% of the persons that utilize the facility within that first year of operations must be at or below 80% of the Topeka area median Income per family size. The HUD income limits are attached hereto as Exhibit A which is specifically incorporated herein. Another method of meeting the objective would be to specifically serve an area that is at least 51% low and moderate income as determined by HUD. If such geographically regional information can be documented this would meet a HUD national objective.

14. The Purchaser is hereby provided the exclusive right to purchase the property on or before the closing date set forth in this Agreement. Further it is understood and agreed that the purchaser may rely upon that exclusive right for the purpose of obtaining external funding from tax credits, grants, and contributions.

15. Prior to closing Purchaser shall obtain and provide Seller with written

assurance that Purchaser has obtained legally enforceable commitments for three million six hundred thousand dollars (\$3,600,000.00) or the amount a commercial general contractor licensed by the City of Topeka, to be selected by the Purchaser and agreed upon by Seller, estimates it will cost to rehabilitate the entire structure in accordance with all applicable building codes to permit a Certificate of Occupancy to be issued by the Development Services Director of the City of Topeka for the entire structure. Source of funding may include but not be limited to historic tax credits, federal state or private financial institutions, loans, grants, or debt instruments. Such documentation of financial assurance shall be in a form acceptable to the City Manager or his or her designee. Further, prior closing Purchaser shall provide Seller with written documentation demonstrating a development budget which shows sufficient funding to rehabilitate the building and commence operations as well as documentation of Purchaser's ability to fund the on-going operations on an annual basis for at least ten (10) years. Such documentation of financial viability of development and operations shall be in a form acceptable to the City Manager or his or her designee.

16. The Purchaser shall make available to the public during normal business hours a portion of the southwest lobby area for a Sumner School visitor center to display the Sumner School and its role in the Brown V. Board of Education historic ruling of 1954 by the Supreme Court. A deed restriction shall run with the land and shall be recorded upon closing describing this land as being available to the public for educational purposes.

17. Purchaser, at no cost, shall make a meeting space available to accommodate the Ward Meade Neighborhood Improvement Association or its

successors. Said meeting space shall be utilized for neighborhood meetings and shall be subject to the Purchaser's proposed use of the subject property. Request for meeting space must be made by prior notice and must be held at a reasonable time.

These requirements shall survive the closing and be enforceable by the City of Topeka.

18. During the period from the execution of this Agreement to closing, Seller agrees to make the subject property available for inspection to the Purchaser, its agents, inspectors, architects and engineers, including, but not limited to, mechanical, plumbing, electrical, and structural engineers and contractors, architects and design consultants. The foregoing inspections shall be made during normal business hours after reasonable advance notice. Seller shall not unreasonably withhold consent for inspections. Purchaser agrees to pay for any and all inspections, reports and analysis.

19. The Seller discloses the following defects and or reports known to Seller, which may not be visible or ascertainable, by the Purchaser: Purchaser will within seven (7) days of execution of this Real Estate Purchase Agreement make available for inspection copies of documents in the Seller's possession which relate to the subject property specifically including Phase 1 Environmental Site Assessment, Limited Asbestos Survey, and Limited Lead Based Paint Survey by Geo Systems; Termite Inspection Report by Paramount Pest Control, Inc.; and a copy of the original federal AHERA required management plan for Sumner Elementary School.

20. Purchaser has been allowed to make an inspection of the property and has knowledge as to the past use of the property. Based upon this inspection and knowledge, Purchaser is aware of the condition of the property and Purchaser is aware

that Purchaser is purchasing the property on an “as-is with all faults” basis with any and all patent and latent defects, including those relating to the environmental condition of the property, and that Purchaser is not relying on any representation or warranties, express or implied, of any kind whatsoever from Seller as to any matters concerning the property, including the physical condition of the property and any defects thereof, the presence of any hazardous substances, wastes or contaminants in, on or under the property, the condition or existence of any of the above ground or underground structures or improvements in, of or under the property, the condition of title to the property, and the leases, easements or other agreements affecting the property. Purchaser is aware of the risk that hazardous substances and contaminants may be present on the property, and indemnifies, holds harmless and hereby waives, releases and discharges forever, Seller from any and present or future claims or demands, and any and all damages, loss, injury, liability, claims or costs, including fines, penalties and judgments, and attorney’s fees, arising from or in any way related to the condition of the property or alleged presence, use, storage, generation, manufacture, transport, release, leak, spill, disposal or other handling of any hazardous substances or contaminants in, on or under the property, (the “environmental condition”) whether such environmental condition or such events giving rise to the environmental condition was due to the sole or concurrent negligence or strict liability of Seller or Purchaser. Losses shall include without limitation (A) the cost of any investigation, removal, remedial or other response action that is required by any environmental law, that is required by judicial order or by order of or agreement with any governmental purchaser, or that is necessary or otherwise is reasonable under the circumstances, (B) capital expenditures necessary to

cause the Seller remaining property or the operations or business of the Seller on its remaining property to be in compliance with the requirements of any environmental law, (C) losses for injury or death of any person, and (D) losses arising under any environmental law enacted after transfer. The rights of Seller under this section shall be in addition to and not in lieu of any other rights or remedies to which it may be entitled under this document or otherwise. This indemnity specifically includes the obligation of Purchaser to remove, close, remediate, reimburse or take other actions requested or required by any governmental agency concerning any hazardous substances or contaminants on the property. Provided, however, that Purchaser's obligation to indemnify Seller shall exclude: (1) Personal injury claims by third parties which arise solely from exposure or alleged exposure on the property prior to closing date; and (2) claims by third party for property damage arising solely from migration of hazardous substances from the property prior to closing date. Purchaser shall further indemnify Seller to the extent that such third party claims are made against Seller and Seller's liability for cleanup is increased because of the Purchaser's development and use of the property. Purchaser covenants not to sue or prosecute any claims Purchaser may have or which may arise in the future for the condition of environmental condition of the property or any such event giving rise to the condition or environmental condition of the property.

The term "Environmental Law" means any federal, state or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction or common law pertaining in any way to the protection of human health or environment, including without limitation, the Resource Conservation and Recovery Act, the Comprehensive

Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, and any similar or comparable state or local law.

The term "Hazardous Substance" means any hazardous, toxic, radioactive or infectious substance, material or waste as defined, listed or regulated under any Environmental Law, and includes without limitation, petroleum oil and any of its fractions.

21. Purchaser may obtain, at its own cost, a Phase I Environmental Site Assessment by the company of Purchaser's choosing. A complete copy of said report shall be provided to Seller. In the event the Phase 1 Environmental Site Assessment recommends a Phase 2 Environmental Site Assessment, the Seller may cancel this Real Estate Purchase Agreement or may obtain, at its own cost Phase 2 Environmental Site Assessment. Both parties shall be provided with the recommended actions, including the results of any and all soil tests, core samples, soil analysis, with a complete copy of the report and analysis provided to both parties. Furthermore, if any contamination at a level requiring remediation is located on said premises and Seller considers it to be cost prohibitive to remediate, Seller or Purchaser may elect to cancel this Real Estate Purchase Agreement with notice in writing to the other party and said Real Estate Purchase Agreement shall be of no further force or effect.

22. Purchaser is authorized to order a survey by a licensed surveyor of its choosing (such report to be paid for by Purchaser). If encroachments are found which affect marketable title, Purchaser may have the option of taking property "as is" or canceling this Real Estate Purchase Agreement, provided, however, Seller may elect to keep this Real Estate Purchase Agreement in force by paying for the cost of correcting

the defect. In the event this Real Estate Purchase Agreement is canceled, all parties to this Real Estate Purchase Agreement shall be released from further liability hereunder.

23. Purchaser is hereby authorized to obtain, and Purchaser agrees to pay for a termite inspection of subject property from a state licensed pest control company of its choosing. A report from said company shall be furnished showing the main structure and any attachments thereto, detached garage and/or outbuildings, should there be any, to be free of visible evidence of termite infestation. If evidence of termite infestation is present, Purchaser may, at its option, accept the property in its "as is" condition, or cancel this Real Estate Purchase Agreement, provided, however, Seller may, at its option, keep this Real Estate Purchase Agreement in force by paying for the treatment necessary to remedy such infestation by a state licensed pest control company of Seller's choice, plus any repair of damage caused by existing or previous infestation(s). If Seller elects to keep this Real Estate Purchase Agreement in force, Seller must cause reports to be delivered to Purchaser, within sixty (60) days after Seller's receipt of notice of termite infestation, and such reports shall be prepared by qualified contractors or professionals approved by Purchaser and shall certify to Purchaser that such persons have inspected the property and that the infestation has been fully remedied and all damage from the infestation has been fully repaired. The word "termite" shall include all wood destroying insects.

24. Seller shall cause all non-attached personal property other than those tools, shelving, and other materials or personal property pertinent to the subject property to be completely removed from the property on or before the 31st day of May, 2008.

25. If the Seller or the Purchaser exercises any right to cancel this Real Estate Purchase Agreement for any reason, and the parties hereto are not in default, all parties shall be released from all liability under the Real Estate Purchase Agreement. Furthermore, if the Seller or Purchaser fails to comply with any of the terms of this Real Estate Purchase Agreement, the other party may, at its option, (1) waive such non-compliance; (2) require specific performance of any or all terms of this Real Estate Purchase Agreement; or (3) cancel this Real Estate Purchase Agreement by written notice to the other party.

26. NOTICES. All notices required or permitted under this Real Estate Purchase Agreement shall be in writing and shall be deemed delivered when delivered in person or deposited in the United States mail, postage prepaid, addressed as follows:

If for Seller:

Brenda Younger, City Clerk
City of Topeka
215 SE 7th Street
Topeka, Kansas 66603

If for Purchaser:

Community First, Inc.
Sandra K. Lassiter
4210 SW Gage Blvd
Topeka, KS 66610

Such address may be changed from time to time by either party by providing written notice to the other in the manner set forth above.

27. ENTIRE AGREEMENT. This Real Estate Purchase Agreement contains the entire agreement of the parties and there are no other promises or conditions in any other agreement whether oral or written. This Real Estate Purchase Agreement

supersedes any prior written or oral agreements between the parties.

28. AMENDMENT. This Real Estate Purchase Agreement may be modified or amended if the amendment is made in writing and is signed by both parties.

29. SEVERABILITY. If any provision of this Real Estate Purchase Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Real Estate Purchase Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

30. WAIVER OF CONTRACTUAL RIGHT. The failure of either party to enforce any provision of this Real Estate Purchase Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Real Estate Purchase Agreement.

31. AUTHORITY TO EXECUTE. By signing this Agreement, Purchaser's representative thereby represents that he or she is duly authorized by the organization to execute this Agreement on behalf of Purchaser and that Purchaser agrees to be bound by the provisions of this Agreement.

32. APPLICABLE LAW. The laws of the State of Kansas shall govern this Real Estate Purchase Agreement.

THIS IS A LEGALLY BINDING REAL ESTATE PURCHASE AGREEMENT. IF NOT UNDERSTOOD, SEEK THE ADVICE OF AN ATTORNEY.

IN WITNESS WHEREOF, the parties have executed this Real Estate Purchase Agreement as of the day and year last signed.

SELLER
CITY OF TOPEKA

Norton N. Bonaparte Jr., City Manager

ATTEST:

Brenda Younger, City Clerk

PURCHASER
COMMUNITY FIRST, INC.

APPROVED AS TO FORM AND LEGALITY

DATE _____ BY _____

Name and Title



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www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 24, 2007

+ Back Print

DATE: November 13, 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 October 15, 2007, through October 21, 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 October 15, 2007, through October 21, 2007, in the amount of \$478,036.22.

SOURCE OF FUNDING:

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

ATTACHMENTS:

[Weekly Expenditures for Week Ending October 21, 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 October 15, 2007, through October 21, 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 121 vendor checks written in this period	\$344,857.32
	Total vendor checks voided in this period (net)	(0.00)
	Total electronic transfers to vendors in this period	133,178.90
	Total net payroll to employees this period	00.00
	Total payroll related electronic transfers this period	<u>00.00</u>
	Total for expenditures in this period	<u>\$478,036.22</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



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 30, 2007

+ Back Print

DATE: November 13, 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 October 22, 2007, through October 28, 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 October 22, 2007, through October 28, 2007, in the amount of \$6,238,942.43.

SOURCE OF FUNDING:

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

ATTACHMENTS:

[Weekly Expenditures for Week Ending October 28, 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 October 22, 2007, through October 28, 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 537 vendor checks written in this period	\$3,666,314.55
	Total vendor checks voided in this period (net)	(0.00)
	Total electronic transfers to vendors in this period	95,909.59
	Total net payroll to employees this period	1,537,161.82
	Total payroll related electronic transfers this period	<u>939,556.47</u>
	Total for expenditures in this period	<u>\$6,238,942.43</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



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 26, 2007

+ Back Print

DATE: November 13, 2007

CONTACT PERSON: Bill Fiander/David Thurbon **DOCUMENT #:** Z07/22

SECOND PARTY/SUBJECT: CF and S Partnership and **PROJECT #:**
KU Endowment
Association

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 the south west corner of the intersection of SW Wanamaker Road and SW 30th Terrace from "O&I-2" Office and Institutional District TO "C-2" Commercial District. Final Reading. (Z07/22) (Council District No. 8) (Planning Commission recommended approval 7-1-1.) (Planning Department recommended disapproval.)

(Approval would allow development of the property for neighborhood commercial use.)

POLICY ISSUE:

Request for "C-2" Commercial District is inconsistent with the land use principles of the Comprehensive Plan which dictate a transitional area should be maintained between uses of such varied intensity as commercial.

STAFF RECOMMENDATION:

The Planning Commission recommended this proposal be **APPROVED** by a vote of **7-1-1** at their October 15, 2007 meeting as referenced in their attached minutes. The Planning Department recommended that this request be **DISAPPROVED** 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 #28

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Ordinance](#)

[Staff Report](#)

[Protest Letters \(6 pages\)](#)

[Neighborhood Model](#)

[Aerial](#)

[Zoning Map](#)

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

[Minutes 9-18-06](#)

[City Council Minutes 10-10-06](#)

[Commission Minutes 10-15-07](#)

(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 west of SW Wanamaker Road between SW 30th Terrace and SW 31st Street from "O&I-2" Office and Institutional District **TO** "C-2" Commercial District. **(Z07/22)**
(Council District No. 8)

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 classifying the following described property:

Lots 1, 2, 3 & 4, Block B, Wanamaker West Subdivision No. 2, City of Topeka, Shawnee County, Kansas.

from "O&I-2" Office and Institutional District **TO** "C-2" Commercial District.

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

October 15, 2007
Agenda Item #G-3

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z07/22

by: CF&S Partnership and KU Endowment Association

A previous proposal by this applicant to rezone the subject property from "O&I-2" Office and Institutional District to "C-2" Commercial District was considered by the Planning Commission on September 18, 2006. Staff at the time recommended the rezoning request be disapproved. To staff's knowledge there has been no substantive change in the condition of the property or its environs from the first time the rezoning request was made to the present which would warrant a change from staff's previous recommendation for disapproval.

The Planning Commission on September 18, 2006 voted 6-0-2 to approve a less intense "C-1" classification. The City Council considered the proposal on October 10, 2006 and voted 2-7-0 to disapprove reclassifying the property from "O&I-2" to either "C-2" or "C-1".

PROPOSAL: Amend the District Zoning Classification from "O&I-2" Office and Institutional District, TO "C-2" Commercial District.

LOCATION: South west corner of the intersection of SW Wanamaker Road and SW 30th Terrace.

PARCEL ID NUMBER: 1441701001009000.

PRESENT USE: Vacant undeveloped 135,549 square foot tract.

PROPOSED USE: Retail.

CHARACTER OF NEIGHBORHOOD: The neighborhood is made up of predominately residential uses south of SW 30th Terrace and commercial uses north of SW 30th Terrace. The subject property is located on the advancing fringe of the corporate limits in southwest Topeka. This area is characterized by a combination of undeveloped agricultural land south of the subject site with residential to the west and east. As currently zoned the property serves as a transitional land use between these districts of lesser and greater intensity; and serves to restrict the intensity of use to a low to moderate range and to encourage a compatible design with the adjacent uses and developments.

October 15, 2007
Agenda Item #G-3

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	"C-4" Commercial District	New Hy-Vee and Morgan Stanley Building
South:	"RR-1" Residential Reserve District	Residential/Agricultural land (outside city limits)
East:	"R-1" Single-Family Dwelling District	Residential
West:	"O&I-2" Office and Institutional District	Undeveloped

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The property has remained vacant and unimproved since its platting in October 1997.

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 is intended to provide a transitional use along the advancing fringe of the corporate limits in southwest Topeka between the existing commercial zoning concentrated at the intersection of SW 29th Street and SW Wanamaker Road and the developing residential neighborhoods to the west and upon annexation those areas to the south.

CONFORMANCE TO COMPREHENSIVE PLAN: The *Comprehensive Plan* designates this area as *Commercial/Office* land use. Accepted planning principles dictate that established patterns of land use must be recognized as a basic factor which strongly influences rezoning decision. The current classification of "O&I-2" Office and Institutional was established for this location in 1997 when the property was rezoned from its original zoning designation of multiple-family which was established in the early 1970's as part of a comprehensive reclassification of the southwest quadrant of SW 29th Street and SW Wanamaker Road for multi-family residential, office and commercial uses. The zoning pattern extending south and west of the SW 29th Street and SW Wanamaker Road intersection reflects a transitional land use pattern with commercial zoning concentrated at the intersection and stepping down through multiple-family residential and office usage as a land use buffer to developing and anticipated residential neighborhoods to the south and west. This practice is well supported by the neighborhood design guidelines in the *Comprehensive Plan*; (see attached model neighborhood schematic) that states retail should be located at arterial street intersections.

The subject property is located at the boundary of these two distinct land use areas as well as being on the advancing fringe of the corporate limits. Although it is the intent of the *Comprehensive Plan* that the Plan is to be interpreted with flexibility at the boundary of different land use areas to allow for reasonable transitions in land uses, adoption of the proposal will not only replace an existing transitional zoning district, but also have the effect of extending this transition further south along a major arterial (SW Wanamaker Road) in the future. Such an action may disrupt or threaten the integrity of established residential neighborhoods to the south and promote further commercial strip development along one of the city's major arterials which the *Comprehensive Plan* discourages.

October 15, 2007
Agenda Item #G-3

The proposal is found by staff to be inconsistent with the established goals and objectives of the Comprehensive Plan and accepted planning principles.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: The removal of present restrictions would permit the subject property to develop for commercial use which is found to be inconsistent with accepted planning principles which dictate a transitional area between uses of such varied intensity as commercial and residential. Currently SW 30th Terrace is the line of demarcation within the area that serves as the accepted point of transition. To allow this to be breached would potentially open an area running some 1,300' to the south for commercial expansion before reaching an area with exiting residential development. Such a practice only exacerbates further strip development along SW Wanamaker Road. Therefore, it can be expected that removal of the present restrictions based upon the surrounding land use would have a detrimental effect upon the area.

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 sites present classification was established in 1997 when the property was rezoned from its original zoning designation of multiple-family that was established in the early 1970's as part of a comprehensive reclassification of the southwest quadrant of SW 29th Street and SW Wanamaker Road for multi-family residential, office and commercial uses. The limits of office and commercial uses were established at that time in order to concentrate the more intense uses around the arterial intersection of SW 29th Street and SW Wanamaker Road which is precisely what the neighborhood design guidelines in the *Comprehensive Plan* state (see attached model neighborhood schematic). Therefore, the proposed reclassification of the subject property is viewed as being inconsistent with the transitional character expected by the surrounding properties. Such an action is viewed as having a detrimental effect on those surrounding properties and therefore, it would appear to be in the best interest to the public health, safety and welfare in requiring continuation of the present restrictions.

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. SW 30th Terrace is currently being constructed for a new Hy-Vee Supermarket to the north. SW Wanamaker from SW 29th Street to SW 33rd Street is proposed to be improved to major arterial standards as part of the City's CIP in 2008.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

Application: **Complete.**

Minimum Lot Area: **Compliant.**

Setbacks: **Compliant.**

Platting: **Compliant** – The final plat of the Wanamaker West Subdivision No. 2 was recorded on October 20, 1997.

October 15, 2007
Agenda Item #G-3

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 except for the question of zoning suitability as expressed in this staff report.

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: | Not Applicable. |

STAFF RECOMMENDATION:

Based upon the above findings and analysis Planning Staff recommends **DISAPPROVAL** of this proposal.

Prepared by: Dean W. Diediker
Planner II

3418 Alameda Dr.
Topeka, KS 66614

September 22, 2007

Planning Commission
620 SE Madison
3rd Floor
Topeka, KS 66607

RECEIVED

SEP 25 2007

TOPEKA PLANNING
DEPARTMENT

Dear Planning Commission:

I am writing to urge the commission to reject the zoning request, Z07/22. This same request was rejected a year ago by the City Council. The issues remain the same.

I live in the Shadywood West development and do not want to see the commercial growth coming closer to our neighborhood. The property in question is the closest city property to our neighborhood.

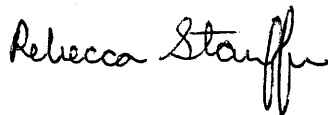
My concerns are as follows:

- An increase in traffic on an already congested two lane segment of Wanamaker. It already can be a long wait at the stop sign on 34th street to turn onto Wanamaker.
- A decrease in the value of residential property, as commercial property moves next to our area.
- Continuation of the Wanamaker commercial sprawl which lacks frontage roads and access from streets other than Wanamaker.

There already exists commercial property at 29th & Wanamaker and 34th & Wanamaker. It is time to stop extending zoning that encroaches on residential property and puts development in areas where the infrastructure does not support it.

Thank you fore your consideration of my request. We are proud of our neighborhood and want to preserve it as family friendly and save.

Sincerely,



Rebecca Stauffer
3418 Alameda Dr.
Topeka, KS 66614

cc: Brett Blackburn

5978 SW 30th Terrace
Topeka, Kansas 66614-4040

Topeka Planning Commission
c/o Dean Diedker
620 SE Madison Street, Third Floor
Topeka, Kansas 66607

Dear Sirs:

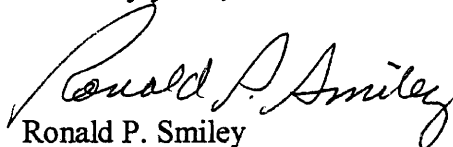
I beg that you decline the "commercial" rezoning requested for property west of SW Wanamaker Road and south of SW 30th Street Terrace Street, now being constructed.

The extension of 30th Terrace changes a relatively safe "T" intersection from the east to a cross street. This connection is midway on a rather steep hill and speeding is common in both directions. The rapid commercial development is an increasing danger and a rezoning to commercial, increasing traffic, will be multiply the danger no doubt. Also our neighborhood has been practically crime free and the change from O & I to commercial would likely reduce our security, another concern of mine.

In 2006 I tried over five months to sell my home at thousands below its appraised value. I was unsuccessful. The feed-back I received indicated (besides 3 wallpapered rooms) was the undesirability of the rapid commercial development surrounding our homes. (Brick Oven Restaurant adjoins my lot on the north.) This and other business development in a stable neighborhood is not only devaluing our properties but threatens our safety and security.

Please decline the request to rezone. I will be grateful for your protection and concern for us citizens.

Sincerely yours,


Ronald P. Smiley

September 17, 2007

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SEP 18 2007
TOPEKA PLANNING
DEPARTMENT

5966 SW 30th Terrace
Topeka, Kansas 66614-4040

September 17, 2007

RECEIVED

SEP 19 2007

TOPEKA PLANNING
DEPARTMENT

Topeka Planning Commission
c/o Topeka Planning Department
620 SE Madison St., Third Floor
Topeka, Kansas 66607

Dear Commissioners:

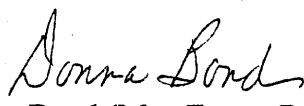
Please permit us to register our opposition to the rezoning requested for land joining Southwest 30th Terrace Street west of Southwest Wanamaker Road. Our home is on Southwest 30th Terrace Street, east of Wanamaker Road in the Chestnut Hills development.

We are concerned by the rapid commercial development that continues to depreciate the attractiveness and value of our residence. We and our neighbors are older adults and the increased noise and traffic are threatened to our safety and to the stability of what has been a pleasant, peaceful living environment. We believe that rezoning to commercial from office and institutional is unnecessary, not in the best interests of our city as a whole, and certainly would be harmful and unsettling to us.

Know that we appreciate your protecting us as you did last September by declining this rezoning request.

Respectfully,


Emery Bond


Donna Bond (Mrs. Emery Bond)

OCT 02 2007

TOPEKA PLANNING
DEPARTMENT

October 1, 2007

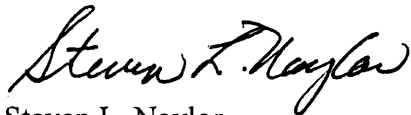
Topeka Planning Commission
620 SE Madison
3rd Floor Planning
Topeka, KS 66607

Dear Planning Commission Members,

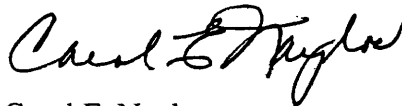
While there are numerous reasons to oppose the proposed zoning change on the property south of 29th and west of Wanamaker Rd., I would like to summarize them in the following comment.

The most obvious reason to oppose this rezoning is the need to preserve the current buffer along Wanamaker Rd. as the area transitions from considerable commercial property north of 29th St. to what is obviously a well-developed and well-maintained residential area as one proceeds south on Wanamaker Rd. The present arrangement provides for a reasonable transition zoning, but this proposed rezoning change would begin the clear erosion of that transitory plan. Moreover, there is little guarantee – and some would suggest the likelihood – that were this rezoning to pass, the county-controlled property immediately to the south of that (some or all of the McDowell Farm) would in turn be rezoned as commercial property. Were this to happen, buffering with a transition zone would then cease altogether. Certainly the Commission is aware that many families on both sides of Wanamaker Rd. have invested considerable sums in their properties with the expectation that the City of Topeka would preserve the zoning arrangement and thus the value and attractiveness of their homes. Residents consider a commercial rezoning as an abrogation, and it is time to put a stop to commercial development encroachment into a fine, established neighborhood.

Sincerely,



Steven L. Naylor
3327 SW Wanamaker Rd.
Topeka, KS 66614



Carol E. Naylor

Shadywood West Homeowners' Association
Topeka, Kansas
October 15th, 2007

George Webb
President, SWWHA
6024 SW 37th Street
Topeka, KS 66614

Planning Commission
City of Topeka

On behalf of the 132 families of the Shadywood West Homeowners' Association and the duly elected board thereof, I wish to express the Association's objection to a proposed zoning change on the property south of 29th Street and west of Wanamaker Road. It is my understanding that this is zoning amendment would change the classification from Office and Institutional District (O&I-2) to C2 Commercial.

I wrote to the Planning Commission a little over a year ago, and to our knowledge, little has changed since that would influence the Shadywood West residents. The only difference we know now is that plans for the sale of portions of the McDowell Farm property have started to crystallize. This concerns our residents greatly; since the McDowell property is in the county, any protection by the city regarding a transition zone will be gone if this aforementioned land is rezoned to C-2 Commercial. Fortunately, the City Council rejected the rezoning proposal last year.

There are several reasons for our objection. The most salient is the need to preserve the current buffer along Wanamaker as the area transitions from considerable commercial property north of 29th Street to what is obviously a well developed and well maintained residential area as one proceeds south. The present arrangement provides for reasonable transition zoning, but this proposed change would begin the clear erosion of that transitory plan. Moreover, there is little guarantee – and some would suggest there is a likelihood – that were this rezoning to pass, the county-controlled property immediately to the south of that (some or all of the McDowell Farm) would in turn be rezoned as commercial property. Were that to happen, buffering with a transition zone would cease altogether. Certainly the Commission is aware that many families on both sides of Wanamaker have invested considerable sums in their properties with the expectation that the City of Topeka would preserve the zoning arrangement and thus the value and attractiveness of their homes. Residents consider a commercial rezoning as an abrogation, and it is time to put a stop to commercial development encroachment into a fine neighborhood.

Second, the long-range plan for further development of Wanamaker Road south of 29th Street and north of the 34th Terrace does not appear to have any prospect of road expansion that would

handle increased traffic consequent to a commercial operation. At a minimum, turning lanes would be required to support traffic flow.

Third, there is a descending hill as one proceeds south from 29th (and before encountering the creek a few hundred meters further). This hill does not create a major traffic hazard under the current arrangement, but were this property and any other property west of Wanamaker rezoned as commercial, one might reasonably expect the hill and creek to present safety hazards due to transient traffic encountering low visibility from the elevation change. It would only be a matter of time, were transient traffic to be greatly increased, that another traffic light would be necessary.

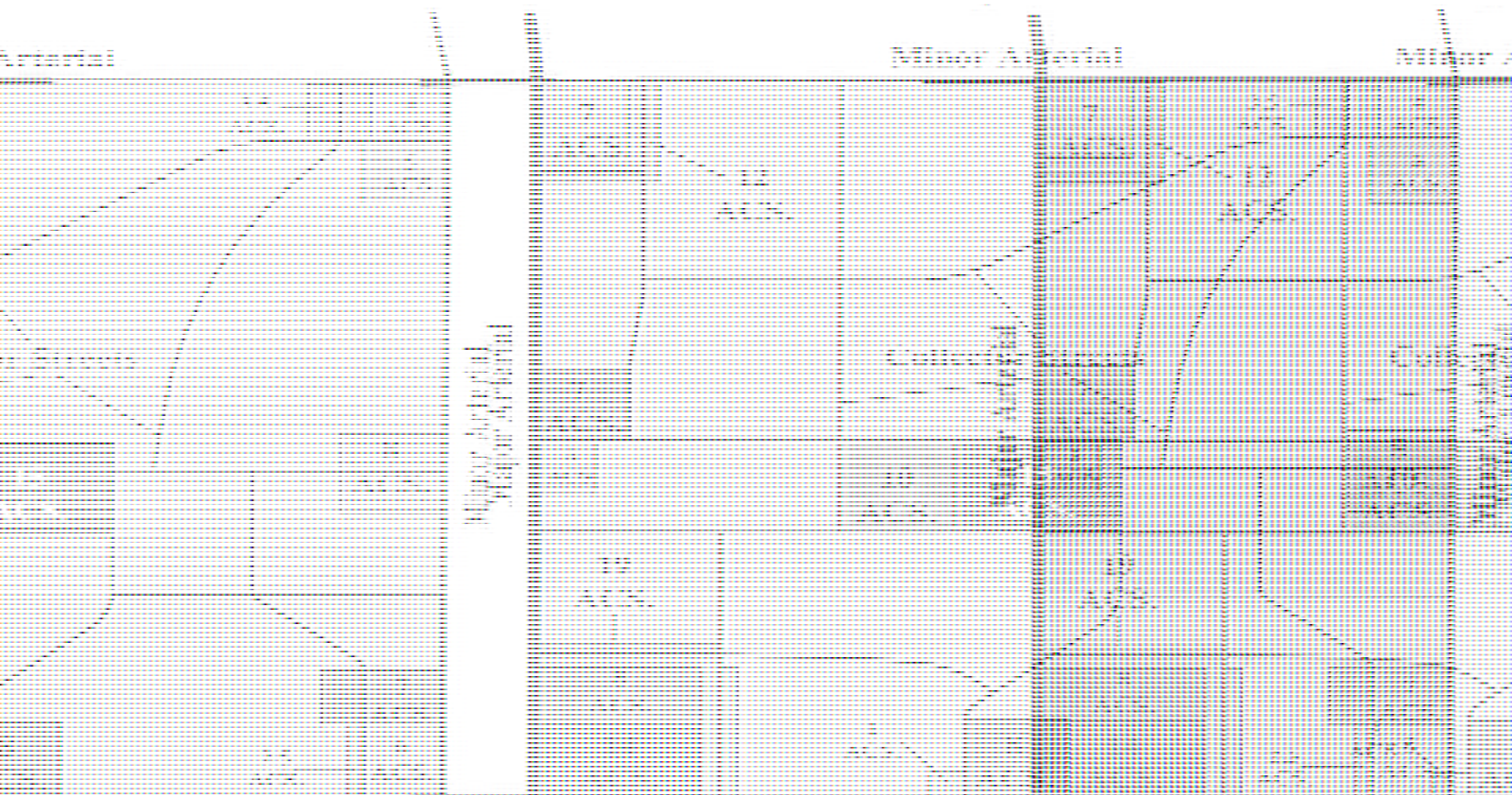
Fourth, residents close to this area report a consistent problem with drainage in the low ground at the bottom of the hill. Bad enough already, a commercial enterprise with concomitant concrete and asphalt would further diminish the present soil absorption in the area. Increased water runoff into the low area south of 29th could quite possibly render some properties on the north end of Shadywood untenable. Certainly it would place new demands on the city or the county, and as we have already seen on 37th Street, finger-pointing between the city and county in the boundary areas sometimes means that residential property owners are the losers.

Thank you for your consideration of the views of the Shadywood West homeowners. This potential rezoning raises very real concerns to the good people who live in Shadywood West and also to the families east of Wanamaker, all of whom purchased their homes with the expectation that there would be no commercial encroachment in their areas.

Respectfully,

George S. Webb
President
Shadywood West Homeowners' Association

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OCT 15 2007
TOPEKA PLANNING
DEPARTMENT



- Arterial

Commercial Center
 & Commercial Center
 & Office
 & Park
 School
 Residential
 High Density Residential
 Medium Density Residential
 Single-Family Residential
- Minor Arterial

Collector

Major Arterial

Major Arterial

Major Arterial
- Community Commercial Center

Neighborhood Commercial Center

Neighborhood Office

Neighborhood Park

Elementary School

High Density Residential

Medium Density Residential

Single-Family Residential
- Community Commercial Center

Neighborhood Commercial Center

Neighborhood Office

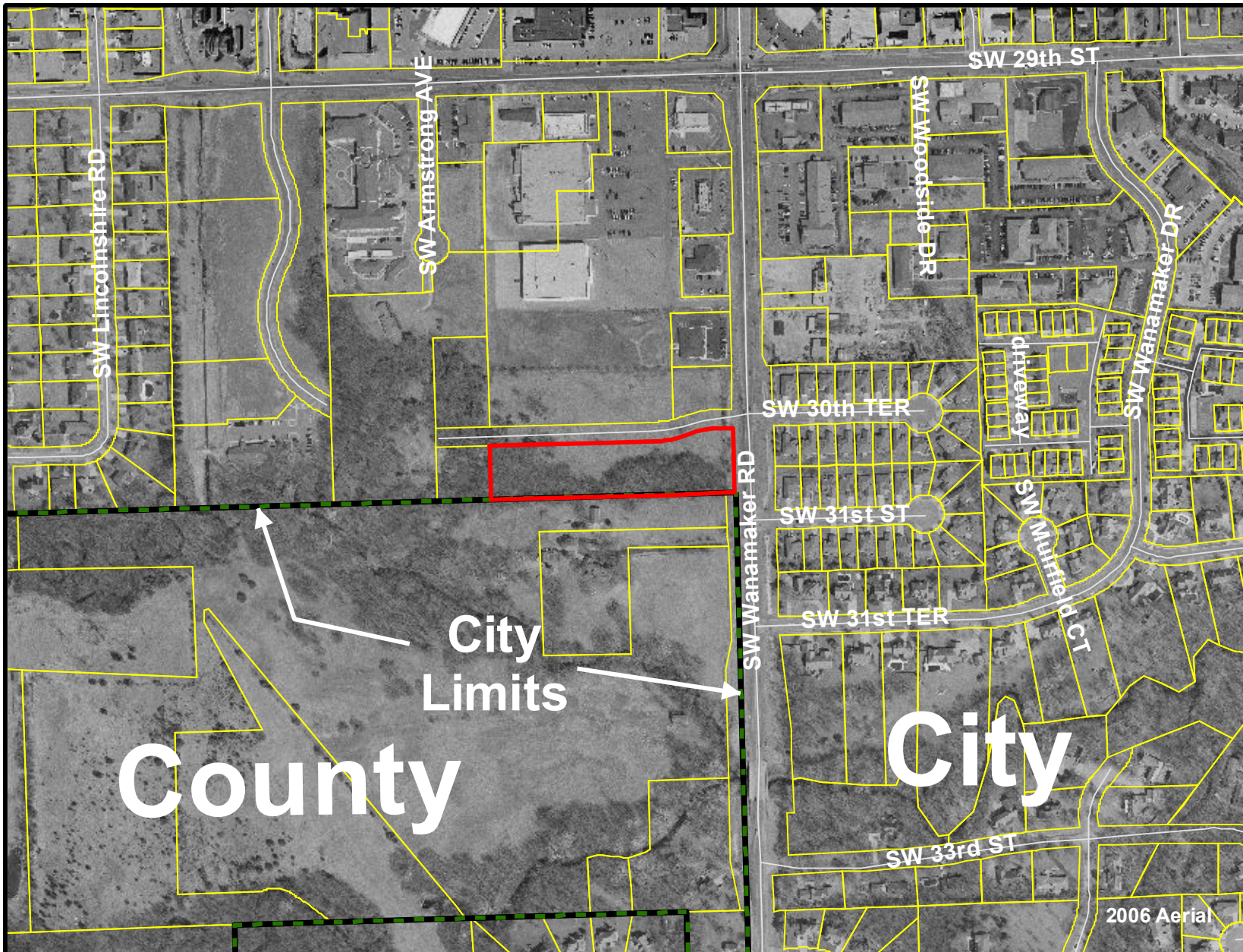
Neighborhood Park

Elementary School

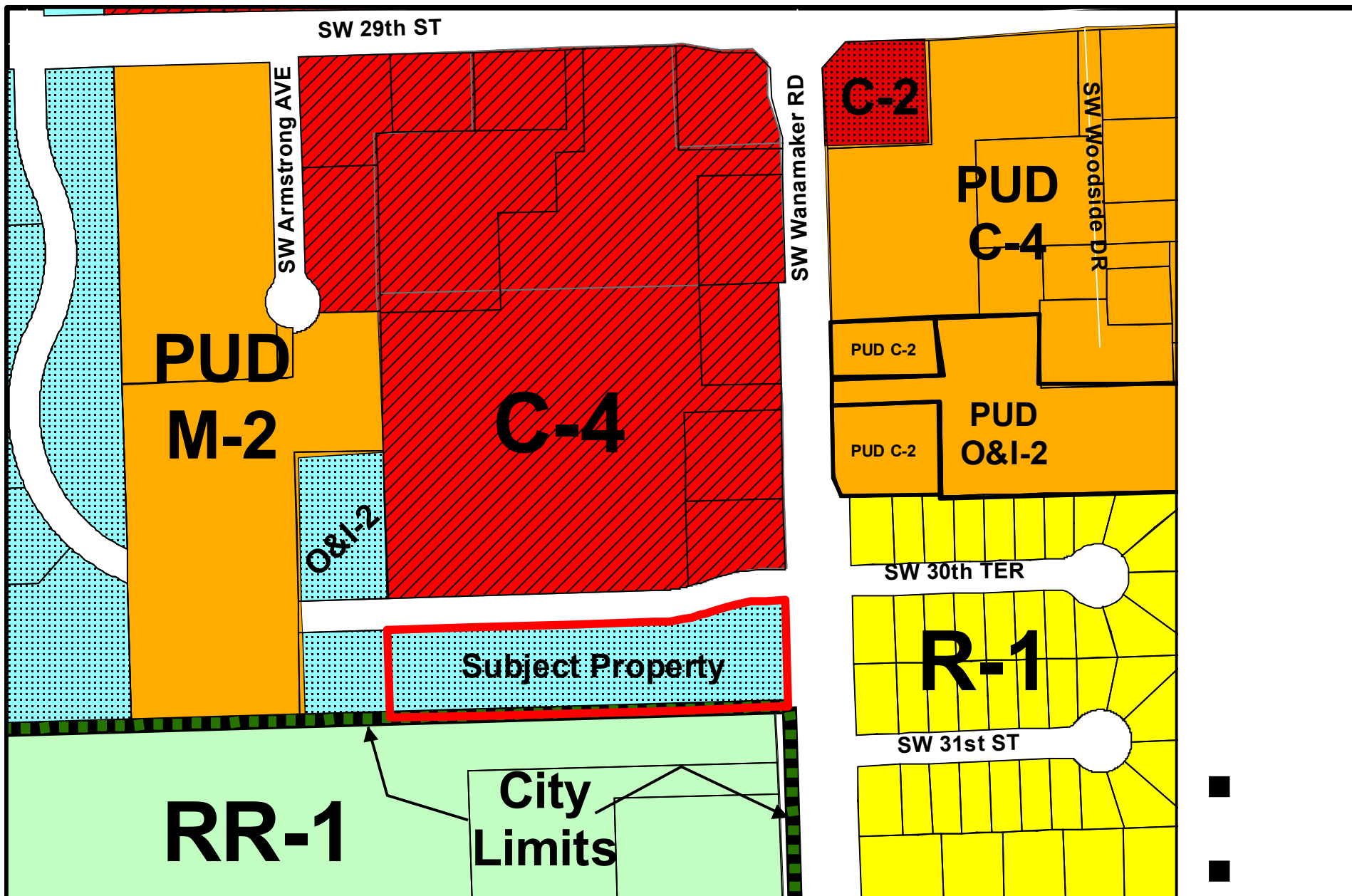
High Density Residential

Medium Density Residential

Single-Family Residential



Z07/22 by CF&S and KU Endowment Assoc.



Z07/22 by CF&S and KU Endowment Assoc.

FROM : C

FAX NO. : 9138293341

Aug. 16 2007 05:00PM P1



Application Form Re-Zoning or Conditional Use Permit City of Topeka Planning Department

Topeka, KS 6660
Phone 785-368-3728 Fax 785-368-2536

Applicant Information

Property Owner(s): CF&S Partnership & KU Endowment Association

Street Address: 2930 SW Woodside Drive
City: Topeka State: KS Zip: 66614 E-mail: Flattd1@aol.com
Business phone: 785-272-4706 Home phone: 913-829-3341 Fax: 785-272-4736

Authorized Owner Representative (if any): Doug Flatt

Street Address: 2930 SW Woodside Drive
City: Topeka State: KS Zip: 66614 E-mail: Flattd1@aol.com
Business phone: 785-272-4706 Home phone: 913-829-3341 Fax: 913-829-3341

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

Cook, Flatt & Strobel Engineers, P.A.

Street Address: 2930 SW Woodside Drive
City: Topeka State: KS Zip: 66614 E-mail: nchapman@cfse.com
Business phone: 785-272-4706 Home phone: _____ Fax: 785-272-4736

Authorization

Owner 1 Name: Doug Flatt - C.F. & S. Partnership

Owner 1 Signature: [Signature]

Date: 8/16/2007

Owner 2: Daryl Beene - KU Endowment Association

Owner 2 Signature: [Signature]

Date: 8/17/2007

Requested Action and Site Information

Address of Property to be Re-Zoned (or if vacant, describe general location): _____

Property south of SW 30th St. Terrace, west of Wanamaker approximately 770 feet

Legal Description of Property: lot(s) 1-4 block B subdivision Wanamaker West Subdivision No. 2
(if unplatted, attach metes and bounds description)

Total Area (acres/square feet): 135,549 Square Feet

Type of Application:

1. Re-zoning from: 0 & 1-2 to: C-2 Commercial

2. Conditional Use Permit proposed use: _____

Existing Use (# of dwelling units, square feet, etc.): Horse Pasture

How long has the existing use been on the property? 50 years

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

Was a Pre-Application Meeting or Zoning Inquiry completed with Staff? Yes **If Yes, when?** 8/1/06

The Planning Commission approved the C-1 zoning in September 2006 with the City Council

denying the zoning a month later. **FOR OFFICE USE ONLY**

Date submitted: 8/31/07

Date notice sent: 9/21/07

Application no.: 207/22

Date advertised: 9/21/07

Filing fee: 1650⁰⁰ **Receipt no.:** 11621

Date of hearing: 10/15/07

Quarter section map no.: K1a

Council district: #8

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.: _____

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?

Property immediately north of requested rezoning is under construction for use as Hy-Vee major grocery outlet. Planning of this facility utilizes SW 30th Terrace for supply traffic with service area immediately north of SW 30th Terrace. This level of truck traffic with normal clutter in the loading and unloading area is not compatible to office development across the street. This is illustrated by lack of interest our broker has encountered during the past 2 years since the Hy-Vee development was announced. However, potential buyers have expressed a sincere interest were the land zoned C-2.

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

Property to the north is identified above - Lot 5 of referenced subdivision and Lot 6, Block "A" Wanamaker West Subdivision No. 2 would remain with O & I-2 zoning providing buffer to the West. Property to the south of this property has a floodplain easement approximately 400 feet along Wanamaker Road on the East decreasing to approximately 200 feet at West line of Lot 4 which limits any type of development to the South. Wanamaker Road provides a natural buffer to the East.

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

The referenced property is part of a 35 acre development purchased in 1969 which was zoned and platted shortly after purchase. The Master Plan of commercial zoning at that time was followed. As development of 29th & Wanamaker intersection took place the commercial limits in the other three quadrants was expanded which is in keeping with policy of maintaining commercial use at major intersections. The C-2 zoning would provide specialty stores to compliment the existing and proposed commercial development within the southwest quadrant of 29th & Wanamaker development more of a full service shopping center. This minor addition of commercial in the southwest quadrant is keeping with this policy.

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:

There is an existing City of Topeka 12" water line on the west side of SW Wanamaker Road. The Hy-Vee development will include an 8 inch watermain on the north side of SW 30th Terrace.

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

Yes, no improvements are anticipated.

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

2. Sanitary Sewer

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

There is an existing City of Topeka 8 inch sanitary sewer on the west side of Wanamaker Road.

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

Yes, there is adequate capacity. An 8 inch lateral extension will serve the site at time of improvement.

- 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?

Storm water will be detained and discharged off-site in accordance with the approved Drainage Report for Wanamaker West Subdivision No. 2.

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

Yes.

4. Traffic Circulation

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

There is frontage along SW 30th Terrace which is under construction. SW 30th Terrace has a 60' R/W and will have a pavement width of 29 feet.

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

Site's access points will be from SW 30th Terrace. Access to main commercial area will be provided by a 29 foot street west of Hy-Vee facility.

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

As stated above, SW 30th Terrace is under construction and shall be completed this fall. Office development of this parcel will generate concentrated traffic flow at noon hour and closing hours; whereas with C-2 development the SW 30th Terrace and Wanamaker Road intersection would involve concentrated traffic within the commercial area.

DRAFT

Minutes of the
Of the
Topeka Planning Commission
September 18, 2006

Z06/30 by CF&S Partnership and KU Endowment Association requesting to amend the District Zoning Classification from "O&I-2" Office and Institutional District TO "C-2" Commercial District on property located west of SW Wanamaker Road between SW 30th Terrace and SW 31st Street. (Diediker) Dean Diediker summarized the staff report.

Discussion by members:

Michelle Hoferer asked where the next chance to buffer is? Mr. Diediker replied 1,300 feet south, right outside the city limits, in the subdivision to the south. Fred Sanders asked if staff doesn't consider the county line a buffer? Mr. Diediker replied he doubts the property will remain in the county for the long-term. Mr. Sanders said it would be up to the owner if they want to be in the city or not due to the acreage. Mr. Diediker said that is true.

Proponents:

Doug Flatt, previously of the group Cook, Flatt and Strobel, spoke in favor of the proposal. He gave a brief history of the land. We bought 30 acres to put up a new office. We built an office in 1971. We have a PUD on some of the 30 acres. Dana Anderson was a partner with Cook, Flatt & Strobel but signed over his ownership to KU Endowment, which is how KU Endowment became part of the equation. On the south side of 30th Terrace is an office, on the north side is C-4 zoning. MRV purchased the ground to the north of 30th Terrace. At the time we didn't know what the use would be on the property. Later we found out it would be a Hy-Vee grocery store. He said 30th Terrace will be where the loading docks for the store will be located. It will not be the best view from the subject property. The loading area is 10 to 12 feet higher elevation than the property to the south. KS Commercial is our realtor on the property. Mike Morse is our representative. Mr. Flatt said he consulted with KS Commercial about how the Hy-Vee would affect our property and they said it will be detrimental. He said he has had several conversations with some of the neighbors and planning staff. He said during the pre-application meeting he wasn't told "no". The result of the meetings is why we proceeded to turn in our application. It has been said traffic will be an issue. That is true. Once Hy-Vee opens up and Wanamaker gets completed to the south there is going to be some major traffic issues. I don't feel this proposal will create more traffic. This won't be that intense of a use. It will be a neighborhood/specialty shops. He handed out a site plan for the Hy-Vee. The property will utilize SW 30th Terrace and there is a possibility SW 30th Terrace will be extended and connect to SW 29th Street. In the future Wanamaker will be expanded to 5 lanes from SW 29th Street to SW 37th Street. He added we want to sell this property and abolish the partnership.

Mr. Sanders asked if there has been a traffic study compiled to show how much more traffic will be generated? Mr. Flatt said that study can't be conducted since we don't know what is going there. He added it will be nothing compared to what Hy-Vee will generate. The type of commercial we are planning won't generate more traffic than an office use would.

Mike Morse, KS Commercial Real Estate, spoke in favor of the proposal. He said they are the listing agent for the proposal property. He stated that there is commercial and office zoning surrounding the property. He said there isn't much appeal for an office at this site, especially with the view being the delivery dock for Hy-Vee. He said they want to follow the rules and do this correctly. He said smart growth is good growth. He said they have had meetings with the neighbors and Bartlett & West and we don't believe the property will sell right away unless it is rezoned.

Barbara McDowell, owns the property to the south of the subject property. She said she doesn't oppose the rezoning. She said she wants to make sure the row of trees that are currently between the properties remains as a buffer. She said she would like 25 feet of landscape buffer and a fence. The fence will help control the debris from the properties north of the subject property and will help block car headlights. I have been told these requests would be put in writing before or during the sale of the property. This property won't create more traffic than an office use would. In the future if the city would like to talk we own 57 acres to the south of this property that would make a beautiful park.

Opponents:

George Webb, 6024 SW 29th Street, spoke in opposition to the proposal. He said he is the representative for Shadywood West Homeowners Association. He said the group objects to this zoning change for several reasons. The current buffer between commercial use and residential use needs to remain. The present arrangement preserves this plan. We are concerned if this property is rezoned to commercial that the McDowell property would follow suit and there would be no buffer to the residential area. This is encroaching into a fine neighborhood. This is

not in the comprehensive plan. There is a hill on SW 30th Terrace that is not a problem at this point but with the increased traffic could create a problem. Drainage would be an issue as well. There are no specific plans at this point so it is hard to predict the problems a commercial entity would bring. It depends on the use.

Lisa Stubbs, resident of Shadywood West, spoke in opposition to the proposal. She said she agrees with the staff report and Mr. Webb's comments. She said she had a couple of additional issues. One is drainage. From SW 29th Street to SW 37th Street on Wanamaker is a low elevation east and west of our neighborhood. The City has spent a lot of money to correct drainage issues in this area. We are downhill from all development in the area. The creek overflows several times a year. She said she agrees there is a tremendous problem with traffic from SW 29th Street to SW 37th Street along Wanamaker. This area on Wanamaker isn't planned to be improved in the near future. It is a huge expense. There are concerns with Hy-Vee coming and the traffic it will generate. It is the compounding affect that creates the traffic issues. When Boursfield was there wasn't McDonald's and all the other small businesses that help compound the problem. She said she agrees the development to the north of the subject property will hurt it. In turn his property is to the north of ours and if this approved it will negatively impact our property. She said she doesn't understand how they will see all the truck docks. The building faces Wanamaker so they would see the side of the building. There are ways to control what is brought into an area. A PUD controls what is going onto the property. That would help to accommodate the residences. C-2 is very intensive zoning. Many different businesses could go into this. Agree smart growth is good growth. This is spot zoning not smart zoning.

Mr. Flatt said the traffic will go where the highway is. Drainage will be maintained on the property. He said he will agree with Ms. McDowell's request and will provide assurance in any sales agreement. Mr. Sanders asked if C-1 zoning would work? Mr. Flatt said that is more of a neighborhood zoning. He said this is going to be a store off of the beaten path. He said he believes C-1 zoning would work.

Theron Sims asked if it is known when the road expansion from SW 29th to SW 37th will take place? Mr. Fiander replied it is in the CIP from SW 29th to SW 33rd in 2008. He said there have been discussions of expansion from SW 33rd Street to SW 37th Street but it isn't in CIP at this time. Mr. Sanders asked if the property is in the 100 year flood plain and Mr. Diediker replied no.

Howard Blackmon said looking at the C-2 zoning for the location of this property I don't think there is anything too offensive allowed in this zoning. Kimberly Scott said as compared to C-1? Mr. Blackmon replied yes. Mr. Sanders asked staff if they considered a property going from O&I-2 to C-2 as spot zoning? Mr. Fiander replied the property has C-4 to the north so I wouldn't say this is spot zoning because there is some like zoning adjacent to it. He added C-1 is a locally serving district. Whether zoned C-1 or C-2 is may not mean as much as what will the site look like. Mr. Sanders asked if the Commission can address hypothetical's? He said the residents should be more offended by the looks of the property now. It is overgrown. We need to get this property on the tax rolls. Whenever it comes up commercial adjacent to residential people don't want it in their area. This is an expensive piece of property to remain vacant. He said they live along Wanamaker, which is a retail corridor. Mr. Blackmon asked where the city limits ends? Mr. Diediker replied this property is right at the county line. Mr. Blackmon asked going south on Wanamaker is there more commercial? Mr. Diediker stated there is commercial at the arterial intersections. Between the major arterials we would like medium density residential. Mr. Blackmon said look at Wanamaker it is all retail. Mr. Diediker said if the arterials are continued to be striped out with retail zoning the arterials will not function correctly. Ms. Scott asked staff if they think this small of proposal would cause the problem? Mr. Diediker replied no but as Mrs. Stubbs stated it is a compounding problem. Ms. Scott said it is already a problem. Mr. Sims said this is an area of transition. This is off of Wanamaker Road. Hy-Vee will back right up to this property.

Exparte communications: None

Thereon Sims moved approval of "C-1" Commercial zoning, seconded by Fred Sanders. **APPROVAL. (6-0-2)**
Commissioners Boyd and Skoog abstained.

City Council Minutes – October 10, 2006

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, October 10, 2006. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Kennedy, Alcalá, Ortiz, Nave, Haynes, Duffy, Blackburn, Preisner and Harmon -9. Mayor Buntin presided: -1.

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 west of SW Wanamaker Road between SW 30th Terrace and SW 31st Street in the City of Topeka, Kansas from "O&I-2" Office and Institutional District TO "C-1" Commercial District placed on first reading October 3, 2006 was again presented. (Z06/30)

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Councilmember Preisner asked why the Planning Department recommended disapproval.

David Thurbon, Planning Director stated that staff recommended disapproval because the zoning change is inconsistent with the established goals and objectives of the Comprehensive Plan, and the surrounding character of the neighborhood.

Councilmember Preisner encouraged the Council to support the Planning Department's recommendation.

Councilmember Blackburn stated that he believes that "C-1" Commercial District zoning is a reasonable compromise for the surrounding residential neighborhood.

Councilmember Blackburn moved to approve the ordinance. The motion seconded by Councilmember Preisner failed. Councilmembers Alcalá, Ortiz, Nave, Haynes, Duffy, Preisner and Harmon voted "no". (2-7-0)

DRAFT

**Minutes of the
Topeka Planning Commission
October 15, 2007**

Z07/22 by CF&S Partnership and KU Endowment Association requesting to amend the District Zoning Classification from "O&I-2" Office and Institutional District **TO** "C-2" Commercial District on property located west of SW Wanamaker Road between SW 30th Terrace and SW 31st Street. **(Diediker)** Dean Diediker summarized the staff report.

Discussion by members:

Fred Sanders asked what is the protest area? Mr. Diediker replied 200 feet in the city 1000 feet outside the city limits. South of this lot is county and all other sides is city. Mr. Sanders asked how is this measurement determined? David Thurbon replied from the subject property it is measured 1000 feet into the county to the south and the rest 200 feet in the city. Mr. Diediker stated the notification area is shown on the map in the staff report. Mr. Sanders asked there are only four properties in the county? Mr. Thurbon said that is what the map shows.

Mark Boyd stated he works for Cook, Flatt and Strobel which has no affiliation with the partnership or endowment association and will participate in the discussion but will abstain from voting.

Mr. Blackmon said directly south of this property there is a flood plain? Mr. Diediker replied yes. Mr. Blackmon asked if that could be considered a barrier? Mr. Thurbon said he is not sure how far the flood plain goes but you can build in a flood plain. Mr. Diediker stated there is a structure to the south of the property but it is not in the flood plain.

Proponents:

Doug Flatt, CF&S Partnership, spoke in favor of the proposal. He stated he is the past president of Cook, Flatt and Strobel Engineers. He said he wanted to make it clear that the Engineering firm has no link to this proposal. This is a repeat proposal from last year. The HyVee store is currently being developed. He stated he doesn't feel there is a need for office space in this area. The impact of HyVee on the neighborhood is a concern. He said once Wanamaker is widened there will be a lot more traffic. The other impact area would be to the south along Wanamaker. He passed out a map showing the flood plain. The loading zone for HyVee is going to be directly north of the proposal property. There will be a lot of truck traffic on SW 30th Street. It is not a desirable spot for office space. The sanitary sewer would probably be to the back of the lot which would take away from the natural buffer. If it was commercial it would go to the north in front of the property due to it only being a one story building. Traffic for this development will be minimal compared to the traffic generated by Hy-Vee. The plan for this property is specialty stores, not destination stores. We have been using KS Commercial for promoting the property. Doug Bassett asked Mr. Flatt if he had any ownership in the property the Hy-Vee is being built on? Mr. Flatt replied yes, we sold it to MRV who in turn sold it to Hy-Vee. We asked for it to be stated what would be built but we weren't told. If we would have known what would be put there we wouldn't have sold.

Mike Morse, KS Commercial, spoke in favor of the proposal. He stated we didn't know what was going on the now Hy-Vee property. There was an offer close to full price and they couldn't resist. I am here because I can't sell this property. The office space market isn't needed in this area. This site will look over the dumpsters of Hy-Vee. It makes it hard to promote this property for office use. The natural buffer is beautiful. The topography of the land goes down to the south. Office at this location would make it so the sanitary sewer would run to the rear of the property. Retail will only need one level. The natural topography is a natural buffer. There is 1300 feet between this property and the first house to the south. He stated some of the allowed uses in C-2 are an insurance agent or light commercial. The market is not responding to this property as office space. The people to the south are in favor of this proposal. Mr. Boyd asked if this property has been actively marketed for the whole time it has been zoned O&I. Mr. Morse stated he had been promoting it for about three years. Mr. Boyd asked Mr. Flatt have you been actively marketing since 1997 when it was zoned O&I? Mr. Flatt replied yes. In the early 80's is when it was put on the market.

Mr. Sanders asked if the commission could ask those speaking in opposition if they live in the protest area? Mr. Thurbon said it is up to the commission what is considered the most direct impact in an area. I wouldn't use the 200 foot boundary, it is set up by state law as the required notification area. It doesn't affect your vote. It can only affect the City Council's vote. Mr. Sanders said he feels if it is state law it should carry merit with the Planning Commission. Mr. Thurbon stated the protest area only affects the city council vote and if they need a super majority vote to over turn a protest petition. The law doesn't say don't listen to those outside this area. He added as the Planning Commission I would suggest not paying attention to this set area. I would say follow what you think is the area that is influenced by this rezoning. Mr. Sanders stated the neighborhood model is mentioned in reference to the Wanamaker corridor. Is there a

place we use to define this? Mr. Thurbon replied I think from 6th Street to the north and 29th Street to the south is the Wanamaker corridor. South of 29th Street the neighborhood model comes into play. The proposed zoning could work. It is close enough and it is tied to the commercial to the north. The other factor though is the residential areas to the east and the south. That is where the Planning Commission has to decide what is best. Mr. Sanders asked are you saying residential is encroaching to the commercial on the north. Mr. Thurbon replied no, because most of the residential to the east was there first. Mr. Sander said wouldn't the city limits be the buffer? Mr. Thurbon replied I don't think a political boundary should be a factor. We need to look at land uses and topography as buffers. Mr. Simnitt said he is confused by the legal protest area. It is 200 feet in the city and 1000 feet outside the city. Is this the only public hearing? Mr. Thurbon replied yes unless the City Council remands the proposal back to the Planning Commission.

Opponents:

George Webb, President of the Shadywoods West Homeowners Association, spoke in opposition to the proposal. He said he sent a letter to staff with the same reasons from last year that they should reject this proposal. He said the biggest concern is maintaining the transition zone. He stated there are a 130+ members in the homeowners association. He said there have been some changes since last year when this proposal was before the Planning Commission. One being that the McDowell Farm to the south of this property will be sold and we are worried it will be rezoned commercial but it is outside the city so we have no control over that because we are not in the notification area. He said there is a definite transition zone in this area. Mr. Sanders asked Mr. Webb what he sees when he drives by this property? Mr. Webb replied an undeveloped lot with trees. Mr. Sanders asked if the trees stay as a buffer would there be any concern from the residents? Mr. Webb replied we have problem since we don't know for sure what is going there. Mr. Blackmon asked if the main concern is if this property is rezoned to commercial the property in the county that is for sale will be rezoned as commercial as well? Mr. Webb replied yes. Mr. Bassett asked if the homeowners association has thought about buying the property to the east? Mr. Webb replied we aren't that organized.

Tom Ballou, member of the Shadywoods West Homeowners Association, spoke in opposition to the proposal. He stated when I drive by this property I see a tree line and that is the way it has been for years and years. The property isn't very attractive. When Hy-Vee parcel was re-zoned it was an unknown purchaser which could happen with this property. This is a good buffer to the residential. We have a lot of vacant existing buildings that are already zoned commercial in the area. The property should be dressed up and made more suitable for potential buyers.

Lisa Stubbs member of the Shadywoods West Homeowners Association, spoke in opposition to the proposal. She stated the neighborhood concurs with staff's recommendation for disapproval. Currently there is a good zoning transition in this area. This is a good neighborhood model. There are several city residents that use this area. We have a tremendous impact on this area. North of this property there are two nice office buildings. I believe this property could still be promoted as office. One of the office buildings recently sold which shows you that there is desire or possible vision that it is needed in this area. I don't think the residents should be penalized because this property wasn't promoted well enough. These property owners are complaining about the property use to the north of them and they are the ones that sold the property to them. We don't know what is planned on this property. They are requesting straight C-2 zoning, it could be a gas station, quick shop, liquor store. They have been actively marketing the property to the south of this. It is a real expectation on that property wanting commercial zoning if this property is rezoned to commercial. It is a snowballing affect. I drive this area dozens of times during the week. It is zoned correctly right now at O&I, it is a good buffer.

Exparte communication - none

Terry Simnitt moved approval of C-2 zoning, seconded by Howard Blackmon. **APPROVAL. (7-1-1) Commissioner Scott voted no and Commissioner Boyd abstained.**



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 26, 2007

+ Back Print

DATE: November 13, 2007
CONTACT PERSON: Bill Fiander/David Thurbon DOCUMENT #: Z07/23
SECOND PARTY/SUBJECT: QSR Real Estate, LLC 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 the southeast corner of the intersection of SW 37th Street and SW Fairlawn Road from "R-1" Single-Family Dwelling District TO "O&I-1" Office and Institutional District. Final Reading. (Z07/23) (Council District No. 7)(Planning Commission recommended approval 9-0-0.) (Planning Department recommended approval.)

(Approval would allow development of the property for office use.)

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 **9-0-0** at their October 15, 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

SOURCE OF FUNDING:

Item #29

N/A

ATTACHMENTS:

[Ordinance](#)

[Staff Report](#)

[Aerial](#)

[Contour Map](#)

[Zoning Map](#)

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

[Commission Minutes 10-15-07](#)

(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 at the southeast corner of the intersection of SW 37th Street and SW Fairlawn Road from "R-1" Single Family Dwelling District **TO** "O&I-1" Office and Institutional District. **(Z07/23) (Council District No. 7)**

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 classifying the following described property:

A tract of land in the NE ¼ of Section 21, Township 12 south, Range 15 east of the 6th P.M., in Shawnee County, described as follows: Beginning at the NE corner of said NE ¼; thence south along the east line of said ¼ on an assumed bearing of south 00 degrees, 40 minutes, 44 seconds east, a distance of 1058.59 feet; thence south 89 degrees, 01 minutes, 06 seconds west, 567.67 feet to a point on the east line of SW Fairlawn Road; thence north 13 degrees, 09 minutes, 50 seconds west, (north 13 degrees, 12 minutes, 38 seconds west, Plat) along the east line of said SW Fairlawn Road, a distance of 64.28 feet; thence continuing along the east line of SW Fairlawn Road on a 1960.00 foot radius curve right, an arc distance of 410.50 feet, said curve having a long chord bearing north 07 degrees, 12 minutes 38 seconds west, 409.75 feet; thence continuing along the east line of said SW Fairlawn Road, north 01 degrees, 12 minutes, 38 seconds west, a distance of 585.88 feet to a point on the north line of said NE 1/4; thence north 88 degrees, 47 minutes, 22 seconds east, 633.64 feet to the Point of Beginning. Containing 15.06 acres more or less.

from "R-1" Single Family Dwelling District **TO** "O&I-1" Office and Institutional District.

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

October 15, 2007
Agenda Item #G-4

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z07/23

by: QSR Real Estate, LLC.

PROPOSAL: Amend the District Zoning Classification from "R-1" Single-Family Dwelling District, TO "O&I-1" Office and Institutional District.

LOCATION: Southeast corner of the intersection of SW 37th Street and SW Fairlawn Road.

PARCEL ID NUMBER: 1452101001001000.

PRESENT USE: Vacant undeveloped 15.0 acre tract.

PROPOSED USE: Office Building (future).

CHARACTER OF NEIGHBORHOOD: The neighborhood is made up of predominately residential uses immediately east of the subject property and office uses immediately to the north and west of SW Fairlawn Road north of SW 37th Street. To the west of the subject property and west of SW Fairlawn Road lies Clarion Park a public park. The subject property is located on the advancing fringe of the corporate limits in southwest Topeka. This area is characterized by a combination of undeveloped agricultural land south and east of the subject site with residential to the northeast and office/institutional to the north. The property was annexed in the 1970's and zoned residential at that time.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	"R-1" Single-Family Dwelling District "PUD" (O&I-2 use group)	Water Depart Pump Station Offices
South:	"R-1" Single-Family Dwelling District	Vacant/Residential
East:	"R-1" Single-Family Dwelling District	Residential
West:	"R-1" Single-Family Dwelling District	Clarion Park

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The property has remained vacant and undeveloped since its annexation in the 1970's.

October 15, 2007
Agenda Item #G-4

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The site's present single family classification is not necessarily consistent with the established pattern of higher intensity Office/Institutional zoning and land use in the area. It also fronts future major arterial intersection with the extension of SW Fairlawn Road. Office and Institutional uses that utilize a single point of shared access on an arterial with a cross access arrangement internal to the site are much preferred over the numerous access points that are sought with a typical residential development. The Office and Institutional District also provides a transitional use between the existing residential uses elevated to the east and the inherent adverse conditions associated with a major traffic thoroughfare.

CONFORMANCE TO COMPREHENSIVE PLAN: The *Comprehensive Plan* designates this area as *Urban/Suburban Low Density Residential* land use. However, accepted planning principles dictate that established patterns of land use must be recognized as a basic factor which strongly influences rezoning decision. The current zoning pattern has existed within the area since 1991 and as the proposed use is deemed a more appropriate use along a major arterial the proposal is viewed as being consistent with the plan.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: Accepted planning principles dictate that established patterns of land use must be recognized as a basic factor which strongly influences rezoning decision. As this general area has been developed residential uses have given way to more office and institutional uses as indicated by the zoning map, office and institutional uses are deemed to be more appropriate than single family residential development abutting a major arterial with steep slopes to the east acting as a natural barrier. Clarion Park being separated from the subject property by a major arterial (SW Fairlawn Road) should be minimally impacted by uses permitted by the "O&I-1" District. A greater impact to the park comes with the improvement and of SW Fairlawn Road. There is expected to be no detrimental effect upon removal of the present restrictions based upon the surrounding land uses therefore the proposal is viewed as being consistent with the plan.

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 permit the subject property to develop consistent with accepted planning principles which dictate that established patterns of land use must be recognized as a basic factor which strongly influences rezoning decision. The greatest impact to this area will come with the eventual improvement of SW Fairlawn Road to a 105' wide arterial. Clarion Park being separated from the subject property by this arterial will be impacted more by the arterial itself than the uses permitted by the proposed "O&I-1" District. However, the proposed use with the steep sloping terrain to the east will buffer the adjoining residential area to the east from those adverse conditions associated with a major traffic thoroughfare. As minimal detrimental effects are anticipated, there would appear to be no particular gain to the public health, safety, and welfare by maintaining the present restrictions.

AVAILABILITY OF PUBLIC SERVICES: With the exception of adequate road connectivity all essential public utilities, services and facilities are presently available to this area and should not be overburdened. However, SW Fairlawn Road needs to be constructed south from the intersection of SW 37th Street providing an appropriate through street connection before development of the subject property

October 15, 2007
Agenda Item #G-4

can occur. In the City's CIP (2007-2011) there are currently transportation projects for the improvement of Elevation Parkway/SW 37th Street to SW Fairlawn Road and ultimately to SW Wanamaker Road. However, no funding sources have been identified.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

Application: **Complete.**

Minimum Lot Area: **Compliant** – +7,500 S.F.

Setbacks: **Compliant.**

Platting: **Noncompliant** – Property needs to be platted before any building permits are to be issued.

CONCERNS OF STAFF AND REVIEWING AGENCIES: This request has been submitted to all applicable reviewing agency staff for consideration and comment. Adequate public infrastructure does not currently exist to accommodate development of the property for either its current or proposed zoning. SW Fairlawn Road needs to be constructed south from the intersection of SW 37th Street providing an appropriate through street connection before the subject property is developed. No other significant issues or concerns were expressed by reviewing staff relative to code compliance or the provisions of public services with exception of those concerns already addressed in this staff report.

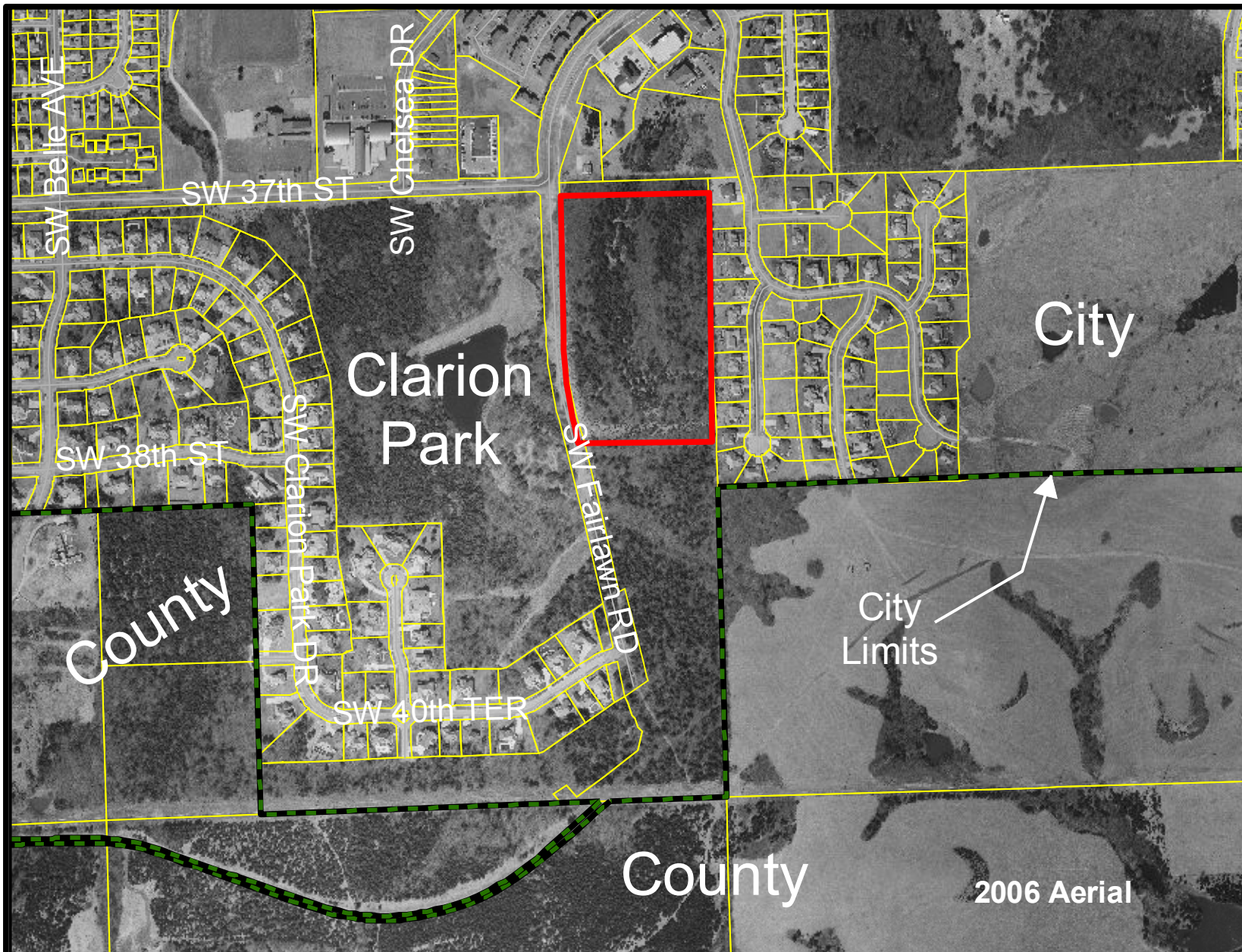
ADDITIONAL FACTORS:

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: Not Applicable.

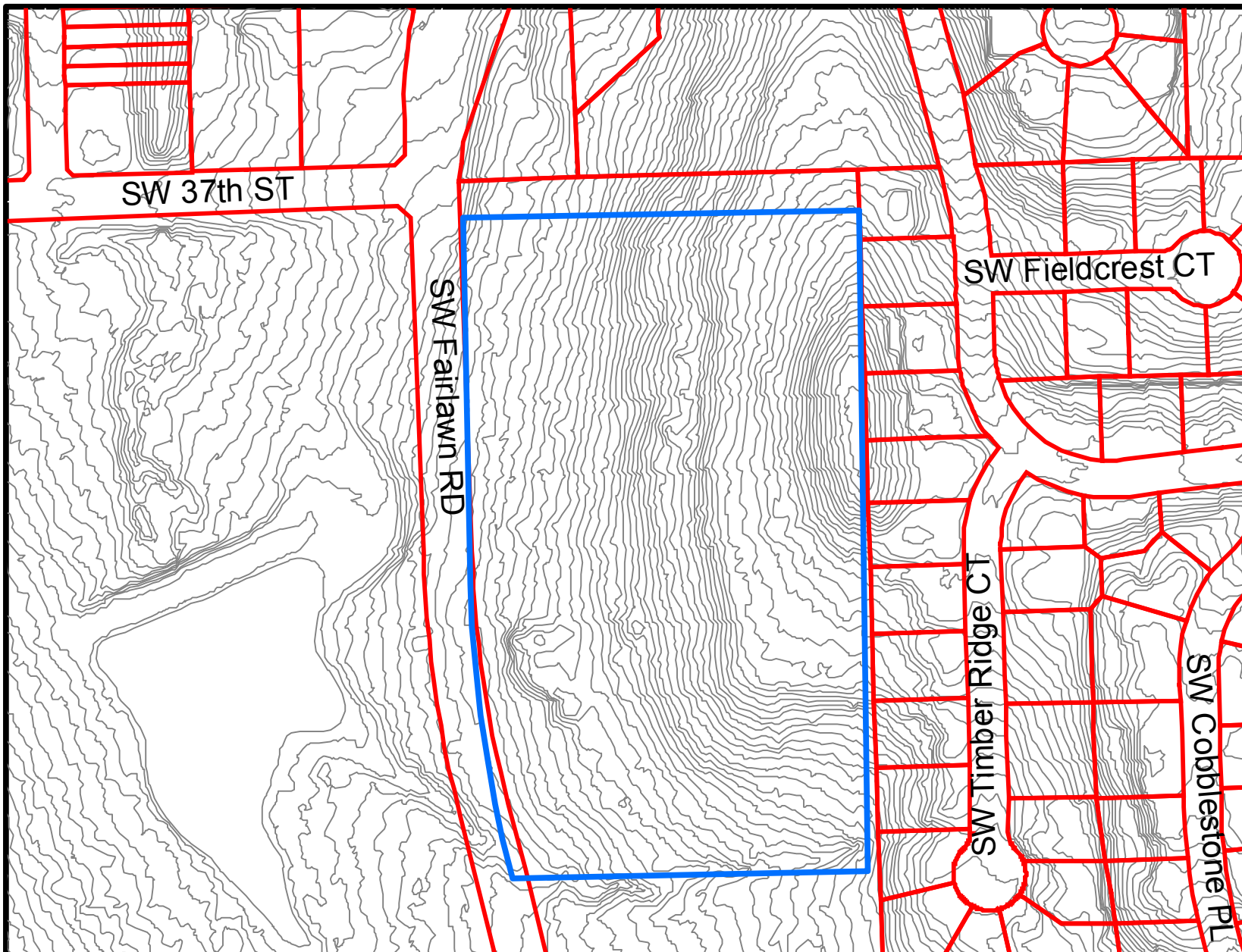
STAFF RECOMMENDATION:

Based upon the above findings and analysis Planning Staff recommends **APPROVAL** of this proposal.

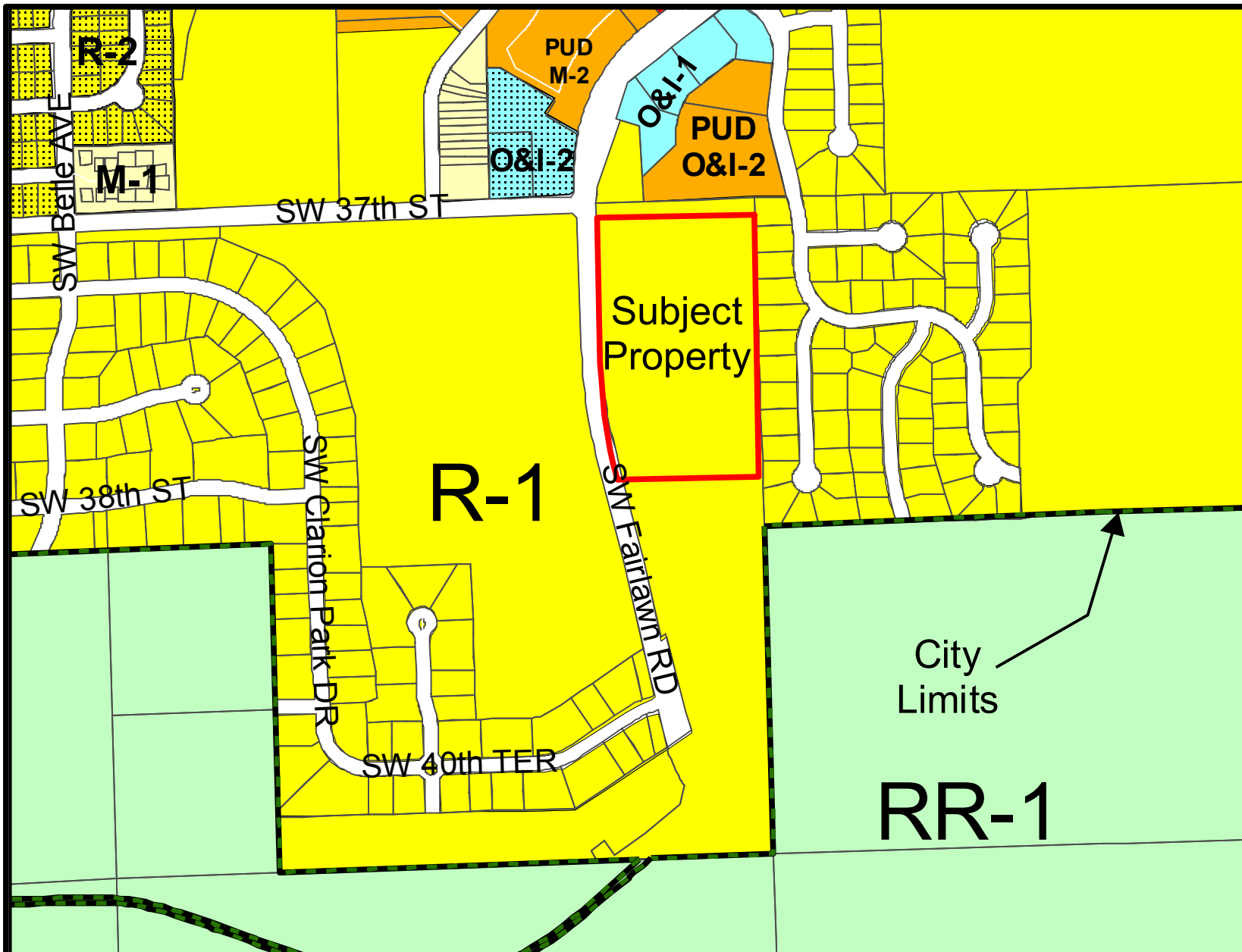
Prepared by: Dean W. Diediker
Planner II



Z07/23 by QSR Real Estate, LLC



Z07/23 by QSR Real Estate, LLC



Z07/23 by QSR Real Estate, LLC



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): QSR Real Estate, LLC

Street Address: 3620 SW Fairlawn Road

City: Topeka State: KS Zip: 66614 E-mail: tjoperations@yahoo.com

Business phone: 785.272.6800 Home phone: _____ Fax: _____

Authorized Owner Representative (if any): Henry McClure

Street Address: 214 SW 6th Street Suite 300

City: Topeka State: KS Zip: 66603 E-mail: mcre@cox.net

Business phone: 235.3353 Home phone: 357.7980 Fax: 234.5729

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

Schmidt Engineering

Street Address: 3420 SW Urish Road

City: Topeka State: KS Zip: 66604 E-mail: _____

Business phone: 478.4420 Home phone: _____ Fax: 478-4434

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: Edwin R. Linquist Jr.

Owner 1 Signature: Edwin R. Linquist Jr. mcre Date: 08/31/07

Owner 2: _____

Owner 2 Signature: _____ Date: _____

Requested Action and Site Information

Address of Property to be Re-Zoned (or if vacant, describe general location): 31 Acres South of 37th & Fairlawn
east

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

Total Area (acres/square feet): 15 Acres

Type of Application:

1. Re-zoning from: R-1 to: O&I-1

2. Conditional Use Permit proposed use: _____

Existing Use (# of dwelling units, square feet, etc.): None

How long has the existing use been on the property? Many years

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

Was a Pre-Application Meeting or Zoning Inquiry completed with Staff? Yes If Yes, when? 8/27/07

FOR OFFICE USE ONLY

Date submitted: 8/31/07

Date notice sent: 9/21/07

Application no.: 207/23

Date advertised: 9/21/07

Filing fee: 750⁰⁰ **Receipt no.:** 11626

Date of hearing: 10/15/07

Quarter section map no.: M-2

Council district: #7

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.: _____

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?

This area in the long run will not be a great area for residential housing. When Fairlawn Road extends to the future elevation parkway the traffic will be significant. This area the highest and best used is a more intensive zoning than R-1.

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

The Character of the surrounding area is a commercial area. This site will be tucked into a hill and buffered by a very large park.

This change will have no effect on the surrounding area.

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

Based on past zoning cases this matter will be consistent with the neighborhood.

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:

18' running east and west on the north border of this site.

- 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 inch main run east and west through the middle of the property and the length off the property in the future right-of-way of the extended Fairlawn Road.

- 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?

We intend to utilize existing drainage districts available.

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

Yes.

4. Traffic Circulation

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

Very limited.

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

New access off an extended Fairlawn road.

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

Yes

DRAFT

**Minutes of the
Topeka Planning Commission
October 15, 2007**

Z07/23 by QSR Real Estate, L.L.C. requesting to amend the District Zoning Classification from "R-1" Single Family Dwelling District **TO** "O&I-1" Office and Institutional District on property located at the southeast corner of the intersection of SW 37th Street and SW Fairlawn Road. **(Diediker)** Dean Diediker summarized the staff report.

Discussion by members:

Mark Boyd said there appears to be a narrow tract to the north of this. Mr. Diediker stated it is an easement owned by the city and to the north is a pump station that sits on the corner. He said he believes it is left over right of way. Maybe the city can donate the extra to this development since there is nothing that can be done with it.

Proponents:

Henry McClure, McClure Real Estate, spoke in favor of the proposal. He stated the property is based on the future. Elevation Parkway needs to be developed in the future then Fairlawn will be extended to Elevation Parkway. We will work on a benefit district to develop some of the lots sooner than later. He said he concurs with the staff's recommendation. He said due to the topography the property to the east of this property will not be in site distance. Topography prohibits development to the immediate east of the proposal property.

No one spoke in opposition.

Exparte communication - none

Theron Sims moved approval, seconded by Jim Brown. **APPROVAL. (9-0-0)**



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 15, 2007

+ Back Print

DATE: November 13, 2007

CONTACT PERSON: David Thurbon/Bill Fiander DOCUMENT #: N/A

SECOND PARTY/SUBJECT: Philip and JoAnn Shideler PROJECT #: A07/8

CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 001 Annexation

CIP PROJECT: No

ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, as amended, on property generally located north of SW 17th Street approximately 797-feet west of SW Arvon Place within unincorporated Shawnee County, Kansas, and contiguous to the City of Topeka corporate limits, and said land being annexed for all City purposes. First Reading. (A07/8) (Council District No. 8)

(The property owner has granted permission to annex a 12.35 acre tract for potential commercial use.)

POLICY ISSUE:

The proposed annexation is consistent with the City's Comprehensive Plan policy for annexation since the property is contiguous with the City's corporate limits.

STAFF RECOMMENDATION:

In conjunction with all City reviewing departments, staff recommends that this request be **APPROVED**.

BACKGROUND:

- The property is contiguous with the City corporate limits.
- The property owner has granted consent to annexation.
- See department comments.
- City Council options:
 - **ADOPT** the Ordinance taking such land into and making it a part of the City for all City purposes and assigning it to City Council District No. 8; or
 - **DISAPPROVE** the Ordinance and the site would not be annexed into the City of Topeka.

BUDGETARY IMPACT:

Upon annexation, the subject property will be made a part of the City for all City purposes. A detailed service plan is not required for "consent" annexations. Department comments are attached.

SOURCE OF FUNDING:

N/A.

Item #30

ATTACHMENTS:

[Ordinance](#)

[Aerial](#)

[Department Comments](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO.

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, as amended, on property located north of SW 17th Street about 797-feet west of SW Arvon Place and adjacent to the City of Topeka corporate limits, and said land being annexed for all City purposes. (A07/8) (Council District No. 8)

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

Section 1. That the following described land, meeting the conditions for annexation prescribed in K.S.A. 12-520(a)(7), as amended, is hereby annexed and made a part of the City of Topeka, Kansas:

A tract in the Northeast Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M., in Shawnee County, Kansas, described as: Beginning at the Southwest corner of the Northeast Quarter of said Section 5; thence on an assumed bearing of North 88°03'39" East on the South line of said Northeast Quarter, 342.81 feet; thence North 01°56'21" West on the West line of Lot 1, Block A in Shideler Plaza Subdivision and the extension of said West line, 796.08 feet; thence North 88°03'39" East, 149.83 feet; thence North 1°56'21" West, 501.23 feet; thence North 63°27'19" West, 117.10 feet; thence North 26°32'23" East, 85.92 feet to a point on the South line of Lot 1, Block A in West Hill Subdivision; thence North 89°40'08" West on the last said South line, 373.75 feet to the Southwest corner of said Lot 1; thence South 00°19'52" West on the West line of said Northeast Quarter, 1444.61 feet to the point of beginning. Contains 12.35 acres, more or less.

Section 2. That all land described in Section 1 of this Ordinance is taken into and made a part of the City for all City purposes and is assigned to City Council District No. 8.

Section 3. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the office city newspaper.

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

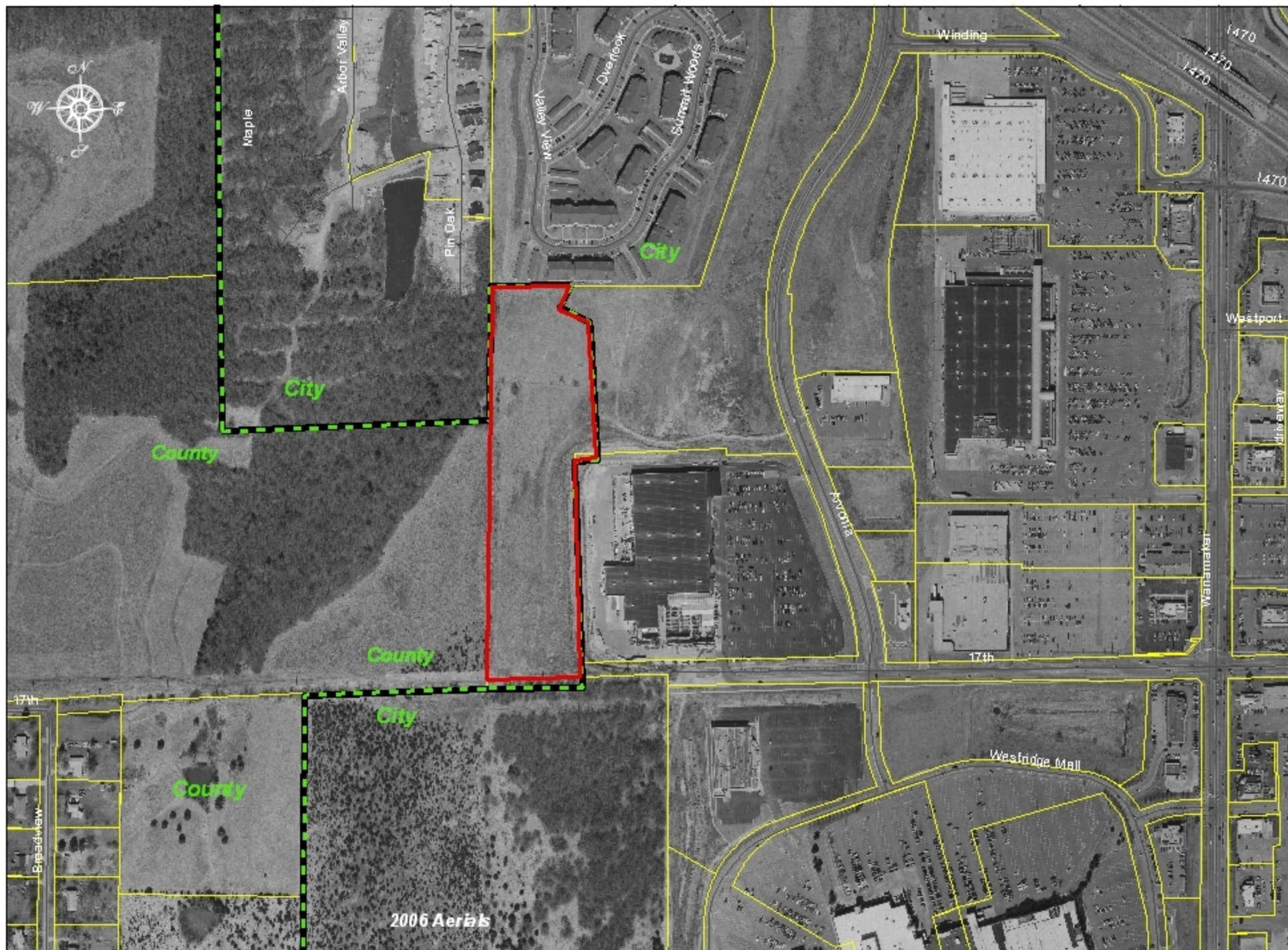
William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified __

Not To Be Codified X



A07/8 Philip & JoAnn Shideler

TOPEKA POLICE DEPARTMENT

INTEROFFICE MEMORANDUM

TO: CHIEF R. MILLER
FROM: CAPTAIN M.J. FOX
SUBJECT: ANNEXATION OF 17TH AND ARVONIA PLACE [A07/8]
DATE: 10/18/2007

The area designated as North of SW 17th Street about 797 feet west of SW Arvonla Place is zoned for commercial use. The population for this location would vary depending on what type of business was at the location and hours of operation. The police call load can be calculated once the estimated population at peak time is determined.

The Topeka Police Department would use existing services to answer police calls in this area. It would be assigned to the current patrol zone 2. Zone 2 has a north boundary of the Kansas River and a west boundary of the city limits. There are current businesses located around the proposed annexation so the Topeka Police Department has existing response plans for this.

A handwritten signature in black ink, appearing to read "Ronald Miller". The signature is written in a cursive style with a large, looping initial "R".



Topeka Fire Department

Office of the Fire Marshal

Voice: (785) 368-4130

Fax: (785) 368-1650

REPORT TO REGIONAL PLANNING STAFF

To: Cindy Johnson, Planning
Date: October 23, 2007
Subject: A07/8 North of SW 17th St. about 797' west of SW Arvonía Place

Recommendation and Comments:

1. The Topeka Fire Department has three fire stations that would provide primary fire protection to this area. They are station #12, which is 1.98 miles away, station #8 which is 3.18 miles away, and station #7 which is 3.12 miles away. The response times for the companies are as follows: E12 and Car 103 have a projected response time of 4 minutes; E8 and A8 have a projected response time of 5 minutes; and E7 has a projected response time of 8 minutes. The responding unit will be based upon response time calculations to the annexed property.
NOTE: Mileage was calculated from the intersection of 17th and Arvonía since no exact address was given.
2. These companies will be able to provide adequate fire protection for this area. Each company is assigned four firefighters per shift and never operates with less than three fire fighters

Report By: Dorian Branch, T.F.D.
Fire Safety Inspector
Fire Prevention Division

**SERVICES AVAILABLE
for
12 Acres North of S.W. 17th Street, approx. 800 feet west of
S.W. Arvonja Place**

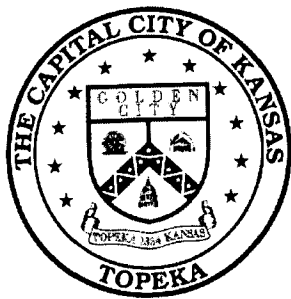
Public Streets

The 12 acre site that is proposed for annexation is not currently served by any public street. This site would be adjacent on its south side to S.W. 17th Street if S.W. 17th Street was extended from its current end just west of S.W. Arvonja Road to Urish Road. The section of S.W. 17th Street between S.W. Arvonja Place and S.W. Urish Road would be classified as a minor arterial. The 2034 Metropolitan Topeka Long Range Transportation Plan does list the improvement of S.W. 17th Street between S.W. Urish Road and S.W. Arvonja Place as a recommended improvement. The project is not currently shown in the City of Topeka's Capital Improvement Program. A funding source or a timeframe for the improvements of S.W. 17th Street have not yet been identified.

Storm Drainage

According to the Federal Emergency Management Agency (FEMA) Flood Boundary and Floodway Map for Shawnee County, Kansas, Panel 100, no portion of the annexation area is within the 100 year floodplain (Zone A). Storm drainage within the proposed annexation area is currently handled by overland flow.

The site is located within the Wanamaker Drainage Basin where there is a basin-wide detention requirement. Detention will be required for any increase in runoff created by new development. The northern portion of the site drains northwesterly and the southern portion drains easterly.



CITY OF TOPEKA

Transportation Operations
927 NW Harrison St.
Topeka, KS 66608
Tel: (785) 368-3913

Traffic Operations Section



Carlos Salazar, Manager
Email: csalazar@topeka.org
Fax: (785) 368-3936
www.topeka.org

MEMORANDUM

TO: Cindy Johnson, Planner I
Planning Department

FROM: Carlos J. Salazar, Manager
Traffic Operations

Cc: Linda Voss, Traffic Engineer
Engineering Division

SUBJECT: [A07/8] North of SW 17th Street approximately 797' west of SW Arvon Place
Consideration for annexation

DATE: October 15, 2007

The Traffic Operations Section has reviewed the submitted proposed annexation plan. Our Section will be able to provide appropriate traffic control signing and street name signs when needed. The developer will need to provide the Traffic Engineer a minimum of 2 weeks advance notice advising that street name signs and other traffic control signing will need to be installed. The developer will be responsible for the placement of signing, stop signs and/or other signs, on private drives and streets that exit onto city streets/roadways. Also, please be advised the current procedure is the City does not provide streetlights but residents may request them through the Traffic Operations Section for installation when funding is available.

Cindy Johnson

From: Amy Davison
Sent: Monday, October 22, 2007 9:33 AM
To: Cindy Johnson
Subject: RE: A07/8

Cindy,

Water Pollution Control Division has reviewed A07/8 and does not have any concerns related to this Planning item.

Thanks.

*Amy Davison
Administrative Officer
City of Topeka Water Pollution Control
785.368.4237
www.topeka.org*

From: Cindy Johnson
Sent: Monday, October 22, 2007 9:22 AM
To: Amy Davison; Shawn Bruns; Greg T Bailey
Subject: A07/8

Have you had a chance to review the above case? I need to finalize this & place it on the City Council's agenda. Engineering needs the annexation completed before Thanksgiving.

Cindy Johnson

From: Don Rankin
Sent: Friday, October 19, 2007 3:35 PM
To: Cindy Johnson
Cc: Ken Bass; Larry Shannon
Subject: Annexation of area North of SW 17th Street about 797 feet west of SW Arvon Place

The water division can serve this area with existing water mains on the 17th Street alignment.

Don Rankin
Water Superintendent
City of Topeka
Public Works/Water Division
Tel: 785-368-3821
Fax: 785-368-3825

Cindy Johnson

From: Terry Bertels
Sent: Thursday, October 04, 2007 11:26 AM
To: Cindy Johnson
Subject: annexation on SW 17th west of Lowe's

Cindy,

Parks and Recreation is ok with this annexation.

Thanks.

Terry

Terry L. Bertels
Interim Director Parks and Recreation
City of Topeka - www.topeka.org
620 SE Madison 1st floor
Topeka, KS 66607
(785)368-2470 (w)
(785)368-3890 fax
tbertels@topeka

"Parks and Recreation of Topeka...Your Recreation Destination!"

10/10/2007



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www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 15, 2007

+ Back Print

DATE: November 13, 2007

CONTACT PERSON: David Thurbon/Bill Fiander **DOCUMENT #:** PUD04/5B

SECOND PARTY/SUBJECT: Keystone Development Group, Inc. **PROJECT #:** N/A

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 Master PUD Plan of Arbor Valley Subdivision, by changing the maximum allowable dwelling units from 260 dwelling units (M-1a use group) to a maximum 300 dwelling units (202 dwelling units at M-1a use group and 98 dwelling units at M-2 use group) on property located at 6423 SW Huntoon Street in the City of Topeka, Kansas. First Reading. (PUD04/5B) (Council District No. 8) (Planning Commission recommended approval by a vote of 9-0-0.) (Planning Department recommended approval.)

(Approval would increase the density of the existing development by 40 units, to include a 98-unit senior apartment building.)

POLICY ISSUE:

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

STAFF RECOMMENDATION:

The Planning Commission recommended this proposal be **APPROVED** by a vote of **9-0-0** at their **October 15, 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:

- The City Council approved this proposal for a major amendment to the Master PUD Plan for Arbor Valley on June 12, 2007 by a vote of 9-0-0. However, the applicant failed to record the Master PUD Plan with the County Register of Deeds within 45 days upon approval by the governing body as required by Sect. 48-24.05 of the Comprehensive Zoning Regulations. Therefore, the amendment was deemed null and void and the applicant is seeking City Council re-approval of the Master PUD Plan.
- 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 (6 votes) majority of City Council membership; or,
 - **Return** such recommendation to the Planning Commission with a statement specifying the basis for the City

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[staff report](#)

[zoning map](#)

[aerial map](#)

[PUD plan- Pg. 1](#)

[PUD plan- Pg. 1](#)

[zoning application](#)

[ordinance](#)

[Commission Minutes 10-15-07](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the Master PUD Plan of Arbor Valley Subdivision, by changing the maximum allowable dwelling units from 260 dwelling units (M-1a use group) to a maximum 300 dwelling units (202 dwelling units at M-1a use group and 98 dwelling units at M-2 use group) on property located at 6423 SW Huntoon Street in the City of Topeka, Kansas. **(PUD04/5B) (Council District No. 8)**

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

Section 1. That the Master PUD Plan of Arbor Valley Subdivision, is hereby amended in accordance with Section 48-24.06(b) of the Comprehensive Zoning Regulations by changing the maximum allowable dwelling units from 260 dwelling units (M-1a use group) to 300 dwelling units (202 dwelling units at M-1a use group and 98 dwelling units at M-2 use group) on property located at 6423 SW Huntoon Street and described as follows:

Lot 1, Block A, Arbor Valley Subdivision in the City of Topeka, Shawnee County, Kansas.

Section 2. That the development of the site which will increase the maximum allowable dwelling units from 260 dwelling units (M-1a use group) to 300 dwelling units (202 dwelling units at M-1a use group and 98 dwelling units at M-2 use group) on property located at 6423 SW Huntoon Street **subject to:**

- 1. Use and compliance of the site in accordance with the recorded Master Planned Unit Development Plan of Arbor Valley Subdivision PUD.**

Section 3. That the amended Master PUD Plan of Arbor Valley Subdivision shall be filed of record with the Shawnee County Register of Deeds. Following the recording of the Master PUD Plan and in accordance with Topeka Code Section 48-24.04, prior to any building and/or land development on the site, a site development plan shall be submitted for review and administrative approval by the Planning Director.

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

Section 5. This Ordinance Number shall be fixed upon the "District Map".

Section 6. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 7. 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

October 15, 2007
Agenda Item # F-1

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: PUD04/5B Arbor Valley

by: Keystone Development Group, Inc.

The Topeka Planning Commission heard this proposal on May 21, 2007. At that time the Planning Commission recommended approval of an amendment to the Master PUD Plan for Arbor Valley to increase the maximum allowable dwelling units from 260 (M-1a use) to 300 dwelling units (204 units at M-1a and 96 units at M-2). The vote was 7-0-0.

The Topeka City Council approved the proposal on June 12, 2007. The PUD Master Plan was never recorded with the Register of Deeds. Section 48-24.05 of the Comprehensive Zoning Regulations states: "The master plan as approved by the governing body with all conditions, revisions, and restrictions as set forth or imposed by said action of the governing body shall be recorded within 45 days of the action date of the governing body with the Register of Deeds. Failure by the applicant to provide the Planning Department the approved plan shall deem the petition as null and void." This note was also on the approved Master PUD Plan.

*This action **changes** the proposal as submitted to the Planning Commission on May 21, 2007 and to the City Council on June 12, 2007 by adding a fire lane around the rear of the proposed apartments, as required by the City of Topeka Fire Department. The addition of the fire lane shifts the parking spaces further south and slightly alters the number of units from 204 units at M-1a and 96 units at M-2 **TO** 202 units at M-1a and 98 units at M-2. The applicant is seeking reaffirmation of the Planning Commission and City Council re-approval because the Master PUD Plan was not recorded with the Register of Deeds in the time required.*

PROPOSAL: A request to amend the **Master Planned Unit Development Plan for Arbor Valley** by changing the maximum allowable dwelling units from 260 dwelling units (M-1a use) **TO** a maximum of 300 dwelling units (204 dwelling units at M-1a use and 96 dwelling units at M-2 use).

LOCATION: 6423 SW Huntoon Street

PARCEL ID NUMBER: 1430502001001010 and 1430502001001000

PRESENT USE: The entire property comprises approximately 37.3 acres. The present PUD allows for 260-dwelling units of duplex and triplex senior residences. 48 of these dwelling units have been partially constructed as part of Phase I of the project.

PROPOSED USE: The proposed major amendment would affect approximately 3.3 acres and would allow 96 senior apartment units to be constructed (two connected buildings) and remove 56 dwelling units from the proposed duplexes and triplexes. The total density of the affected area would increase from 17.0

October 15, 2007
Agenda Item # F-1

units/acre to 29.1 units/acre. The entire PUD area density would increase from 7.0 units/acre to 8.0 units/acre.

CHARACTER OF NEIGHBORHOOD: The property is located along a principle arterial (SW Huntoon) and on the western edge of the Wanamaker/I-470 commercial corridor in an area currently comprised of offices and medium- to high-density residential uses. The Summit Woods Apartment complex (high-density residential) lies to the east of the property. The remainder of the land to the west is vacant and undeveloped. The Matrot Castle, currently being used as an office, lies to the north of the property, as well as vacant land platted and zoned for single-family residential.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	“O&I-1” Office and Institutional District “R-3” Single-Family Dwelling District	Matrot Castle & future office Future single-family residential
South:	“RR-1” Residential Reserve District	Vacant/undeveloped
East:	“PUD” Planned Units Development (M-2 use)	Summit Woods Apartments
West:	“RR-1” Residential Reserve District	Vacant/undeveloped

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The property has remained zoned “PUD” Planned Unit Development (M-1a use) since 2004 to allow for the existing development of senior duplexes and triplexes. Currently, 48 dwelling units are only partially constructed and remain unoccupied.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The property is still suitable as presently restricted for limited multi-family elderly uses. The limited multi-family elderly use will provide a transitional area from the higher density apartments to the east and future lower density residential to the west. The upzoning of part of the property to M-2 uses should not adversely change the use and character of this development as the proposed apartments are adjacent to Summit Woods and are still planned for multi-family elderly uses. The density of the development is only being increased by 40 additional dwelling units as 56 will be removed to allow room for the apartments.

CONFORMANCE TO COMPREHENSIVE PLAN: The *Land Use and Growth Management Plan – 2025* has identified this area for Mixed-Use Development. The mixed-use district encompasses neighborhood settings of higher intensity to encourage compatible residential and/or community uses. The property to the east has developed as a high density multi-family development. The proposed change to this development is compatible with the property to the east and would still allow for a transition to future lower density development to the west.

October 15, 2007
Agenda Item # F-1

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: The subject proposal should have no detrimental effect on nearby properties, as the property will still be used in a manner consistent with the surrounding area.

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 still allow the property to develop consistent with the surrounding area for multi-family uses and as a transition for future lower density development to the west. There should be no significant loss to the public health, safety and welfare by reclassification of the property to allow for the senior apartments. The hardship imposed upon the individual landowner may be inability to acquire the financing to complete the project. If the project is left partially constructed with unoccupied units this could potentially leave the area open to blight and possibly affect the property values of the surrounding area.

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities will be extended to this location at developer expense at the time of its development and should not be overburdened by this proposal. SW Huntoon is currently a two-lane street and not scheduled for capital improvements in the near future. Existing traffic counts for this location shows 7,120 vehicle trips/day. However, the proposed amendment only increases the maximum number of allowable dwelling units by 40 units, which are still planned for multi-family elderly uses. The total estimated increase in traffic from the proposed changes would be 120 trips per day and would not significantly affect existing and proposed traffic on Huntoon.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

Minimum Lot Area: N/A

Setbacks: A variance for the 25' perimeter setback was approved with the original PUD proposal.

Platting: Platted as Lot 1, Block A, Arbor Valley Subdivision. The lot will require replatting prior to the creation of any separately-owned tracts of land. A PUD note has been added stating, "All separately-owned tracts of land shall be platted prior to the issuance of any further building permits."

CONCERNS OF STAFF AND REVIEWING AGENCIES: This request was submitted to all applicable reviewing agency staff for consideration and comment. All issues or concerns that were expressed by reviewing staff relative to code compliance or provisions of public service have been resolved or will be resolved at the building permit stage.

ADDITIONAL FACTORS:

1. Neighborhood Improvement Association: N/A
2. Capitol Area Plaza Authority: N/A

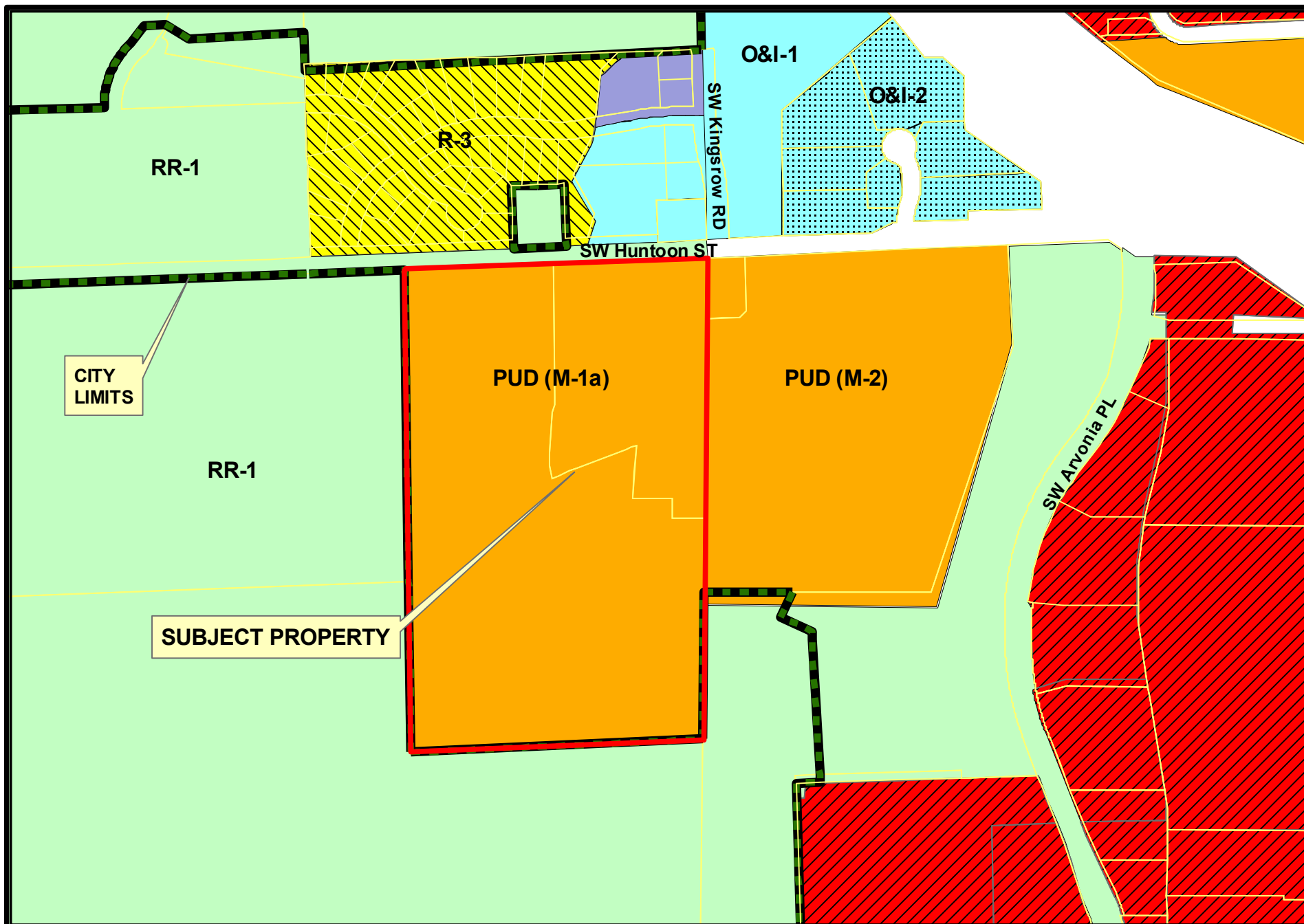
October 15, 2007
Agenda Item # F-1

3. Flood Hazard Area: N/A
4. Airport Hazard Area: N/A
5. Historic Properties: The Matrot Castle, listed on the State Register, lies within the 500' environs of the subject property.

STAFF RECOMMENDATION: Based upon the above findings and analysis, the planning staff recommends **APPROVAL** of this proposal, subject to:

1. Use and development of the site in accordance with the recorded Master Planned Unit Development Plan for Arbor Valley Subdivision.

Prepared by:
Annie Driver, Planner I



PUD04/5B By: Keystone Development Group, Inc.



PUD04/5B By: Keystone Development Group, Inc.

City of Topeka Planning Department



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): Keystone Development Group, Inc.

Arbor Valley One, L.L.C.

Street Address: 6423 SW Huntoon

City: Topeka State: KS Zip: 66615 E-mail: _____

Business phone: _____ Home phone: _____ Fax: _____

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

Bartlett & West Engineers, Inc. - John G. Ladson

Street Address: 1200 SW Executive Drive

City: Topeka State: KS Zip: 66615 E-mail: john.ladson@bartwest.com

Business phone: 785-272-2252 Home phone: _____ Fax: 785-273-8735

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: Keystone Development Group, Inc. by George Hopper, President

Owner 1 Signature: [Signature] PRESIDENT **Date:** 04/06/07

Owner 2: Arbor Valley One, L.L.C. by George Hopper, Vice President

Owner 2 Signature: [Signature] VICE PRESIDENT **Date:** 04/06/07

Requested Action and Site Information

Address of Property to be Re-Zoned (or if vacant, describe general location): 6423 SW Huntoon

Legal Description of Property: lot(s) 1 block A subdivision Arbor Valley Subdivision
(if unplatted, attach metes and bounds description)

Total Area (acres/square feet): 36.42 acres

Type of Application:

1. Re-zoning from: M-1a to: M-2 in a portion of the property

2. Conditional Use Permit proposed use: _____

Existing Use (# of dwelling units, square feet, etc.): ²⁶⁰48 dwelling units MAX. PROPOSED
(48 DU'S BUILT)

How long has the existing use been on the property? 48 units - 1 year approx.

Proposed Use (# of dwelling units, square feet, etc.): 300 dwelling units proposed MAX.

Was a Pre-Application Meeting or Zoning Inquiry completed with Staff? Yes If Yes, when? Phone conversation w/Bill Fiander

FOR OFFICE USE ONLY

Date submitted: 4/6/07
Application no.: PUD04/5B
Filing fee: 700⁰⁰ Receipt no.: 11554
Quarter section map no.: _____

Date notice sent: 4/27/07
Date advertised: 4/27/07
Date of hearing: 5/21/07
Council district: #8

CHECK YES OR NO

Capital Plaza Area: Yes _____ No X

100 yr Floodplain: Yes _____ No X

Airport Hazard Area: Yes _____ No X

Within Historic Site Environs: Yes X No _____

If Yes, what is it?: Market Castle

National/State Historic Register: Yes _____ No X

Local Historic Resource: Yes _____ No X

Neighborhood Association: Yes _____ No X

Name of N.I.A./N.A.: _____

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?

It is decided to construct apartments on a portion of the property. A zoning change would be required to change from M-1a to M-2 in a portion of the property.

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

Similar zoning is located directly adjacent to the property on the East, the character of the neighborhood would still all be senior housing.

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

Complies with neighborhood plan.

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:

New 12" watermain along SW Huntoon

- 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:

New 10" sewer main on west side of pond. 8" sewer main on east side of pond.

- 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 detention pond

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

Yes

4. Traffic Circulation

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

Yes, 24 foot plus 12' deceleration lane

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

Two access points off of SW Huntoon. One Proposed access to the south when the property is developed.

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

No further improvements at this time.

DRAFT

**Minutes of the
Topeka Planning Commission
October 15, 2007**

PUD04/5B Arbor Valley Subdivision PUD by Keystone Development Group, Inc. requesting to amend the Master PUD Plan by changing the maximum allowed dwelling units from 260 dwelling units (M-1a use group) to a maximum 300 dwelling units (202 dwelling units at M-1a use group and 98 dwelling units at M-2 use group) on property located at 6423 SW Huntoon Street. **(Driver)** Annie Driver summarized the staff report.

Proponents:

John Ladson, Bartlett & West Engineers, spoke in favor of the proposal. He said he is available for questions.

No one spoke in opposition to the proposal.

Exparte communication - none

Howard Blackmon moved approval, seconded by Theron Sims. **APPROVAL. (9-0-0)**



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 29, 2007

+ Back Print

DATE: November 13, 2007
CONTACT PERSON: David Thurbon/Bill Fiander **DOCUMENT #:** N/A
SECOND PARTY/SUBJECT: Reser's Fine Foods **PROJECT #:** V07S/6
CATEGORY/SUBCATEGORY: 014 Ordinances – Non-Codified / 006 Vacations
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of a 50-foot wide strip of public street right-of-way located along the east side of SE Deer Creek Parkway about 600 feet south of SE 6th Avenue, City of Topeka, Shawnee County, Kansas. **First Reading.** (V07S/6) (Council District No. 3)(The Planning Department recommended approval.)

(Approval would vacate a 50-foot wide strip of public street right-of-way and establish a necessary drainage, stream buffer easement and utility easement.)

POLICY ISSUE:

N/A.

STAFF RECOMMENDATION:

The Planning Department recommends **APPROVAL** of the proposed vacation, with the condition that the necessary drainage, stream buffer and utility easements be retained.

BACKGROUND:

- The Kansas Statutes and Topeka Code Section 130-476(b) requires a public hearing in conjunction with street vacation petitions.
- A directional sign for Reesers truck traffic will be constructed within the area requested to be vacated.
- A drainage, stream buffer and utility easement will be retained.
- Approval of the vacation should not be construed to imply support for existing or subsequent land development.

BUDGETARY IMPACT:

N/A.

SOURCE OF FUNDING:

N/A.

ATTACHMENTS:

[Vicinity Map](#)

Item #32

[Application](#)

[Aerial](#)

[Ordinance](#)

[Legal Advertisement](#)

[Check-Off Page](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO.

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of a 50-foot wide strip of public street right-of-way located along the east side of SE Deer Creek Parkway about 600' south of SE 6th Avenue, City of Topeka, Shawnee County, Kansas. **(V07S/6)**
(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 Reser's Fine Foods, as property owners, has been filed with the office of the City Clerk, requesting the vacation of the following described street right-of-way located within the City of Topeka, Shawnee County, Kansas:

A Portion of Deer Creek Parkway in the Northeast Quarter of Section 4, Township 12 South, Range 16 east of the 6th P.M., in the City of Topeka, Shawnee Count, Kansas, described as: Commencing at the Southwest corner of Lot 1, Block A in Reser's Subdivision, thence on a plat bearing of North 0°01'40" West on the most westerly line of Lot 1, 82.56 feet to the point of beginning; thence northerly on the West curved line of Lot 1, concave westerly, having a radius measure of 856.00 feet and an arc length of 244.90 feet, the chord of which bears North 25°13'34" East, 244.07 feet; thence North 72°58'13" West, 50.00 feet; thence southerly on a curve concentric with the West curved line of Lot 1, having a radius measure of 806.00 feet and an arc length of 230.60 feet, the chord of which bears South 25°13'34" West, 229.81 feet; thence South 56°34'40" East 50.00 feet 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 November 20, 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 street right-of-way located within the City of Topeka, Kansas:

A Portion of Deer Creek Parkway in the Northeast Quarter of Section 4, Township 12 South, Range 16 east of the 6th P.M., in the City of Topeka, Shawnee Count, Kansas, described as: Commencing at the Southwest corner of Lot 1, Block A in Reser's Subdivision, thence on a plat bearing of North 0°01'40" West on the most westerly line of Lot 1, 82.56 feet to the point of beginning; thence northerly on the West curved line of Lot 1, concave westerly, having a radius measure of 856.00 feet and an arc length of 244.90 feet, the chord of which bears North 25°13'34" East, 244.07 feet; thence North 72°58'13" West, 50.00 feet; thence southerly on a curve concentric with the West curved line of Lot 1, having a radius measure of 806.00 feet and an arc length of 230.60 feet, the chord of which bears South 25°13'34" West, 229.81 feet; thence South 56°34'40" East 50.00 feet 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 the retention of a drainage easement, a stream buffer easement and a utility easement over the described property as set forth in Section 4 and does hereby order the retention of the below described area as easement:

Drainage and stream buffer easement:

A Portion of Deer Creek Parkway in the Northeast Quarter of Section 4, Township 12 South, Range 16 east of the 6th P.M., in the City of Topeka, Shawnee Count, Kansas, described as: Commencing at the Southwest corner of Lot 1, Block A in Reser's Subdivision, thence on a plat bearing of North 0°01'40" West on the most westerly line of Lot 1, 82.56 feet to the point of beginning; thence northerly on the West curved line of Lot 1, concave westerly, having a radius measure of 856.00 feet and an arc length of 223.66 feet, the chord of which bears North 25°56'23" East, 223.03 feet; thence North 71°32'55" West, 50.00 feet; thence southerly on a curve concentric with the West curved line of Lot 1, having a radius measure of 806.00 feet and an arc length of 210.60 feet, the chord of which bears South 25°56'13" West, 210.00 feet; thence South 56°34'40" East 50.00 feet to the point of beginning.

Utility easement:

A Portion of Deer Creek Parkway in the Northeast Quarter of Section 4, Township 12 South, Range 16 east of the 6th P.M., in the City of Topeka, Shawnee Count, Kansas, described as: Commencing at the Southwest corner of Lot 1, Block A in Reser's Subdivision, thence on a plat bearing of North 0°01'40" West on the most westerly line of Lot 1, 82.56 feet to the point of beginning; thence northerly on the West curved line of

Lot 1, concave westerly, having a radius measure of 856.00 feet and an arc length of 244.90 feet, the chord of which bears North 25°13'34" East, 244.07 feet; thence North 72°58'13" West, 50.00 feet; thence southerly on a curve concentric with the West curved line of Lot 1, having a radius measure of 806.00 feet and an arc length of 230.60 feet, the chord of which bears South 25°13'34" West, 229.81 feet; thence South 56°34'40" East 50.00 feet to the point of beginning.

Section 6. 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 7. 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

**Vacation
Legal Description**

A Portion of Deer Creek Parkway in the Northeast Quarter of Section 4, Township 12 South, Range 16 east of the 6th P.M., in the City of Topeka, Shawnee Count, Kansas, described as: Commencing at the Southwest corner of Lot 1, Block A in Reser's Subdivision, thence on a plat bearing of North 0°01'40" West on the most westerly line of Lot 1, 82.56 feet to the point of beginning; thence northerly on the West curved line of Lot 1, concave westerly, having a radius measure of 856.00 feet and an arc length of 244.90 feet, the chord of which bears North 25°13'34" East, 244.07 feet; thence North 72°58'13" West, 50.00 feet; thence southerly on a curve concentric with the West curved line of Lot 1, having a radius measure of 806.00 feet and an arc length of 230.60 feet, the chord of which bears South 25°13'34" West, 229.81 feet; thence South 56°34'40" East 50.00 feet to the point of beginning.



V07S/6 Reser's Fine Foods

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>10-25-07</u>	Date Advertised
Application No. <u>V07576</u>	Date of Public Hearing
TO BE COMPLETED BY CITY CLERK'S OFFICE	
Filing Fee \$ <u>250.00</u>	Receipt No. <u>10308</u>

APPLICATION

City Vacation of Streets, Alleys and Easements

1. Applicant(s): Reser's Fine Foods
2. Applicant's Mailing Address: 3167 SE 10th St.
City Topeka State: KS Zip: 66607
3. Telephone: Area Code: 785 No.: 233-6431
4. Legal description of property requested to be vacated as prepared by the City of Topeka

Department of Public Works:

5. Check type of vacation: Street ☒ Alley ☐ Easement ☐ Other ☐
6. Legal description of property owned by the applicant which adjoins the street, alley or easement to be vacated:
Lots 089-PP-1311 980300 Block No.
In Subdivision

Metes and Bounds Description, if unplatted:

Appx. 25' East & 25' South of truck entrance to 3215 SE 10th St. off Deer Creek Trafficway.

13. How are adjoining properties used?

Commercial Food Mfg.

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

NO

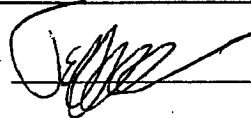
15. In your opinion, would the public suffer any loss or inconvenience should the petition to vacate be approved?

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:

N/A

Signature of Applicant(s)



(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 Jeff Russell- Reser's Fine Foods

Street Address 3139 SE 10th St.

City Topeka

State KS

Zip Code 66607

Telephone No. (785) 233-6431

Fax No. (785) 357-7369

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 ☒

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:

Wayfinding sign for truck traffic at Reser's Deer Creek Potato Processing Facility. Current setbacks & drainage easements do not allow for the placement of a directional sign for truck traffic.

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?

NO

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

Yes

12. Will the area proposed for vacation create any unique, adverse or undesirable traffic conditions?

NO

Please have the attached published in the Topeka Metro News in the Legal Advertising Section on November 2, 2007 and again on November 9, 2007.

IN THE MATTER OF THE PROPOSED VACATION OF:

Vacation of a 50-foot wide strip of public street right-of-way located along the east side of SE Deer Creek Parkway about 600' south of SE 6th Avenue, City of Topeka, Shawnee County, Kansas. **(V07S/6) (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 Reser's Fine Foods, owners of the concerned property which includes a 50-foot wide strip of public street right-of-way and praying that the right-of-way located on said property be vacated.

The petition will be presented to the Council of the City of Topeka for hearing on November 20, 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**

STREET/ALLEY/EASEMENT/SUBDIVISION VACATION

Case No.: V07S/6 Location: Along the east side of SE Deer Creek
Parkway about 600' S. SE 6th Avenue.

DEPARTMENTS:

- **Water Division:** X No Objection Objection
- **Engineering:** X No Objection Objection
Comments: A drainage and stream buffer easement must be retained over all but the north 20' of the right-of-way to be vacated.

UTILITY COMPANIES:

- **AT&T:** X No Objection Objection
- **Westar:** X No Objection Objection
Comments: Westar has existing street light poles and overhead conductor which are located along both the west & east right-of-way of SE Deer Creek Parkway. Westar will agree to the vacation ***if*** an easement is granted to allow for the continued operation, maintenance & replacement of their electric facilities.
- **Kansas Gas Service:** X No Objection Objection
- **Cox Communications:** X No Objection Objection

Cindy Johnson, Planner I

October 30, 2007



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www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 5, 2007

+ Back Print

DATE: November 13, 2007

CONTACT PERSON: David Thurbon/Bill Fiander **DOCUMENT #:** Z07/20

SECOND PARTY/SUBJECT: Clifford N. Cormier Living Trust **PROJECT #:** N/A

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 2425 SE California Avenue in the City of Topeka, Kansas from “R-1” Single-Family Dwelling District TO “C-2” Commercial District. **First Reading.** (Z07/20) (Council District No. 4) (Planning Commission recommended approval by a vote of 8-1-0.) (Planning Department recommended disapproval.)

(Approval would allow development of the property for commercial use.)

POLICY ISSUE:

The proposal is consistent with Comprehensive Plan policies that support limited development at the intersection of an arterial and collector. However, the Plan discourages the stripping out of arterials with commercial uses. Currently, SE 25th is a natural transition between commercial and residential. Rezoning the entire property to "C-2" Commercial would set a precedent to continue a commercial strip pattern unabated north of SE 25th Street. Without establishing a point of transition as encouraged by the Comprehensive Plan, the corridor will ultimately have a pattern of development north of SE 25th Street that negatively impacts arterial traffic movements, adjacent residential properties, and Highland Park High School.

STAFF RECOMMENDATION:

The Planning Commission recommended this request be **APPROVED** by a vote of **8-1-0** at their **October 15, 2007** meeting as referenced in their attached minutes. The Planning Department recommended that this request be **DISAPPROVED** and recommended the applicant reapply for a "PUD" Planned Unit Development in order to limit the intensity of commercial uses and to provide a transitional zone for the adjacent single-family residential and institutional uses.

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 (6 votes) majority of City Council membership; or,
 - **Return** such recommendation to the Planning Commission with a statement specifying the basis for the City

Item #33

Council's failure to approve or disapprove.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Ordinance](#)

[zoning map](#)

[aerial map](#)

[application](#)

[USD 501 letter](#)

[staff report](#)

[Z07-20 Protest 1](#)

[Commission Minutes 10-15-07](#)

(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 at the northwest corner of SE 25th Street and SE California Avenue from "R-1" Single-Family Dwelling District **TO** "C-2" Commercial District. **(Z07/20) (Council District No. 4)**

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 classifying the following described property:

Part of the north 4³/₄ acres of the south 10 acres of the east 55 acres of the NE ¹/₄ of Section 8, Township 12 south, Range 16 east of the 6th P.M., described as follows: Beginning at the SE corner of the above described tract; thence west 197 feet; thence north 112.5 feet; thence east 197 feet to the east line of the ¹/₄ Section thence south 112.5 feet to the place of beginning, Shawnee County, Kansas. (Also known as 2423 SE California Avenue.)

AND

Beginning at the SE corner of the South 5.25 acres of the east 55 acres of the NE ¹/₄ of Section 8, Township 12 south, Range 16 east of the 6th P.M., in Shawnee County Kansas; thence west 196 feet parallel with the 1/4 Section line; thence north 75 feet and parallel with the ¹/₄ Section Line; thence east 196 feet; thence south along the Section Line 75 feet, to the point of beginning, except that part taken in Condemnation Case No. 111228 (Also known as 2435 SE California Avenue.)

AND

Part of the south 5¹/₄ acres of the east 55 acres of the north ¹/₄ of Section 8, Township 12 south, Range 16 east of the 6th P.M., described as follows: Commencing at the NE corner of the south 5 ¹/₄ acres of the east 55 acres of the NE ¹/₄ of Section 8, Township 12 south, Range 16 east of the 6th P.M. thence south 180 feet; thence west 196 feet; thence north 180 feet; thence east 196 feet to the place of beginning, Shawnee County, Kansas. (Also known as 2425 and 2433 SE California Avenue.)

from "R-1" Single-Family Dwelling District **TO** "C-2" Commercial District.

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

October 15, 2007
Agenda Item # G-1

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: **Z07/20**

by: **Clifford N. Cormier Living Trust**

PROPOSAL: Zone change from “R-1” Single-Family Dwelling District **TO** “C-2” Commercial District

LOCATION: 2425 SE California Avenue, northwest corner of SE 25th and California.

PARCEL ID NUMBER: 1330801022013000

BACKGROUND: Prior to 2004, the northernmost approximately 113’ of the subject property was zoned “R-1” Single Family Dwelling District with a Resolution of Intent for “C-2” Commercial District (Z71/19). The C-2 District was never activated for the property. Under Topeka City Council Resolution #7421, this ROI was one of the remaining ROIs referred to the Topeka Planning Department for study, public hearing, and recommendation. In 2004, the City initiated a rezoning of this property to remove the ROI for the “C-2” Commercial District.

In accordance with Section 48-33.01(e), written notices for the proposed amendment were mailed out on December 23, 2003 and again on February 20, 2004. The Planning Department recommended the “R-1” District for the property, as the entire area surrounding the site was zoned for single family residential uses. The “R-1” District was recommended to reflect the surrounding properties and mid-block commercial development not being appropriate for the area. The Planning Commission heard the rezoning on January 21, 2004, in which they recommended approval for the “R-1” District by a vote of 6-3-1. The City Council failed to approve or disapprove the proposal on February 17, 2004 by a vote of 4-5-0 and therefore, the proposal was remanded back to the Planning Commission. The Planning Commission heard the proposal again on March 15, 2004 and reaffirmed their approval for “R-1” by a vote of 5-2-1. The attached minutes from the March 15th public hearing include discussion by members regarding their approval of the “R-1” District for the property. In summary, the Commission considered any rezoning for the property should be brought back in conjunction with the remainder of the property to the south once the property owner developed a plan for the entire property. *(See attached Planning Commission minutes from 1-21-2004 and 3-15-2004)* The City Council approved the rezoning to “R-1” on April 13, 2004 by a vote of 8-1-0.

This current rezoning request (Z07/20) includes both this portion of the property along with the remainder of the property to the south.

PRESENT USE: The entire property comprises approximately 1.31 acres. The northernmost approximately 113’ of the property (.43 acres) has been vacant since 1971. Prior to 1971, it was used for a drive-thru restaurant and was a non-conforming use. Three unoccupied houses, built in approximately 1930, are currently located on the southernmost portion of the property.

PROPOSED USE: Unspecified commercial use (future)

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CHARACTER OF NEIGHBORHOOD: The surrounding area to the north, west, and east is single family residential in character. A church lies to the north and Highland Park High School lies to the east of the subject property. Both these uses are compatible uses in the single family district. The subject property is located at the intersection of a principle arterial (SE California) and a collector (SE 25th). A strip commercial land use pattern has developed along California south of 25th Street and north of 21st Street. The segment of California between 25th and 21st has remained primarily residential and is the established transitional area between the commercial uses to the south and residential.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	“R-1” Single Family Dwelling District	Church
South:	“C-2” Commercial District	Retail
East:	“R-1” Single Family Dwelling District	Highland Park High School
West:	“R-1” Single Family Dwelling District	Single family residential

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The northernmost 113’ of the property was zoned “R-1” until 1971 when a request was made to rezone the property to “C-2” in order to establish a food production preparation service. The City Council approved the Resolution of Intent for “C-2”, but the ROI was never activated. Prior to 1971, the property had been used as a non-conforming use for a drive-thru restaurant. Since 1971, the property has remained vacant. The remainder of the property has been zoned “R-1” since annexed in approximately 1959. The three existing houses were built in 1930 and are presently unoccupied.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The property may no longer be ideal for its uses as presently restricted for single-family residential. The existing houses were built in approximately 1930 with minimal improvements made to the structures. With the property’s location on a principle arterial (SE California) and collector (SE 25th), single-family residential may no longer be the most viable option for the property. At this location, California receives approximately 19,335 ADT. During peak hours, the SE 25th/California intersection received approximately 2,922 trips total. However, as the subject property is located at the established transition between commercial to the south and residential to the north, a non-residential use at this location should be limited appropriately so as to not allow the strip commercial development land use pattern to continue along California.

+Traffic count for SE California was taken from the Kansas Department of Transportation 2004ADT counts
*Peak hour count taken by City of Topeka Traffic Engineering on September 19, 2007

CONFORMANCE TO COMPREHENSIVE PLAN: The Topeka Land Use and Growth Management Plan – 2025 indicates this area is planned for *Urban/Suburban Low Density Residential*. SE 25th Street is

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the established zone of transition between commercial to the south and residential to the north. However, the Plan establishes general guide for future development of the City and does not indicate specific land uses for each individual parcel. The Comprehensive Plan indicates that office, medium density residential, or some limited commercial (< 1 acre) may also be appropriate at arterial and collector intersections. However, the Plan discourages the stripping out of arterial streets with commercial uses, which lead to undesirable consequences. Rather the Comprehensive Plan encourages commercial zoning be located at the intersection with gradual stepping down of zoning through office or multiple-family uses to serve as transitions into adjacent residential neighborhoods. Some of the consequences of strip commercial development outlined in the Plan are:

- A degradation of the primary purpose of the arterial's ability to move traffic as the number of access points are increased along the arterial;
- A reduction of residential property values adjacent to the strip of commercial development, which can 'bleed' into the neighborhood and result in a destabilizing effect on a large portion of the neighborhood;
- A lowering of commercial shopping center values as an excessive amount of commercial real estate is placed on the market;
- An excessive amount of 'secondary' retail establishments being located in prime retail locations as the market becomes over saturated with commercial land.

SE California, south of 25th Street, is already stripped out with commercial uses, which has resulted in some of these consequences. The Comprehensive Plan does indicate office, multiple-family, or limited commercial (<1 acre in size) within a neighborhood setting may be located along arterial and collector streets and on the periphery of the neighborhood. Therefore, a non-residential use on this property could be consistent with the Comprehensive Plan, provided it does not encourage further commercial stripping along California north of SE 25th Street and still maintains a lower intensity buffer.

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

Removal of the present restrictions may have a detrimental effect on adjacent properties. SE 25th is the established transition between commercial to the south and residential to the north. Any commercial use on the property would break this established transition and may open up California to further strip commercial development, thereby, potentially creating conflict for adjacent properties and increasing traffic along California by allowing for further access points on to the arterial. In 2007, the Topeka Planning Department performed a Commercial Corridor Study to compare strip and node commercial areas within the city. The west side of California from 29th to 25th was one of the strip study areas. Some of the findings from this study showed that of the 12 units along the west side of California that are zoned commercial, 4 are currently utilized for office or lower intensity uses (33%); the average property for units zoned commercial is \$6.40/sq. ft., which was lower than the other study areas; and the average property value of residential units surrounding the strip area is \$42,000, which was less than the other study areas. These findings show that this segment of California is currently experiencing some of the undesirable consequences of strip commercial development, as outlined in the Comprehensive Plan. From these results, one may potentially ask the question whether further commercial development is appropriate along California at this location and, if so, how much more? Considering that the property is located at the intersection of a collector and arterial and single-family residential may no longer be viable at this location, staff would be supportive of some limited commercial uses that would still allow for an adequate land use transition from commercial to residential. However, a straight "C-2" District classification for the entire property would allow it to develop for the complete array of "C-2" uses, some of which are too intense directly adjacent to single-family residences or that are not appropriate uses next to a church and high school, such as retail liquor sales and bars. A "PUD" District on the property could further limit commercial uses to those that would be more compatible with

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adjacent properties, such as prohibiting retail alcohol sales adjacent to a school and church, consistent with State law (KSA 41-210) and allow for a step down of intensity further north so as not to exacerbate commercial strip impacts along SE California.

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:

Denial of the proposal would allow the property to remain for uses as presently zoned for single-family residential, which may no longer be ideal at this location. The gain to the public health, safety and welfare would be to retain the established transition between commercial and residential at 25th Street and not allow the residential neighborhood to the north and west be further compromised from the undesirable consequences of commercial strip development being extended north along California. However, the existing residences have remained on the property since approximately 1930 with minimal improvements made to the structures, which will only lead to their decline in appearance and property value. The unoccupied and vacant residences will only detract from the character of the surrounding area and neighborhood and new single-family residence may no longer be viable at this location along the intersection of an arterial and collector.

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are presently available to this area and will be extended at developer expense.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

Minimum Lot Area: **Compliant- 57, 063 sq. ft.** The minimum lot area in the C-2 District is 10,000 sq. ft.

Setbacks: Any new structures would meet required setbacks.

Platting: **Non-compliant-** The property will have to be platted prior to building permits being issued.

CONCERNS OF STAFF AND REVIEWING AGENCIES: This request was submitted to all applicable reviewing agency staff for consideration and comment. All issues or concerns that were expressed by reviewing staff relative to code compliance or provisions of public service have been resolved or will be addressed at the building permit stage and at the time the property is platted. Topeka Public Schools (USD 501) expressed concern about this property owner moving his existing liquor store from another property to the subject property. The "C-2" District does permit the operation of liquor stores and bars. However, Chapter 10 of City Code prohibits alcohol and cereal malt beverage establishments that allow on-premise consumption within 300' of a school or religious institution (i.e. bars). Chapter 10 does not apply to retail liquor stores. State law prohibits the sale of alcohol and cereal malt beverages within 200' of a school or religious institution (KSA 41-710), which does apply to liquor stores and thus, would apply to this property.

ADDITIONAL FACTORS:

1. Neighborhood Improvement Association: The Central Highland Park NIA was notified of the proposed rezoning on September 6, 2007 and has expressed no comment regarding the rezoning.

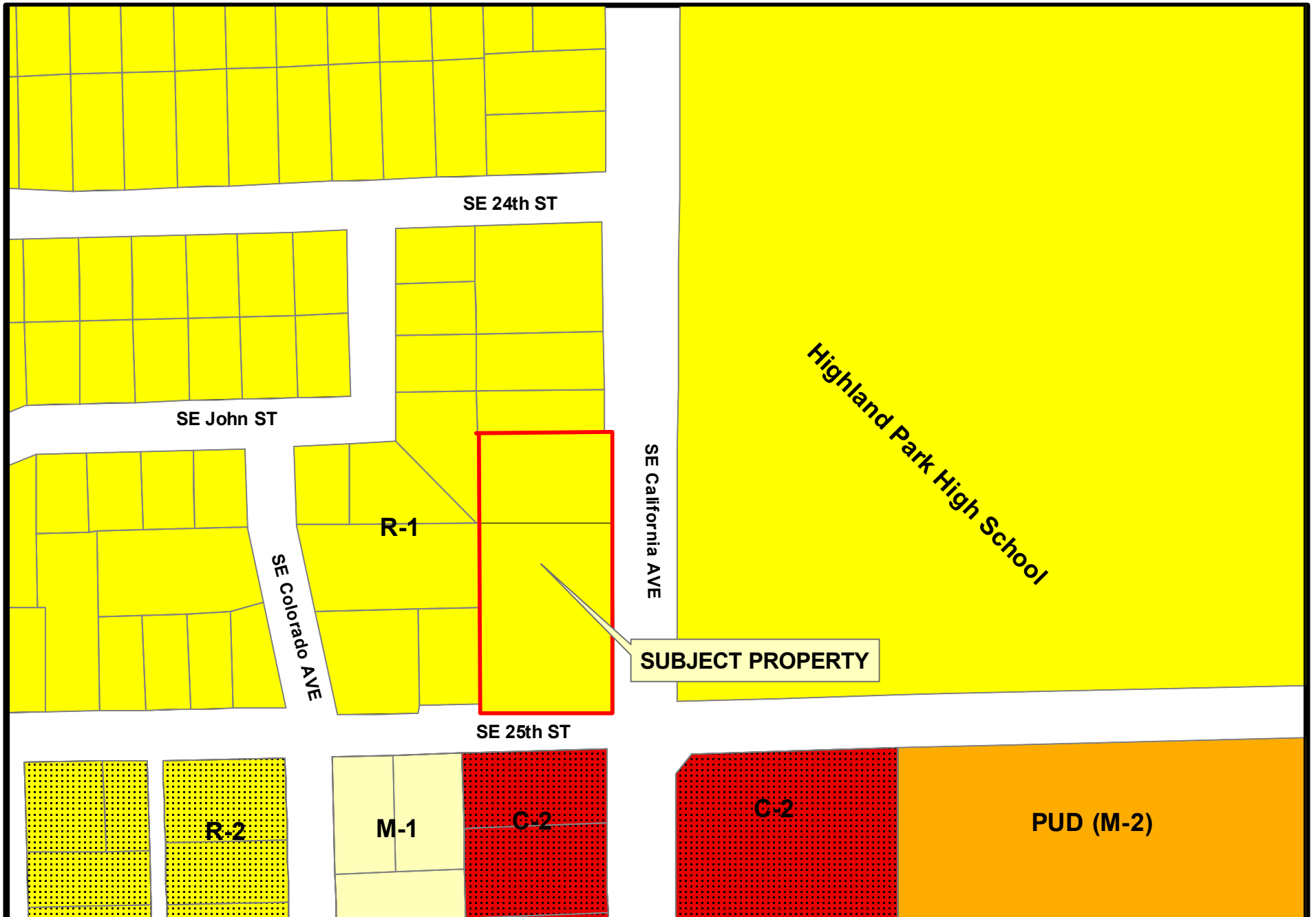
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2. Capitol Area Plaza Authority: N/A
3. Flood Hazard Area: N/A
4. Airport Hazard Area: N/A
5. Historic Properties: There are no National Register properties within 500 ft.

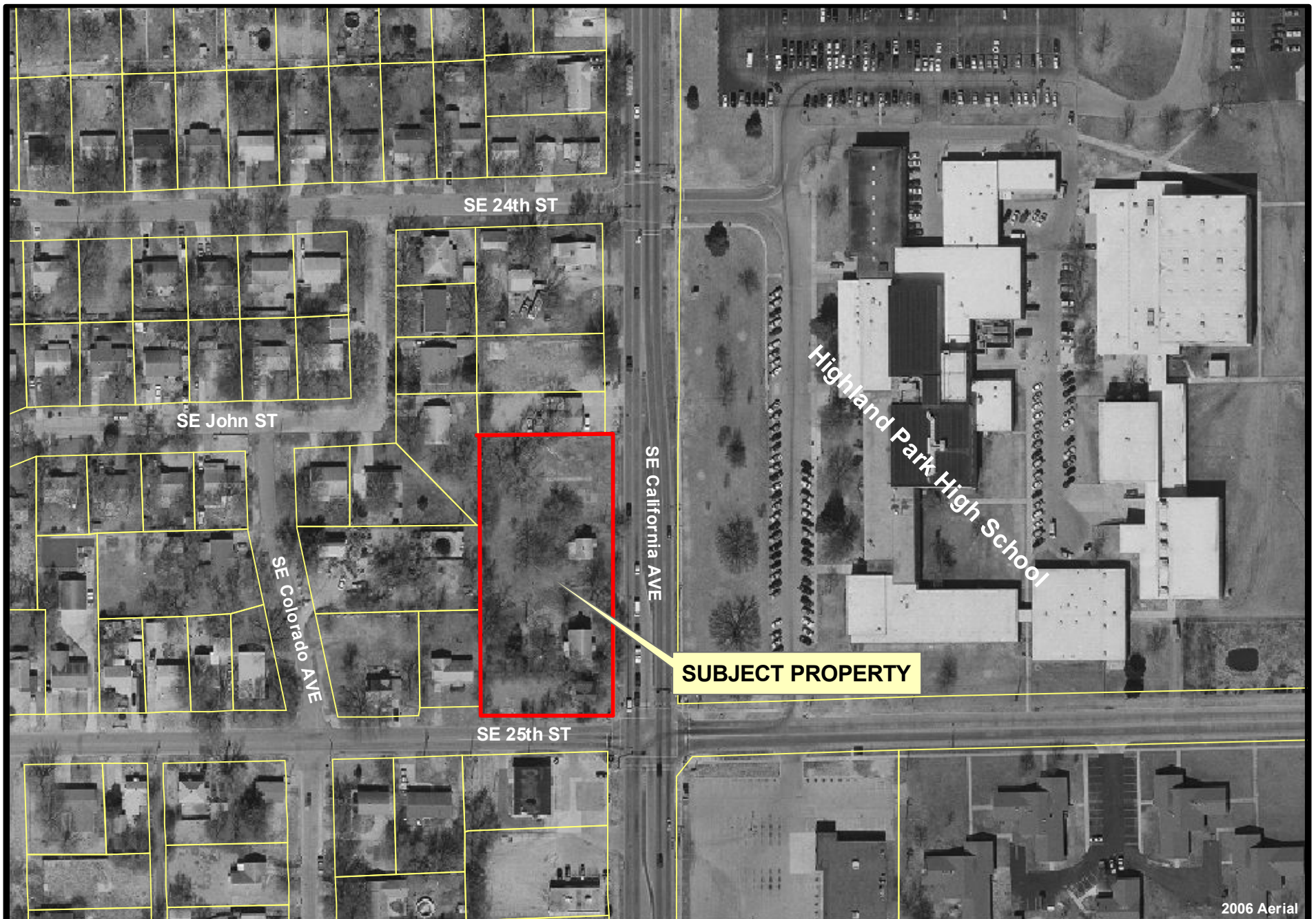
STAFF RECOMMENDATION: Based upon the above findings and analysis, the planning staff recommends **DISAPPROVAL** of the “C-2” Commercial District. Alternatively, the planning staff would recommend the Planning Commission consider the following option:

- Recommending the applicant re-apply for a “PUD” Planned Unit Development District classification for property that further limit commercial uses and give additional consideration to buffering, landscaping, access points, site and building design due to the property’s location at an transitional area and adjacent to single-family residential, a church, and a school. The PUD would include a note stating, “The prohibition of the sales, service, or consumption of alcoholic beverages and cereal malt beverages except in a restaurant as defined by state law (KSA 41-2601)” to provide additional assurance of compliance with City Code and State law.

Prepared by:
Annie Driver, Planner I



Z07/20 by: Clifford N. Cormier Living Trust



Z07/20 by: Clifford N. Cormier Living Trust



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

RECEIVED

JUL 26 2007

TOPEKA PLANNING
DEPARTMENT

Applicant Information

Property Owner(s): Clifford N. Cormier Living Trust

Street Address: 2307 SE Libra

City: Topeka State: KS Zip: 66605 E-mail: _____

Business phone: 785-266-7511 Home phone: 785-267-5361 Fax: _____

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

Street Address: _____

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

Business phone: _____ Home phone: _____ Fax: _____

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: CLIFFORD N CORMIER LIVING TRUST

Owner 1 Signature: Clifford N Cormier Date: July 26, 07

Owner 2: _____

Owner 2 Signature: _____ Date: _____

Requested Action and Site Information

Address of Property to be Re-Zoned (or if vacant, describe general location):

2425 SE California Avenue

ID# 089-133-08-0-10-22014.00-0

13308010220130008m

Legal Description of Property: lot(s) 4 1/2 block 2400 subdivision NOT PLATTED
(if unplatted, attach metes and bounds description)Total Area (acres/square feet): 1.31 AC

Type of Application:

1. Re-zoning from: R-1 to: C-2

2. Conditional Use Permit proposed use: _____

Existing Use (# of dwelling units, square feet, etc.): VacantHow long has the existing use been on the property? N/AProposed Use (# of dwelling units, square feet, etc.): N/AWas a Pre-Application Meeting or Zoning Inquiry completed with Staff? Yes If Yes, when? 7/18/07

FOR OFFICE USE ONLY

Date submitted: 8/29/07Date notice sent: 9/21/07Application no.: 207/20Date advertised: 9/21/07Filing fee: 650⁰⁰ Receipt no.: 11619Date of hearing: 10/15/07

Quarter section map no.: _____

Council district: #4

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.: Central Highland
Park 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?

VACANT

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

NONE

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

UNKNOWN

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

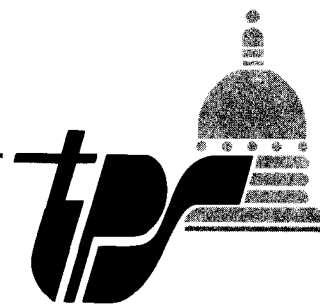
- a. Location and size of sewer main serving site:
- b. Does the current system have adequate capacity? If not, are improvements anticipated?
- c. If other than City of Topeka, identify sewer district provider: _____

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?



October 3, 2007

Mr. David F. Thurbon, Director
Planning Department
City of Topeka
620 SE Madison Street, 3rd Floor
Topeka, KS 66607-1118

Re: Case #Z07/20

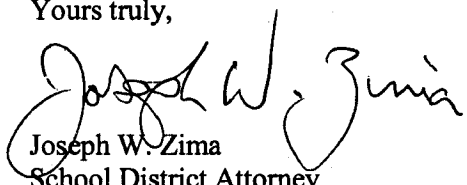
Dear Mr. Thurbon:

I am writing to you on behalf of the Board of Education of the Topeka Public Schools, USD 501. We have received notice of the zoning change proposed in the above-referenced case for the Northwest corner of 25th and California, which is within 200 feet of our Highland Park High School. We object to the proposal and suggest that the land in question should remain zoned as residential property.

The corner in question has historically been a residential area and we believe that changing the zoning to C-2 would negatively impact the environs of our neighborhood school. Commercial activities can be a distraction to high school aged students and can heighten traffic congestion at the intersection. We note with some concern that no specific commercial use has been proposed. We assume that no liquor store will ever be allowed on the property due to the provisions of K.S.A. 41-710. However, we can imagine other commercial ventures allowed by C-2 zoning that would be very inappropriate within 200 feet of a high school.

We have historically favored development and zoning changes in the City that are consistent with the nature of the neighborhood. We appreciate the opportunity to provide input into the zoning process and we respectfully request that our interests in this matter be given due consideration.

Yours truly,


Joseph W. Zima
School District Attorney

JWZ:msg

cc: Board of Education
Dr. Sandlin
Mr. Litfin
Ms. Fish

Mr. Cushinberry
Mr. Wilson
Mr. Albert



CITY OF TOPEKA

PLANNING DEPARTMENT
David Thurbon, Director
620 SE Madison Street, 3rd Floor
Topeka, Kansas 66607-1118
Tel.: (785) 368-3728

Fax: (785) 368-2535
www.topeka.org

MEMORANDUM

DATE: October 31, 2007

TO: Honorable Mayor William W. Bunten and Members of the Topeka City Council
Norton N. Bonaparte, Jr., City Manager/CEO

FR: Annie Driver, AICP, Planner I

RE: Z07/20 by: Clifford N. Cormier Living Trust

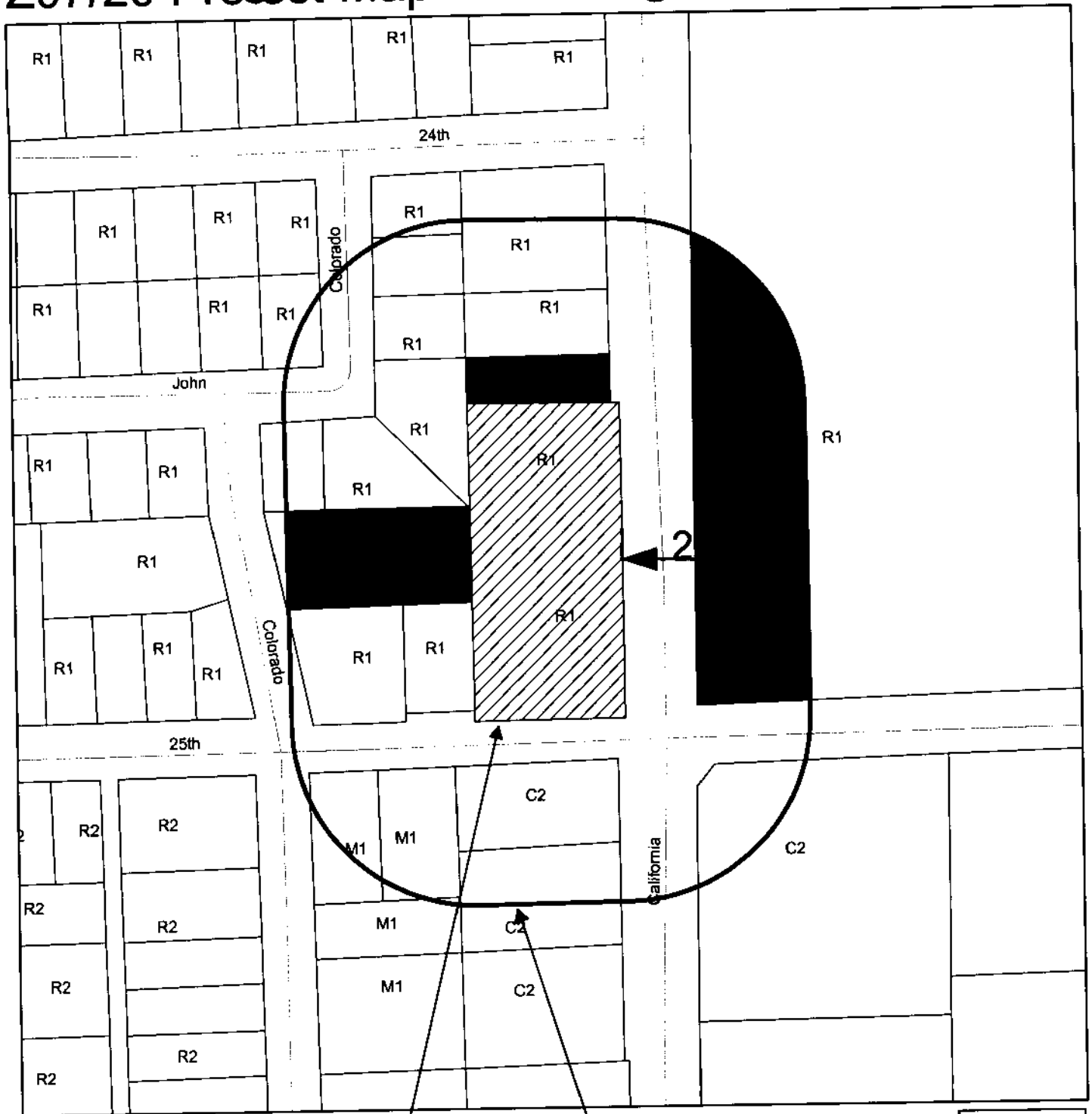
Please be advised that protest petitions were filed by the October 29, 2007 deadline regarding the above mentioned zoning proposal. The extent of the protests constitutes **37.05%** of the required notification area. Since the extent of the protest exceeds 20% of the notification area, the zoning proposal cannot be passed except by at least a three-fourths majority vote (7 of 9) of all members of the City Council pursuant with K.S.A. 12-757(f)(1). Further, matters shall only be considered when **all** Council members are present. Accordingly, the City Council may:

1. **Adopt** the recommendation of the Planning Commission by Ordinance, subject to a three-fourths majority vote (7 of 9)
2. **Override** the Planning Commission's recommendation by a two-thirds majority vote (6 of 9)
3. **Return** such recommendation back to the Planning Commission for further consideration with a statement specifying the basis for the City Council's failure to approve or disapprove. If the case is remanded back to the Planning Commission, it will still require a three-fourths majority vote of the City Council to approve the rezoning.

Enclosed is a copy of the protest area map, protest area computations and protest petitions.

Enclosures

Z07/20 Protest Map



Requested Area

Notification Area



Legend

 Z07_20 (Subject Property)

 Protesting Owners

LEGAL PROTEST COMPUTATIONS

TOTAL AREA 386702.525

LESS REQUEST AREA 57005.296

LESS R/W AREA 101197.450

NET AREA 228499.779

PROTEST AREA 84667.508

$$\frac{\text{PROTEST AREA}}{\text{NET AREA}} = \underline{37.05\%}$$

ZONING AMENDMENT PROTEST PETITION
CITY OF TOPEKA, KANSAS

SECTION I

The undersigned property owner(s) protest the proposed change in district zoning classification on property described in Topeka Planning Commission Case Number (see agenda) 207/20 requesting a zoning classification change
FROM R-1 District
TO C-2 District
and located at/about 25th & California in the City of Topeka, Kansas.

SECTION II—Protestor(s)

NAME(s)

Joseph W. Zima
Signature

Joseph W. Zima, Clerk
Typed or Printed Name

Board of Education

Signature

Typed or Printed Name

**ADDRESS & LEGAL DESCRIPTION
OF PROTESTER'S PROPERTY**

Highland Park High School
2424 SE California
Topeka, KS 66605-1797

Parcel ID#:

1320902010002000

ACKNOWLEDGEMENT

STATE OF KANSAS)

COUNTY OF SHAWNEE) ss

Be it remembered that on this 26th day of October, 2007, before me a Notary Public in and for said County and State, came Joseph W. Zima
Clerk of The Board of Education of The Topeka Public Schools
to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same.

In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.

Notary Public State of Kansas
Karen Irvin
My Appt Exp 12/18/2010

Karen Irvin
Notary Public

My Commission Expires 12/18/2010

ALL SIGNATURES MUST BE ACKNOWLEDGED

Additional statements of acknowledgement may be attached and made a part of this petition as necessary.

0134397

KANSAS QUITCLAIM DEED

On this 06 day of Sept

, 2001, 3:25 PM '01

Topeka Board of Education, now known as
Unified School District No. 501, Shawnee County, Kansas

("Grantor(s)") QUITCLAIM(S) to

Unified School District No. 501, Shawnee County, Kansas

("Grantee(s)") all of the following described real estate in Shawnee County, Kansas:

Avondale East: Block 10, Lots 1 through 14, Block 7, Lots 1 through 14, and Block 6, Lots 1 through 14, Golf View Terrace

Highland Park Elementary: The South 13 feet of Lot 160, Lot 162 and part of Lot 164 in Sunnyside Addition to Highland Park and part of Lot 160, all of Lots 162, 164, 166, 168, 170, 172, 174 and 175 through 192 in Highland Park Addition, City of Topeka, Shawnee County, Kansas AND Lots 193 through 240 and adjacent vacated alley, being all of block lying between 27th and 28th Streets and between Illinois Street and Indiana Street

Highland Park High School: The West 1322.1 feet of the South 1/2 of the Northwest Quarter of Section 9, Township 12, Range 16, Shawnee County, Kansas, less Road Right of Way

Kaw Area Technical: Block A, Lot 2, Area Vocational Technical Subdivision #2 AND Lot 1, Block A, Less the East 370 feet of the North 750 feet of said Lot, all in Area Vocational Technical Subdivision #2

Quinton Heights/Administrative Center: Beginning 42 feet South and 30 feet East of the Northwest Corner of the Northwest Quarter of Section 7, Township 12, Range 16 East of the 6th P.M., thence East 655 feet; thence South 700 feet; thence East 30 feet; thence South 75 feet; thence West 180 feet; thence South 25 feet; thence West 180 feet; thence South 50 feet; thence West 180 feet; thence South 75 feet; thence West 140 feet; thence North 915 feet; thence East along the south line of 21st Street to the point of beginning

Randolph Elementary: Randolph was Strong, Lots 80 through 90, even numbers, in Euclid Park Addition to the City of Topeka, Shawnee County, Kansas

Shaner Elementary: Part of Lots 4 and 5 of Higginbotham & Mulvane's 2nd Subdivision and Part of Lot 10 of Burlingame Acres DAF Beginning at the Northeast Corner of Lot 10; thence South 745 feet; thence West 750 feet; thence North 427 feet; thence East 140 feet; thence North 315 feet; thence East 10 feet to the point of beginning.

Topeka Education Center: Beginning at the Southwest corner of James Street and 19th Street; thence South 601 feet; thence West 255 feet; thence South 161 feet; thence West 255 feet; thence North 667 feet; thence East 310 feet to the point of beginning.

Whitson Elementary: Beginning 30 feet South of the Northeast Corner of Lot 45 in Crescent Lawn Addition; thence South 309 feet; thence West 120 feet; thence South 349.09 feet; thence West 128 feet; thence North 650 feet; thence East 248 feet to the point of beginning.

for the sum of One Dollar and Other Good and Valuable Consideration

SUBJECT TO: Easements and Restrictions of Record

Topeka Board of Education, now known as
Unified School District No. 501, Shawnee County, Kansas

By

Printed Name: Tim S. Claffier

Attest

Clerk, Board of Education

Approved as to Legality
and Form: Date 10/30/01
J. W. Zima
Vice of District Attorney

VOL 3550 PAGE 177

ZONING AMENDMENT PROTEST PETITION
CITY OF TOPEKA, KANSAS

SECTION I

The undersigned property owner(s) protest the proposed change in district zoning classification on property described in Topeka Planning Commission Case Number (see agenda) 207/20 requesting a zoning classification change
FROM R-1 District
TO C-1 District
and located at/about 2430 SE California Ave. in the City of Topeka, Kansas.

SECTION II—Protestor(s)

NAME(s)

Thomas W. Powell
Signature

Thomas W. Powell
Typed or Printed Name

Signature

Typed or Printed Name

ADDRESS & LEGAL DESCRIPTION
OF PROTESTER'S PROPERTY

2430 SE Colorado
Topeka, KS
66605

Legal Attached

RECEIVED
CITY CLERK
2001 OCT 26 P 3:27
TOPEKA, KANSAS

ACKNOWLEDGEMENT

STATE OF KANSAS)

COUNTY OF SHAWNEE) ss

Be it remembered that on this 13th day of OCT, 2002 before me a Notary Public in and for said County and State, came

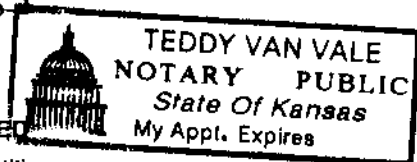
Thomas W. Powell

to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same.

In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.

Teddy Van Vale
Notary Public

My Commission Expires 5-11-09



ALL SIGNATURES MUST BE ACKNOWLEDGED

Additional statements of acknowledgement may be attached and made a part of this petition as necessary.

AP1M010.

REAL ESTATE ASSESSMENT ADMIN. DISPLAY SCREEN

---> BY PROP NUM
Attachment number 7
TMMMAASS Page 7 of 11

MM SS S QQ BB PP P O

ID: 133 08 0 10 22 008 00 0 OLD CODE: 42304

OLD ID: A I121508130028007

FUNC CODE:

OWNER: POWELL SNOWDA KAY & THOMAS W

OWNER ADDR: 02430 SE COLORADO AVE

PUC OWNER:

PROP ADDR: 2430 SE COLORADO

APT#: TOPEKA

66605 1636

TAXPAYER:

02430 SE COLORADO AVE

TOPEKA

KS 66605 1636

LOAN CO: 57 LOAN NO: 30740998

LOAN CO EXACT:

TOPEKA

KS 66605 1636

UNIT: 001 LEVY: 144.554 TWP:

AVE DEED BOOK: 2634 PAGE: 349

SCH DIST: 501 TRANSFER#: 38037

ZONING: R1

CHECK ZONING:

DOC DATE: 01/18/1991

REC DATE: 01/18/1991

AFDVT BOOK: 0 AFDVT PAGE: 0

STATE CODE: M64

CODE: 4359

SUBDIV: MCLAUGHLIN'S SUB

LOT: 1 QTR SEC: NE CTRACT: 13 HP

SEC: 8 TSHP: 12 RGE: 16 BLK:

CC: AMT: 0 DATE: 0 NRT: COV: 0

MUN SERV: N

DEEDED ACRE: 0.00 CALC ACRE: 0.00

COLO AVE LOT 1 MCLAUGHLINS SUB

PF10=HELP

THIS RECORD HAS A NARRATIVE..... PF5 TO VIEW

ZONING AMENDMENT PROTEST PETITION
CITY OF TOPEKA, KANSAS

SECTION I

The undersigned property owner(s) protest the proposed change in district zoning classification on property described in Topeka Planning Commission Case Number (see agenda) 207/20 requesting a zoning classification change
FROM A-1 District
TO C-2 District
and located at/about 2435 SE Colorado Ave in the City of Topeka, Kansas.

SECTION II—Protestor(s)

NAME(s)

ADDRESS & LEGAL DESCRIPTION
OF PROTESTER'S PROPERTY

Signature

Snowda Powell
Typed or Printed Name

Signature

Typed or Printed Name

2430 SE Colorado
T.K. 66605-
Legal Attached

RECEIVED
CITY CLERK
2007 OCT 26 P 3:27
TOPEKA, KANSAS

ACKNOWLEDGEMENT

STATE OF KANSAS)

COUNTY OF SHAWNEE) ss

Be it remembered that on this 23rd day of OCT, 20 07, before me a Notary Public in and for said County and State, came

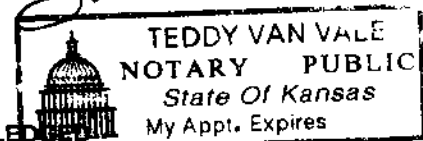
Snowda Powell
to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same.

In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.

Notary Public

My Commission Expires

5-11-09



ALL SIGNATURES MUST BE ACKNOWLEDGED

Additional statements of acknowledgement may be attached and made a part of this petition as necessary.

AP1M010 REAL ESTATE ASSESSMENT ADMIN. DISPLAY SCREEN ---> BY PROP NUM
MMM SS S QQ BB PPA P O TMMMAASS Page 9 of 9
ID: 133 08 0 10 22 008 00 0 OLD CODE: 42304 OLD ID: A I121508130028007
FUNC CODE:
OWNER: POWELL SNOWDA KAY & THOMAS W
OWNER ADDR: 02430 SE COLORADO AVE
PUC OWNER:
PROP ADDR: 2430 SE COLORADO
APT#: TOPEKA 66605 1636
TAXPAYER: 02430 SE COLORADO AVE
TOPEKA KS 66605 1636
LOAN CO: 57 LOAN NO: 30740998
LOAN CO EXACT:
SEC: 8 TSHP: 12 RGE: 16 BLK:
CC: AMT: 0 DATE: 0 NRT: COV: 0
MUN SERV: N
DEEDED ACRE: 0.00
CALC ACRE: 0.00
SUBDIV: MCLAUGHLIN'S SUB
LOT: 1 QTR SEC: NE CTRACT: 13 HP
DOC DATE: 01/18/1991
REC DATE: 01/18/1991
AFDVT BOOK: 0 AFDVT PAGE: 0
STATE CODE: M64
CODE: 4359
TOPEKA KS 66605 1636
UNIT: 001 LEVY: 144.554 TWP:
DEED BOOK: 2634 PAGE: 349
SCH DIST: 501 TRANSFER#: 38037
ZONING: R1 CHECK ZONING:
AVE

PF10=HELP

THIS RECORD HAS A NARRATIVE..... PF5 TO VIEW

ZONING AMENDMENT PROTEST PETITION
CITY OF TOPEKA, KANSAS

SECTION I

The undersigned property owner(s) protest the proposed change in district zoning classification on property described in Topeka Planning Commission Case Number (see agenda) 207/40 requesting a zoning classification change
FROM R-1 District
TO C-2 District
and located at/about 9425 SE California Ave in the City of Topeka, Kansas.

SECTION II—Protestor(s)

NAME(s)

Michael J. Coffman
Signature

MICHAEL J. COFFMAN
Typed or Printed Name

Signature

Typed or Printed Name

ADDRESS & LEGAL DESCRIPTION
OF PROTESTER'S PROPERTY

CHRISTIAN LORD
MIMI STRIES
2421 SE California ST
Legal Attached

RECEIVED
CITY CLERK
2007 OCT 26 P 3:27
TOPEKA, KANSAS

ACKNOWLEDGEMENT

STATE OF KANSAS)

COUNTY OF SHAWNEE) ss

Be it remembered that on this 9th day of OCT, 2007, before me a Notary Public in and for said County and State, came

Michael J. Coffman
to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same.

In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.

Teddy Van Vale
Notary Public

My Commission Expires 5-11-09



ALL SIGNATURES MUST BE ACKNOWLEDGED

Additional statements of acknowledgement may be attached and made a part of this petition as necessary.

AP1M010

REAL ESTATE ASSESSMENT ADMIN. DISPLAY SCREEN

---> BY PROP NUM

Attachment number 7

MMM SS S QQ BB PP PP O

TMMMAASSSTBBBPPP

ID: 133 08 0 10 22 015 00 0 OLD CODE: 42176

OLD ID: A I121508130028014

FUNC CODE:

OWNER: CHRISTIAN LORD MINISTRIES INC

OWNER ADDR: 02421 SE CALIFORNIA AVE

PUC OWNER:

PROP ADDR: 2421 SE CALIFORNIA

APT#: TOPEKA

66605 1759

TAXPAYER:

02421 SE CALIFORNIA AVE

TOPEKA

KS 66605 1759

LOAN CO: 0 LOAN NO:

LOAN CO EXACT:

TOPEKA

KS 66605 1759

UNIT: 001 LEVY: 144.554 TWP:

AVE DEED BOOK: 4228 PAGE: 236

SCH DIST: 501 TRANSFER#: 171398

ZONING: R1

CHECK ZONING:

DOC DATE: 07/11/2005

REC DATE: 07/11/2005

AFDVT BOOK: 0 AFDVT PAGE: 0

STATE CODE: CA2

CODE: 1221

SUBDIV: COLORADO ACRES SUB # 3

SEC: 8 TSHP: 12 RGE: 16 BLK:

LOT: 6

QTR SEC: NE

CTRACT: 13 HP

CC: AMT: 0 DATE: 0

NRT:

COV: 0

MUN SERV: N

DEEDED ACRE: 0.00

CALC ACRE: 0.00

CALIF AVE LOT 6 COLO AC SUB 3 ANNEX

PF10=HELP

THIS PARCEL HAS A NARRATIVE...PF5 AND SPECIALS...PF6

DRAFT

**Minutes of the
Topeka Planning Commission
October 15, 2007**

207/20 by Clifford N. Cormier Living Trust requesting to amend the District Zoning Classification from "R-1" Single Family Dwelling District **TO** "C-2" Commercial District on property located at 2425 SE California Avenue. **(Driver)** Annie Driver summarized the staff report.

Proponents:

Clifford Cormier, property owner, spoke in favor of the proposal. He passed out a document that gave a brief history of the property. He said he doesn't know why everyone thinks I am going to build a liquor store at this location. I have a liquor store south on California about a half mile away. Why would I want one at this location? I don't think there are any objections to this rezoning other than the negative talk about the liquor store. I just want the zoning back that I had to begin with. Doug Bassett asked if there have been any formal plans for the property presented to the city? Mr. Cormier replied no, I need the zoning back before I can do anything. I had the property sold but the buyer couldn't get a liquor license so the deal fell through. He stated all the corners at 25th and California are zoned C-2 or C-4 except the parcels he owns. A school can be built in any zoning. He said the only opposition he has heard from the school is they don't want liquor store at this location. Fred Sanders asked how many residential homes are left on this block? Mr. Cormier replied only one that I don't own. He added he doubts there is anyone that would like to build a house along California Avenue with the plans for the road widening. Michelle Hoferer asked if there are any homes located behind the subject property? Mr. Cormier replied yes and I own them.

Opponents:

Teddy Van Vale, Christian Lord Ministries, spoke in opposition to the proposal. His church is directly to the north of the subject property. He said in the past there was a plan for a quick shop, liquor store/strip mall. Our property is zoned O&I. I have been here for each time this property has been before the commission. He said originally Mr. Cormier planned to give the houses to a church for safe houses. That hasn't happened. He stated California Avenue is being widened which could be a threat to his current liquor store. He has an investment in the Whiplash Bar on 21st and California. He said the story is different every time this property comes up for rezoning. There are people that do live behind this property and lived there for years. They are against this rezoning as well as our church members, Dale Cushinberry (Principal at Highland Park High School) and Joe Zima (USD 501 Administration). I am speaking for several people that are in opposition. The mirrors program is adjacent to this property which is a program for recovering alcoholics. A liquor store or anything to do with liquor won't help the people in that program. He said if you go back to previous re-zonings attempts on this property you will find there were plans for a liquor store. Mr. Sanders asked when the church meets? Mr. Van Vale replied Sundays, Tuesdays, Thursdays and Fridays during the day and some evenings. Mr. Bassett asked how far is the closest liquor store from this location? Mr. Van Vale replied about 4 blocks to the south and it is owned by Mr. Cormier. He added it is right across from a day care, which I don't think is right. Mr. Sanders said we know they can not put a liquor store at this location so why are we constantly talking about liquor stores? Mr. Thurbon said the liquor store was only mentioned because it was in previous staff reports regarding the property. We mentioned it only to point out that one cannot be built here due to state law distance requirements from school property.

Roger Lovett, Christian Lord Ministries, spoke in opposition to the proposal. He said most of this area is residential. There is no need for retail/commercial at this location. There are several other vacant tracks between 25th and 29th Street along California. The Aldi's building has been vacant for years. He said there was a proposal four years ago about the homes that are currently on Mr. Cormier's property being donated to another church but that hasn't happened. Most C-2 uses would be disruptive to the church and possibly the school. I don't live in this area but I feel it should remain residential as it has been for years.

Mark Boyd said we have established this property can't be used as a liquor store due to state law? Mr. Thurbon said that is correct. Mr. Boyd asked if this section of California will be three lanes? Mr. Sanders stated currently there are four lanes with left turn lanes. He said it is proposed to be widened to five lanes. Mr. Boyd said our options are it remains R-1 or we change it to C-2. Mr. Thurbon said we told Mr. Cormier we would work with him on a PUD but he wanted to go for the straight zone change to C-2. He doesn't have a plan developed. Mr. Boyd said he doesn't see why there would be any more opposition in a PUD than there is for the C-2. Mr. Sanders asked if it is approved for C-2 can he come in with a PUD? Mr. Thurbon said if he gets the C-2 zoning he wouldn't need a PUD. The PUD would be in place of straight zoning. In a PUD, the commission would be able to review the plans. In C-2 the site plan is reviewed by staff. Mr. Sanders said how do we decide what is a good for this location? He said he has a problem putting

residential tracts on a 5 lane major arterial. If C-2 doesn't fit across from the school, why does O&I? Fast food would work to provide for the school. Mr. Thurbon stated we are trying to provide transition from the residential neighborhood. O&I zoning is a less intense use and be a good transition. A PUD would be a better transition than straight commercial zoning. Mr. Sanders asked if we would rather see a jungle or a clean C-2 zoned piece of property? Mr. Thurbon said we could have both with a PUD.

Exparte communication – none

Mark Boyd moved to approve C-2 zoning as requested by the applicant, seconded by Fred Sanders. **APPROVAL. (8-0-1) Commissioner Scott voted no.**



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 11, 2007

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DATE: November 13, 2007

CONTACT PERSON: David Thurbon/Bill Fiander **DOCUMENT #:** Z07/21

SECOND PARTY/SUBJECT: Hunter Glen L.L.C. **PROJECT #:** N/A

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 609 SW MacVicar Avenue in the City of Topeka, Kansas from “R-2” Single-Family Dwelling District TO “C-4” Commercial District. **First Reading.** (Z07/21) (Council District No. 9) (Planning Commission recommended approval by a vote of 6-3-0.) (Planning Department recommended disapproval.)

(Approval would allow for expansion of the existing gas station at 2501 SW 6th Avenue.)

POLICY ISSUE:

Expansion of further commercial would still be consistent with the nodal principles of the Comprehensive Plan. However, the *Topeka Land Use and Growth Management Plan- 2025* encourages the gradual stepping down of zoning as transitions into single-family blocks. The C-4 Commercial District permits heavy commercial uses that are generally not appropriate in a neighborhood commercial or residential setting. As a compromise, planning staff recommended the C-2 Commercial District for the entire development site which would allow the gas station expansion, but limit more intensive future uses in a neighborhood setting.

STAFF RECOMMENDATION:

The Planning Commission recommended this request be **APPROVED** by a vote of **6-3-0** at their **October 15, 2007** meeting as referenced in their attached minutes. The Planning Department recommended that this request be **DISAPPROVED** and instead recommended the applicant combine the subject property with their existing property to the north (2501 SW 6th) and reapply for the “C-2” Commercial District on both of these properties.

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 City Council membership; or,
 - **Return** such recommendation to the Planning Commission with a statement specifying the basis for City Council's failure to approve or disapprove.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Ordinance](#)

[staff report](#)

[zoning map](#)

[aerial map](#)

[application](#)

[written testimony](#)

[Commission Minutes 10-15-07](#)

(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 at 609 SW MacVicar from "R-2" Single-Family Dwelling District **TO** "C-4" Commercial District. **(Z07/21) (Council District No. 9)**

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 classifying the following described property:

Lots 5 and 6, Parkview Estate, on MacVicar Avenue, formerly Washburn Avenue, Pinehurst Addition to the City of Topeka, Shawnee County, Kansas.

from "R-2" Single-Family Dwelling District **TO** "C-4" Commercial District.

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

October 15, 2007
Agenda Item # G-2

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z07/21

by: Hunter Glen L.L.C.

PROPOSAL: Zone change from “R-2” Single-Family Dwelling District **TO** “C-4” Commercial District

LOCATION: 609 SW MacVicar Avenue

PARCEL ID NUMBER: 097350100101400

PRESENT USE: One existing single-family dwelling (814 sq.ft.), built in approximately 1944, and located on a 5,550 sq. ft. parcel

PROPOSED USE: Expansion of the property owner’s existing gas station currently located on property to the north (2501 SW 6th Avenue).



Existing residence located at 609 SW MacVicar

BACKGROUND: At the pre-application meeting, the applicant was given the option to include both the subject property and their other property to the north and rezone both properties to the “C-2” Commercial District, which is allows an automobile service station, type II.

CHARACTER OF NEIGHBORHOOD: The surrounding area to the south is entirely single-family residential. The property is opposite a City park. Neighborhood commercial uses have developed, or are currently developing, north of the subject property along SW 6th Avenue.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	“C-4” Commercial District	Gas station
South:	“R-2” Single-Family Dwelling District	Single family residence
East:	“C-4” Commercial District “R-2” Single-Family Dwelling District	Children’s Park (public)
West:	“C-4” Commercial District	Retail

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The subject property has remained zoned

October 15, 2007
Agenda Item # G-2

for single-family since annexed by the City in approximately 1948. This existing single-family residence has remained on the property since built in 1944.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The property is still suitable for its present use as single-family residential. The single-family residence on the property was still used as a residence until fairly recent. The existing point of transition between commercial and residential has been located just north of this property since approximately 1968 when the gas station was constructed. This point of transition is not ideal, but the gas station has been limited in scope.

CONFORMANCE TO COMPREHENSIVE PLAN: The Topeka Land Use and Growth Management Plan – 2025 indicates this area is planned for *Urban/Suburban Low Density Residential*. However, the southern alignment of SW 6th between MacVicar and Wayne has been zoned for commercial land uses since 1938 and has developed accordingly. The 2025 Plan encourages regional commercial zoning be located at arterial intersections with gradual stepping down of zoning through office or multiple-family to serve as transitions into adjacent single-family residential neighborhoods. Expansion of further commercial along MacVicar may alter the present zone of transition into a stable block of single-family uses, but would be consistent with the Comprehensive Plan's nodal principles.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: Removal of the present restrictions may have a detrimental effect on the single-family residential neighborhood to the south by altering the present stable zone of transition. The subject property is still suitable for single-family residential. The properties along SW 6th have remained zoned for commercial uses since 1938. However, the existing commercial uses located on SW 6th do not require the "C-4" District zoning and could be permitted in a more restrictive commercial zoning district. Commercial uses within the "PUD" (approved in 2000) located north of the site are limited to those within the "C-2" District. Staff would no longer support the approval of the "C-4" zoning district in direct proximity to an existing single-family neighborhood because this district allows for heavy commercial uses that are potentially conflicting. However, nearby properties may also be detrimentally affected by the presence of an abandoned gas station on the vicinity of the neighborhood if the existing gas station is forced to close because it cannot expand and the property is left vacant. The presence of an abandoned gas station could potentially harm the health and viability of the single-family neighborhood. Therefore, staff would be supportive of the property owner combining the subject property with their other property and rezoning both their properties to the "C-2" District, which still permits gas stations. This would allow the gas station, when expansion occurs, to better meet landscape, parking and access management requirements and put a limit on more intensive "C-4" uses from developing within direct proximity to the single-family neighborhood.

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: Denial of the proposal would allow the property to remain for uses as presently zoned for single-family, which is still suitable at this location. The gain to the public health, safety and welfare would be to leave the existing side lot line transition between commercial and residential alone and not allow commercial uses to further encroach into the single-family neighborhood. However, the hardship imposed upon the landowner from denial of the proposed rezoning would be the affect it would have on their existing business if not permitted to

October 15, 2007
Agenda Item # G-2

expand, which could potentially force the existing business to close and leave a vacant gas station at the intersection of an arterial and collector.

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are presently available to this area and will be extended at developer expense.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS: If the gas station does not expand and the single-family residence remains on the property under commercial zoning, it will be a non-conforming use.

Minimum Lot Area: **Non-compliant- 5,500 sq. ft.** The minimum lot area in the C-4 District is 10,000 sq. ft. In order for this property to be a conforming lot in any commercial district it must be utilized as one zoning lot with the adjacent property to the north.

Setbacks: Expansion of the existing gas station would need to meet setbacks of the C-4 District.

Platting: **Compliant-** Lots 5 and 6, Parkview Addition Subdivision. However, it may be necessary to merge all the lots associated with the gas station in order to avoid piecemeal development.

CONCERNS OF STAFF AND REVIEWING AGENCIES: This request was submitted to all applicable reviewing agency staff for consideration and comment. Most issues or concerns that were expressed by reviewing staff relative to code compliance or provisions of public service have been resolved or will be addressed at the building permit stage. The most restrictive zoning district an Automobile Service Station, Type I is permitted in is the "C-2" District. The proposed use does not require the "C-4" District. However, in order for the property to meet minimum lot area requirements and to be utilized as one zoning lot with the property at 2501 SW 6th both these properties must have the same zoning classification. At 10,454 sq. ft., the property at 2501 SW 6th barely meets minimum lot area requirements for a "C" District zoning, which does not allow it to function well as a commercial use. If these properties were combined, the gas station would now have 16,000 sq. ft. and, when expanded, could better meet access management, parking, and landscape requirements. Presently, the gas station has four access points- two on SW MacVicar and two on SW 6th, which do not comply with access management criteria. If utilized as one zoning lot when re-developed, access on to SW MacVicar could be moved further south for safety and operational reasons and the access point on to SW 6th closest to the intersection could potentially be closed. The residential landscape buffer requirement will also apply at the site plan stage when the gas station expands pursuant to Section 38-48.05(D) of the City landscape regulations.

ADDITIONAL FACTORS:

1. Neighborhood Improvement Association: N/A
2. Capitol Area Plaza Authority: N/A
3. Flood Hazard Area: N/A
4. Airport Hazard Area: N/A

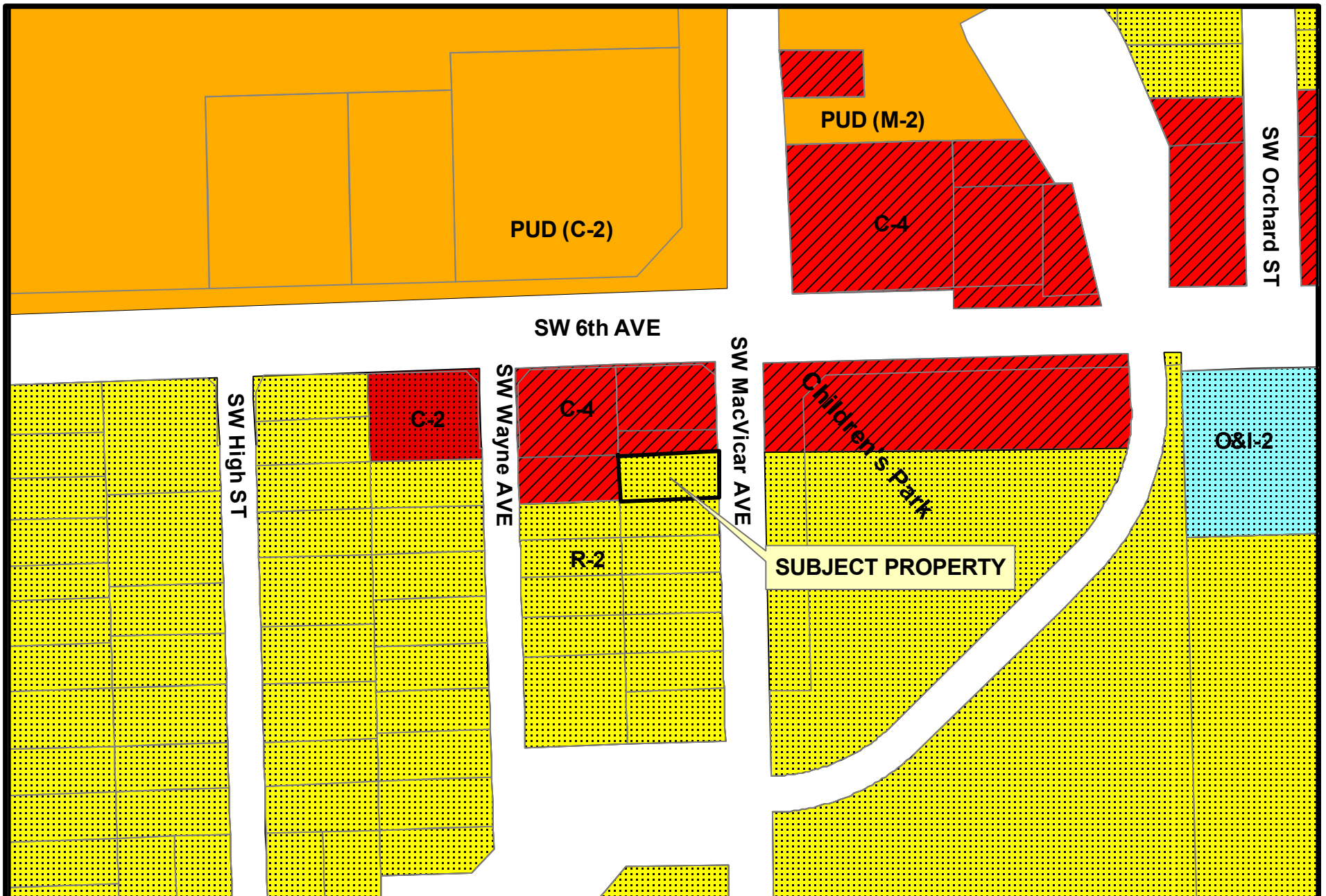
October 15, 2007
Agenda Item # G-2

5. Historic Properties: There are no National Register properties within 500 ft.

STAFF RECOMMENDATION: Based upon the above findings and analysis, the planning staff recommends **DISAPPROVAL** of the “C-4” District for this property. Alternatively, planning staff recommends:

1. The applicant combine this property with their adjoining property to the north (2501 SW 6th) and re-apply for the “C-2” District on both of these properties. Simply recommending “C-2” on the subject property will require BZA variance approval to the minimum lot size and access through a more restrictive zoning to a less restrictive zoning.

Prepared by:
Annie Driver, Planner I



Z07/21 by: Hunter Glen L.L.C.



Z07/21 by: Hunter Glen L.L.C.

RECEIVED

AUG 23 2007

TOPEKA PLANNING
DEPARTMENT

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): Hunter Glen, LLC

Street Address: 609 SW MacVicar

City: Topeka State: KS Zip: 66606 E-mail: _____

Business phone: _____ Home phone: _____ Fax: _____

Authorized Owner Representative (if any): Marvin G. Spees, Managing Member

Street Address: 911 SE Adams

City: Topeka State: KS Zip: 66601 E-mail: _____

Business phone: _____ Home phone: _____ Fax: _____

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

Vernon L. Jarboe

Street Address: 534 S. Kansas Avenue, Suite 1000

City: Topeka State: KS Zip: 66603 E-mail: _____

Business phone: 785-357-6311 Home phone: _____ Fax: 785-357-0152

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: Hunter Glen, LLC.

Owner 1 Signature: [Signature] Date: 8.20.07

Owner 2: _____

Owner 2 Signature: _____ Date: _____

Requested Action and Site Information

Address of Property to be Re-Zoned (or if vacant, describe general location): 609 SW MacVicar

Parkview
Legal Description of Property: lot(s) 5 & 6 block Estate subdivision Pinehurst Addition to the
(if unplatted, attach metes and bounds description) City of Topeka

Total Area (acres/square feet): 5,550

Type of Application:

1. Re-zoning from: R-2 Single Family to: C4 - Commercial

2. Conditional Use Permit proposed use: _____

Existing Use (# of dwelling units, square feet, etc.): Residential - 1 home

How long has the existing use been on the property? 63 yrs. approximately

Proposed Use (# of dwelling units, square feet, etc.): Expansion of convenience store from
property located at 2501 SW 6th Ave.

Was a Pre-Application Meeting or Zoning Inquiry completed with Staff? Yes If Yes, when? 5-21-07

FOR OFFICE USE ONLY

Date submitted: 8/23/07

Date notice sent: 9/21/07

Application no.: 207/21

Date advertised: 9/21/07

Filing fee: 650 Receipt no.: 11620

Date of hearing: 10/15/07

Quarter section map no.: _____

Council district: _____

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.: _____

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 land is zoned residential and the proposed use is commercial.

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

None.

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

A neighborhood/land use plan does not exist for this area.

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: Location is unknown. There is a 6 inch water line.
- b. Does the current system have adequate capacity? If not, are improvements anticipated?
The current system has adequate capacity.
- c. If other than City of Topeka, identify water district provider: NA

2. Sanitary Sewer

- a. Location and size of sewer main serving site:
The sanitary line is located behind the residence of 609 SW MacVicar. The sanitary line is 12 inches.
- b. Does the current system have adequate capacity? If not, are improvements anticipated?
The current system has adequate capacity.
- c. If other than City of Topeka, identify sewer district provider: NA

3. Storm Drainage

- a. How will storm water run-off be handled on site? The run-off drains into the creek and then the river.
- b. Does the current storm sewer system have adequate capacity for proposed use? Yes.

4. Traffic Circulation

- a. Does the site have public street frontage access? What is the pavement width of any adjoining public streets?
The site has public street frontage access. The street width is 40-50 feet wide; the right-of-way is 95 feet wide.
- b. What are the site's existing or proposed access points? Unknown. Current access is off of Sixth Street
- c. Will any street improvements or traffic control improvements be required? No.

Sean B. Rork
P.O. BOX 364
Topeka KS 66601-0364

Wednesday, September 26, 2007

Planning Department
David Thurbon, Director
620 SE Madison ST, 3rd Floor
Topeka KS 66607-1118

On Saturday, September 22, 2007 I wrote a letter to the editor about my concerns Of the proposed zoning change to 609 MacVicar Avenue.

A few weeks back I was out mowing my lawn and I saw my neighbor at 609 loading a pickup with personal belongings. I asked if he was going away on a trip. He told me that he was moving. The house had been sold and it was going to be moved. Moved? I asked. He said yes. He could not or would not tell me why.

My neighbors to the south had recently moved out and the out of town owners were once again blocking our shared drive with construction trucks and equipment. They told me that they were fixing up the rental to be sold.

A few days after this I see a sign in 609's front yard and call the number on it. It was the Topeka Planning Department and they informed me that the gas station was planning to expand closer to me. I asked them if they knew about the safety of a gas station next door to a residence? They did not know. I then asked them am I supposed to blow up with the station if it catches on fire? I was informed that as far as they knew no gas storage tanks would be added just retail space. I asked about the separation between my house and the station. They told me that the gas station had an obligation for erecting a wall and for landscaping. I asked about the crime element and potential of bodily harm to me while in my house. I got no answer.

I bought this house a little over a year ago while trying to better myself and seeking help through federal disability. I have been looking for permanent work and trying to get help from the state of Kansas who refuses to help. I am being forced to deplete the small amount my dad left me to pay bills and seek the kindness of others for food and other sustenance.

The state claims to want to help while with the other hand they take everything needed to create and sustain self-sufficiency. Case in point would be what I have heard from disability connections about the state being fined through its cut budget from the federal government for its disability record. Having the state on your side concerning disability issues is like inviting a cannibal to dinner.

I am not nor have I ever asked for a hand out from anyone. I have asked for help. I have asked for direction. I have asked for advise. At each turn I have been blocked, judged, looked down upon, misinterpreted, overlooked, misdiagnosed, dismissed and chided. How is this moving things forward? How is the gas station moving closer to my house going to save them from being swallowed up by future competition or not trample my rights of privacy and safety?

The local governmental bodies' are abysmal in actuality regarding these concerns. the old courthouse had its problems as I supposed the Capital has had but the Capital building still stands while the courthouse has been replaced by a newer but not necessarily better building. Who will speak for those of us that can't be heard over rhetoric and partisan politics? Certainly not the state of Kansas.

A handwritten signature in cursive script, appearing to read "Sean".

Sean.

DRAFT

Minutes of the Topeka Planning Commission October 15, 2007

207/21 by Hunter Glen, L.L.C. requesting to amend the District Zoning Classification from "R-2" Single Family Dwelling District **TO** "C-4" Commercial District on property located at 609 SW Mac Vicar Avenue. **(Driver)** Annie Driver summarized the staff report.

Discussion by members:

Mark Boyd asked if there are any dimensional requirements between C-4 and Residential? Mrs. Driver said the side yard would be 10 feet. Bill Fiander added for the building it is 10ft and parking 6 foot buffer is required.

Proponents:

Vernon Jarboe, representative for the owner, spoke in favor of the proposal. He said the aerial in the staff report is a little deceiving. It is showing 6th Street as a 2 lane roadway and it should be 4. This is an old aerial. Also the staff report states there are 4 drives and I believe there are only 2. He said as far as the suggestion to combine the two tracks and make the C-2 zoning, we would rather have C-4. He stated the subject property is bounded on 3 sides by C-4 and it is the logical choice for this property. There is a PUD to the north across 6th Street.

Opponents:

David Schwinn, 614 Wayne, spoke in opposition to this proposal. He stated his property is caddy corner from the subject property. He said he was also speaking in opposition for the property owner directly to the south of the subject property. He said his property is just south of the Back Door Club which generates traffic at all hours. He said he is not sure what their plans are, possibly a convenience store? There is one planned across 6th Street to the north. Are they expanding the pumps? He said there is a nice house currently on this property. He added the owners of the gas station make no attempt to clear the sidewalks during snow for those that use public transportation.

Starlet Schwinn, 614 Wayne, spoke in opposition to the proposal. She stated the property owners have not been clearing sidewalks for access to public transportation. There has been criminal activity on this property. She said she is worried the proposal will create more traffic. Will there be landscaping to buffer the noise? She said she is also concerned of the well being of the property owner to the south.

Howard Blackmon asked if to the east across McVicar is C-4 zoning. It is a children's park which could be zoned anything since it is a city park. Mrs. Driver said that is correct. Mr. Boyd said the children's park is south of a detention basin. Mr. Blackmon said the map shows the zoning to be C-4 but there is no C-4 activity going on at that location.

Exparte communication – none

Jim brown moved to approve C-4 zoning seconded by Fred Sanders. **APPROVAL. (6-3-0) Commissioners Blackmon, Hoferer and Sims voted no.**



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 4, 2007

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DATE: November 13, 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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ATTACHMENTS:

No Attachments Available