



A Capital City Government Working For You...

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City Council Agenda

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

November 25, 2008
6:00 PM

City Manager: Norton N. Bonaparte, Jr.

Mayor: William W. Buntten

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.

To make arrangements for special accommodations please call 785-368-3940. A 48-hour advance notice is preferred.

The Federal Communications Commission (FCC) has adopted use of the 711 dialing code for access to Telecommunications Relay Services (TRS). TRS permits persons with a hearing or speech disability to use the telephone system via a text telephone (TTY) or other device to call persons with or without such disabilities. To reach the City Clerk's office using the TRS, please dial 711.

(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:**
"None scheduled at this time."
2. **PRESENTATIONS:**
"None scheduled at this time."
3. **ROLL CALL:**
4. **CONSENT AGENDA:**

A. Final Plat - Anderson Acres Subdivision (P08/17)



[ATTACHMENTS](#)

A FINAL PLAT for Anderson Acres Subdivision located at 7636 SW 37th Street within the City's Municipal Service Area and three-mile extraterritorial jurisdiction, all being within unincorporated Shawnee County, Kansas. (P08/17)

(Approval would subdivide the property to allow for a future single-family residence.)

B. Final Plat - Central Crossing Commerce Park Subdivision (P08/25)



[ATTACHMENTS](#)

A FINAL PLAT for Central Crossings Commerce Park Subdivision located on property south of the Kansas Turnpike and SW 49th Street extending south to SW 57th Street between US 75 Highway and SW Topeka Boulevard in the City of Topeka. (P08/25)

(The subdivision allows for development of the remaining land in the Central Crossings Commerce Park.)

C. Ordinance - Comtel Telcom Assets, L.P. - Franchise Agreement



[ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. regarding a Contract Franchise Ordinance granted to Comtel Telcom Assets, LP, a telecommunications local exchange service provider providing local exchange service within the City of Topeka, Kansas. Final Reading.

(Approval would establish a two-year franchise agreement ending November 30, 2010.)

D. MINUTES of the regular meeting of November 18, 2008

E. APPLICATIONS:

5. PUBLIC HEARINGS:

A. Public Hearing and Ordinance - Cantilever LLC (V08E/3)



[ATTACHMENTS](#)

A PUBLIC HEARING relating to vacation request V08E/3 by Cantilever Topeka, L.L.C., to vacate a 20-foot wide portion of a 50-foot wide platted drainage easement being the west 20-feet of the east 50-feet of Lots 4 and 5, Block A, Butler Plaza Subdivision located north of SW 29th Street between SW Fairlawn road and SW Prairie road City of Topeka, Shawnee County, Kansas.

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of a 20-foot wide portion of a 50-foot wide platted drainage easement being the west 20-feet of the east 50-feet of Lots 4 and 5, Block A, Butler Plaza Subdivision located north of SW 29th Street between SW Fairlawn Road and SW Prairie Road, City of Topeka, Shawnee County, Kansas. Final Reading. (V08E/3) (Council District No. 7)

(Approval would vacate a 20-foot wide portion of a 50-foot wide platted drainage easement that is not being used for drainage purposes.)

6. UNFINISHED BUSINESS:

A. Charter Ordinance - Fire Department - Civil Service Hiring Process



[ATTACHMENTS](#)

A CHARTER ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section A6-16 and Section A6-17, and repealing said original sections. Final Reading.

(Approval would clarify the civil service hiring process affected by City ordinances and repeal an ordinance requiring a Fire Promotion Board.)

B. Ordinance - Fire and Police Department Personnel Selection Process

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., repealing City of Topeka Code Sections 106-44, 106-46, 106-47, 106-49, 106-52, and 106-74 concerning police officers and firefighters civil service commission and classification and pay plan. Final Reading.

(Approval would amend City Code to clarify which positions in the Fire and Police Departments are subject to the Civil Service Commission and repeals the section relating to promotions.)

7. NEW BUSINESS:

A. Recommendation - 2009 Alcohol and Drug Grant

 [ATTACHMENTS](#)

APPROVAL of funding recommendations of the Topeka-Shawnee County Alcohol-Drug Abuse Advisory Council for the 2009 grant awards from the Special Alcohol Program Fund.

(Approval would outline the annual recommendations of the Advisory Council and requests City Council approval of the grant awards.)

B. Joint City-County Resolution - City of Topeka and Shawnee County Transportation Improvements

 [ATTACHMENTS](#)

A JOINT CITY OF TOPEKA AND SHAWNEE COUNTY RESOLUTION introduced by City of Topeka Deputy Mayor Jeff Preisner and Shawnee County Commission Chair Michele Buhler, endorsing transportation improvements for Shawnee County, Kansas and the City of Topeka, Kansas concerning the enactment by the Kansas Legislature of a new state-wide comprehensive transportation program.

(Identifies the transportation capital improvements needed within the City of Topeka and Shawnee County.)

C. Public Hearing Authorization - 2008 Operating Budget Amendments

 [ATTACHMENTS](#)

AUTHORIZING a public hearing on December 9, 2008 for the purpose of hearing and answering objections of taxpayers to the proposed amendments to the 2008 Operating Budget.

(Approval would increase the expenditure limit for the Parks and Recreation Fund to accommodate expenditures made for clean-up efforts for the ice storm last winter. It would also authorize unbudgeted transfers to Capital Projects Funds. The Notice of Public Hearing will be published in the November 28, 2008 edition of the Topeka Metro Newspaper.)

D. Ordinance - Weekly Expenditures - November 3-9, 2008

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of November 3, 2008, through November 9, 2008, and enumerating said expenditures therein. First and Final Reading.

8. ZONING:

A. Ordinance - Twin Oaks Holding Company No. 2 (HL08/03)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., designating real property more specifically described herein as an historic landmark and presently zoned "C-5" Commercial District and located at 123 SE 6th Avenue in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4. Final Reading. (HL08/03)
(Council District No. 1)

(Approval would add historic landmark overlay zoning to the property located at 123 SE 6th Avenue.)

B. Ordinance - Blue Cross and Blue Shield of Kansas and Kansas Medical Mutual Insurance Company (PUD04/6A)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the Master PUD Plan of Blue Cross and Blue Shield by removing 1034 SW Polk Street (Lots 350, 352, and 354 only), adding 600 SW 11th Street an adjacent vacated alley to the PUD plan. Final Reading. (PUD04/6A) (Council District No. 1)

(Approval would allow Blue Cross and Blue Shield to relocate 59 parking spaces from their existing parking lot at 1034 SW Polk Street to 600 SW 11th Street.)

C. Ordinance - Kansas Medical Mutual Insurance Company and Blue Cross and Blue Shield of Kansas (Z08/16)

 [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 1034 SW Polk Street (Lots 350, 352, and 354 only), 1027 SW Tyler Street and the adjoining vacated alley from “PUD” Planned Unit Development District and “M-3” Multiple Family Dwelling District ALL TO “O&I-2” Office and Institutional District. Final Reading. (Z08/16) (Council District No. 1)

(Approval would allow for a parking lot associated with the Kansas Medical Mutual Insurance Company's office building.)

D. Ordinance - Jacob David Ediger Trust (PUD08/3)

 [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 southwest corner of SE 13th Street and SE Long Street from “R-1” Single Family Dwelling District TO “PUD” Planned Unit Development District (“M-1” use group). Final Reading. (PUD08/3) (Council District No. 3)

(Approval would allow development of ten duplexes for affordable housing on a 2.8 acre parcel.)

E. Ordinance - Courtyard Square (Z76/33A)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the Master PUD Plan of Courtyard Square, to allow for expansion of the parking lot area and adding the property located at 834 SW Lincoln Street on property located at 904 SW Lincoln Street in the City of Topeka, Kansas. Final Reading. (Z76/33A) (Council District No. 1)

(Approval would allow for expansion of a parking area at 834 SW Lincoln and establishment of a gated access between properties within the PUD. No additional dwelling units are proposed.)

F. Ordinance - Douglas H. Jones and Barbara M. Quaney (Z08/17)

 [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 825 SW Western Avenue from “R-2” Single-Family Dwelling District TO “M-1” Two-Family Dwelling District. Final Reading. (Z08/17) (Council District No. 1)

(Approval would allow for an historic duplex home to be relocated to the property.)

G. Ordinance - Westport Crossings, LLC (Z08/18)

 [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 1900 SW Westport Drive from “C-2” Commercial District TO “C-4” Commercial District. Final Reading. (Z08/18) (Council District No. 8)

(Approval would allow for the vacant property to be developed for use of boat sales.)

H. Ordinance - Kent D. and Vikki L. Lindemuth (Z08/19)

 [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 2114 SW Seabrook Avenue from "R-1" Single Family Dwelling District TO "O&I-2" Office and Institutional District. Final Reading. (Z08/19) (Council District No. 8)

(Approval would allow the property to be redeveloped for an office and parking lot.)

9. FIRST READINGS:

A. Ordinance - Street Improvement Project T-841004.00

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-841004.00 (HTE 843540), which provides for the construction of handicapped accessible curb cuts and sidewalk ramps at selected intersections throughout the City, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka. First Reading. (All Council Districts)

(Authorizing \$500,000 to provide for the construction of handicapped accessible curb cuts and sidewalk ramps at selected intersections throughout the City.)

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 7, 2008

+ Back Print

DATE: November 25, 2008

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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CATEGORY/SUBCATEGORY

CIP PROJECT: No

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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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STAFF RECOMMENDATION:

BACKGROUND:

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ATTACHMENTS:

No Attachments Available



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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

October 28, 2008

+ Back Print

DATE:	November 25, 2008	DOCUMENT #:	P08/17
CONTACT PERSON:	David Thurbon/Bill Fiander	PROJECT #:	N/A
SECOND PARTY/SUBJECT:	Anderson Acres Subdivision		
CATEGORY/SUBCATEGORY	017 Plats/002 Final		
CIP PROJECT:	No		
ACTION OF COUNCIL:		JOURNAL #:	
		PAGE #:	

DOCUMENT DESCRIPTION:

A FINAL PLAT for Anderson Acres Subdivision located at 7636 SW 37th Street within the City's Municipal Service Area and three-mile extraterritorial jurisdiction, all being within unincorporated Shawnee County, Kansas. (P08/17)

(Approval would subdivide the property to allow for a future single-family residence.)

POLICY ISSUE:

Consistent with City Subdivision Regulations. However, the property is located within the Primary Urban Service Area of the Shawnee County Waste Water Management Plan and will either need to connect to sanitary sewer or obtain a waiver prior to receiving building permits for a new dwelling.

STAFF RECOMMENDATION:

The Planning Commission recommended that the preliminary and final plat phases of Anderson Acres Subdivision be **APPROVED** by a vote of **7-0-0** at their **October 27, 2008** meeting as referenced in the 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:
- **Accept** the plat as presented for recording by the Shawnee County Register of Deeds, or;
- **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

Item #6

ATTACHMENTS:

[staff report](#)

[aerial map](#)

[Plat- Pg. 1](#)

[Plat- Pg. 2](#)

[Planning Minutes](#)

October 20, 2008
Agenda Item # G-1

SUBDIVISION REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

Preliminary Plat Phase Preliminary and Final Plat Phase Final Plat Phase

NAME: Anderson Acres Subdivision– [P08/17]

OWNER/DEVELOPER: Gregg A. & Linda S. Strohkorb (owners)/William L. & Debra K. Anderson (purchasers under contract)

ENGINEER/SURVEYOR: C.P. Engineers & Land Surveyors

GENERAL LOCATION: On property located at 7636 SW 37th Street within the City's Municipal Service Area and three-mile extraterritorial jurisdiction, all being within unincorporated Shawnee County, Kansas

PARCEL ID NUMBER: 1562401001001020

JURISDICTION: Class "C" Subdivision- not contiguous to the corporate limits of the City of Topeka

ANNEXATION: Class "C" Subdivisions are not required to consent to annexation per City Subdivision Regulations.

Area	# of Lots	Density	Proposed Land Use	Zoning
31 acres	2	N/A	Single-Family Residential	RR-1
2	1		Existing single-family residence	RR-1
29	1		Existing stable and pasture land; future single-family residence	RR-1
Pending Zoning Case: N/A				
Design: The subject plat is an irregular shaped tract, measuring approximately 2500' X 900', with its longest length running perpendicular to SW 37 th Street. The purpose of the plat is to create Lot 2 for a future single-family residence, existing stable, and pasture land.				

BACKGROUND: The Planning Commission is scheduled to hear the preliminary plat at its October 20, 2008 public hearing, which was continued from its August 18, 2008 public hearing. Subject to Section 134-57, the applicant has requested the preliminary and final plat be heard together.

SERVICES AND FACILITIES:

1. **WATER SERVICE:** The development is serviced by Rural Water District #1 by means of connection to a 12" waterline located along SW 37th Street.
2. **SEWAGE DISPOSAL:** The property is currently not serviced by public wastewater treatment plant and collection system. The property is within the Shawnee County Sherwood Regional Sewer Treatment District, of which recent expansions to the plant anticipated sewer connections within this area. The existing sanitary sewer main east of SW Indian Hills Road is within 660' from the east lot line of Lot 1. Another sewer main is located 220' north of SW 37th Street. Shawnee County Public

October 20, 2008
Agenda Item # G-1

Works has advised they would not be favorable to a variance to the Wastewater Management Plan to allow a new on-site septic system on Lot 2 because the Sherwood Regional Treatment Plant was recently expanded with capacity to serve the subject area. The existing residence on Lot 1 is currently serviced by a septic system and the Shawnee County Health Agency has approved reducing the lot size below three acres.

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 Primary Urban Service Area states Level 4 treatment systems (on-site septic systems) are not permitted for new lots, including residential, commercial and industrial land uses. This proposal is not consistent with the adopted plan. A note will be added to the plat stating, "No building permits shall be issued for any new construction on Lot 2 that requires sewer service until such time as the subdivision is connected to public sanitary sewer or upon receiving a waiver to said plan from the governing body."
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 August 21, 2008. The Drainage Report as submitted by the Consultant to the Shawnee County Department of Public Works has not been approved per memo dated October 7, 2008. Drainage easements will cover the stream crossing Lot 2 as required by City and County Engineering. Minimum opening elevations for Lot 2 have been established at 1' above the 100-year flood elevation as depicted on the plat.
5. **STREET PLAN/ACCESS:** SW 37th Street is classified by the Shawnee County Department of Public Works as urban collector. The plat dedicates 40' of right-of-way, which is consistent with that standard.
6. **FIRE DISTRICT:** Mission Township Fire
7. **STREAM BUFFER:** The property is affected by a Type II stream. Since the property is not located within the city limits, the landowner is not obligated to comply with the City of Topeka Stream Buffer Ordinance. However, a stream buffer is recommended by City of Topeka Engineering Division.
8. **SCHOOL DISTRICT:** USD 437 – Auburn-Washburn Rural School District
9. **PARKS/OPEN SPACE:** A parkland fee of \$225 will be assessed for the new single-family residential dwelling unit. The fee will be collected prior to releasing the final plat for recording.

WAIVER/VARIANCE TO STANDARDS: N/A

CAPITAL IMPROVEMENT PLAN (CIP): The City and County CIPs (2007-2011) indicate there are no projects affecting this area.

CONFORMANCE TO COMPREHENSIVE PLAN: The property is located within the Southwest Planned Growth Area of the *Land Use and Growth Management Plan 2025* which establishes this area for low density residential at an average of 3 DU's/acre assuming full municipal services are provided.

October 20, 2008
Agenda Item # G-1

STAFF ANALYSIS: The overall design conforms to the established standards and provisions of the City Subdivision Regulations relative to design criteria. However, the property is located within the Primary Urban Service Area of the

Shawnee County Waste Water Management Plan, which establishes joint City-County policy for sanitary sewer connections in the area. Approval is contingent upon the applicant's ability to obtain a wastewater waiver from the policy of the Wastewater Management Plan prior to new construction requiring a building permit on Lot 2 or their connecting to public sanitary sewer.

Based upon the above findings of fact and staff analysis, the Planning Department recommends the preliminary and final plat phases of Anderson Acres Subdivision be **APPROVED**, subject to:

1. Approval and acceptance of the Drainage Report by the Shawnee County Department of Public Works and submittal of a revised Drainage Report per their comments dated October 7, 2008 prior to scheduling the final plat for City Council consideration.

Prepared by:
Annie Driver, Planner I



P08/17 Anderson Acres Subdivision

FINAL PLAT
ANDERSON ACRES

BOOK _____ PAGE _____ DATE _____ TIME _____

DEDICATION: The undersigned proprietor of the described tract of land has caused the same to be subdivided in the manner shown on the accompanying plat which subdivision shall be known as "ANDERSON ACRES".

STREETS : Streets shown on this plat and heretofore dedicated to public use are hereby so dedicated.

NOTICE : In the event there are owners 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 in the Office of the Register of Deeds, the plat shall be null and void.

IN TESTIMONY WHEREOF : William L. and Debra K. Anderson has caused these presents to be signed on this ____ day of _____, 2008.

William L. Anderson, Owner

Debra K. Anderson, Owner

IN TESTIMONY WHEREOF : Gregg A. and Linda S. Strohkorb has caused these presents to be signed on this ____ day of _____, 2008.

Gregg A. Strohkorb, Owner

Linda S. Strohkorb, Owner

STATE OF _____)
COUNTY OF _____) SS.

BE IT REMEMBERED, that on the day and year last above written, before me, a Notary Public in and for said county and State come William L. and Debra K. Anderson and Gregg A. and Linda S. Strohkorb, Owners of the described land who are personally known to me to be the same persons who executed the within instrument of writing, and such persons duly acknowledged the execution of the same.

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

Notary Public _____ My Appointment Expires: _____

SURVEYORS CERTIFICATE: I, Martin G. Long, hereby certify that the details of this plat to be correct to the best of my knowledge and belief that all boundary corners of this subdivision have been monumented, that iron pins are set as shown on the attached plat this ____ day _____, 2008.

Martin G. Long, KS, L.S. 1081

APPROVED BY THE TOPEKA PLANNING COMMISSION this ____ day of _____, 2008.

Michelle Hofferer, Chairwoman,
Topeka Planning Commission

David F. Thurbon, AICP, Planning Director

This subdivision has been presented to the City Council of the City of Topeka, Kansas on the ____ day of _____, 2008 for acceptance of land to be dedicated for public purposes. The City hereby accepts the land for public purposes.

By the City Council, City of Topeka, Kansas.

William Bunten, Mayor

Brenda Younger, City Clerk

REVIEWED BY THE SHAWNEE COUNTY SURVEYOR this ____ day of _____, 2008.

Rue A. Seymour, KS, L.S. 834

ENTERED ON THE TRANSFER OF RECORD OF SHAWNEE COUNTY, KANSAS this ____ day of _____, 2008.

Cynthia Beck, County Clerk

FILED FOR RECORD IN THE SHAWNEE COUNTY REGISTER OF DEEDS, this ____ day of _____, 2008 at _____

Marilyn L. Nichols, Register of Deeds

DRAFT

**Minutes of the
Topeka Planning Commission
October 20, 2008**

Anderson Acres Subdivision (Preliminary and Final Plat Phases)(P08/17) by Gregg A. & Linda S. Strohkorb (owners) and William L. & Debra K. Anderson (purchasers under contract), on property located at 7637 SW 37th Street within the City of Topeka Municipal Service Area and three-mile extraterritorial jurisdiction, all being within unincorporated Shawnee County, Kansas. **(Driver)** Annie Driver summarized the staff report.

Discussion by members:

Mark Boyd asked for an explanation why the center line of the plat shows abandoned but not vacated? Is it the centerline of the old road? He said there is also a reference to rails and trails. Michelle Hoferer said that is part of the Round Up Club. Mrs. Driver said the trail is along the northern portion of Lot 2. Ms. Hoferer asked if the applicant was present. They were not. Michelle Hoferer asked if this item can be continued due to unanswered questions? David Thurbon suggested to continue to Monday, October 27th Policy meeting.

CONTINUED to Policy meeting on October 27th, 2008.



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November 3, 2008

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DATE:	November 25, 2008		
CONTACT PERSON:	Bill Fiander/David Thurbon	DOCUMENT #:	P08/25
SECOND PARTY/SUBJECT:	Central Crossing Commerce Park Subdivision	PROJECT #:	
CATEGORY/SUBCATEGORY	017 Plats/002 Final		
CIP PROJECT:	No		
ACTION OF COUNCIL:		JOURNAL #:	
		PAGE #:	

DOCUMENT DESCRIPTION:

A FINAL PLAT for Central Crossings Commerce Park Subdivision located on property south of the Kansas Turnpike and SW 49th Street extending south to SW 57th Street between US 75 Highway and SW Topeka Boulevard in the City of Topeka. (P08/25)

(The subdivision allows for development of the remaining land in the Central Crossings Commerce Park.)

POLICY ISSUE:

Consistent with the City of Topeka Subdivision Regulations.

STAFF RECOMMENDATION:

The Planning Commission recommended that the final plat phase of Central Crossings Commerce Park Subdivision be APPROVED by a vote of 6-0-0 at their October 20, 2008 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 drainage report and required stream buffers have been approved by the respective departments. See attached Staff Report. City Council options: (1)Accept the plat as presented for recording by the Shawnee County Register of Deeds or (2) 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

Item #7

ATTACHMENTS:

[Staff Report](#)

[Plat](#)

[Plat](#)

[Plat](#)

[Plat](#)

[Plat](#)

[Aerial](#)

[Planning Minutes](#)

October 20, 2008
Agenda Item #G-16

SUBDIVISION REPORT
(Major Plats)
CITY OF TOPEKA PLANNING DEPARTMENT

Preliminary Plat Phase

Preliminary and Final Plat Phase

Final Plat Phase

NAME: Central Crossing Commerce Park Subdivision - [P08/25]

OWNER/DEVELOPER: Growth Organization of Topeka/Shawnee County, Inc., Douglas S. Kinsinger, President

ENGINEER/SURVEYOR: Cook, Flatt & Strobel Engineers, P.A.

GENERAL LOCATION: Property south of the Kansas Turnpike and extending south to SW 57th Street lying between US 75 Highway and SW Topeka Boulevard.

PARCEL ID NUMBERS: 1472502001002000, 1472503001001010, 1472503001001020, 1472503001001040, 1472504002001000, 1473600001011000.

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

ANNEXATION: N/A.

Area	# of Lots	Density	Proposed Land Use	Zoning
357.5 acres	3	N/A	Industrial	"I-1" Light Industrial District
Pending Zoning Case: None				
Design: The subject plat contains 357.5 acres, more or less and is irregular in shape, measuring at its greatest dimensions approximately 3,800' x 7,500' with its greatest length running parallel to US 75 Highway. The proposal consists of a three block, three (3) lot subdivision with Lot 1, Block "A" containing 75.32 acres, Lot 1, Block "B" 69.30 acres and Lot 1 Block "C" containing 201.42 acres. The purpose of the plat is to accommodate development of the property for industrial 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 12" water main along SW 57th Street and an 18" main along SW 49th Street, 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 15" sewer main located at the terminus of SW Wenger Street and along the east boundary of the site in addition to an existing 10" sewer main located along the subdivision's south boundary on 57th Street, with all sewer line extensions and connections to be at developer expense.

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3. WASTEWATER PLAN SERVICE AREA: The property is located within the Urban Service Area as reflected by the Shawnee County Wastewater Management Plan. 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 is not yet approved and remains under review by that department.
5. STREET PLAN/ACCESS: Vehicular access to the proposed subdivision will be by means of access on SW Wenger Street and SW 49th Street at points to be determined at time of site plan review. The plat indicates existing and proposed right-of-way for SW Wenger Street in excess of the 75' required for an industrial street. No evidence has been presented as to why the excess right-of-way is necessary. Excess right-of-way increases the operating cost of the City to maintain these areas and should therefore remain the responsibility of the property owner. In addition, SW 49th Street will need to be improved to meet city street standards. Currently it is built to rural gravel road standards. As a means of insuring that SW 49th Street is eventually improved to meet city standards, the following plat note was mutually agreed upon by staff and GO Topeka *"No certificate of occupancy permits shall be issued for any lot fronting SW 49th Street until such time as SW Wenger Street is connected to SW 49th Street and SW 49th Street is constructed to City of Topeka standards the entire length of the lot's frontage along SW 49th Street, or until all such improvements are under contract with the City of Topeka. Furthermore, no certificate of occupancy permits shall be issued for any portion of Lot 1, Block "C" until such time as SW 49th Street is constructed to City Topeka standards from SW Wenger Street to SW Topeka Boulevard or until such improvements are under contract with the City of Topeka "The property owner(s) agree(s) to an irrevocable waiver of objection to participation in a street benefit district for improvements to SW 49th Street."*
6. FIRE DISTRICT: City of Topeka.
7. STREAM BUFFER: The proposed subdivision is impacted by a Type I and Type II stream. Type I streams require a buffer of 100 feet from the outer waters edge and Type II streams require a 50 foot buffer from the centerline of the waterway pursuant to the City of Topeka Stream Buffer Ordinance. The required stream buffers that are being dedicated with the subdivision are not yet approved and remain under review by the Department of Public Works Water Pollution Control Division for compliance.
8. SCHOOL DISTRICT: USD No. 437 – Auburn/Washburn District.
9. PARKS/OPEN SPACE: N/A

WAIVER/VARIANCE TO STANDARDS: The applicant has requested and been granted a waiver of extension to have the Preliminary and Final Plats presented together.

Pursuant to the provisions of Section 134-4 of the City of Topeka Subdivision Regulations the applicant seeks the following design variances:

1. A variance to the provisions of Code Section 134-134(a) to exceed the 1,200 maximum block length between SW 57th Street and SW 49th Street due to the existing street alignment and the absence of any existing cross street connections within this area.

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2. A variance to the provisions of Code Section 134-173 to allow for the absence of sidewalks along SW Wenger Street.

Due to the existing street alignment, the absence of any existing cross street connections within this area and the need to maintain flexible large tracts for economic development purposes the Planning Staff supports the requested variance to the maximum block length. For similar reasons, Staff would be supportive of a variance from providing sidewalks along the east side of SW Wenger Street. The west side of SW Wenger Street has smaller tracts and leads to a retail Planned Unit Development "PUD" on SW 57th Street making its connection necessary and reasonable. Options to accomplish this are stated under Staff Analysis that Staff and GO Topeka worked together on.

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 *Industrial* land use. This subdivision will have full public services and therefore, is found compliant with the comprehensive plan.

STAFF ANALYSIS:

SW 49th Street is currently built to rural gravel road standards and will need to be improved to meet city street standards before complete development within this area can occur. Other than the exceptions that have been noted, the overall subdivision design appears to conform 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 preliminary and final plat phase of Central Crossings Commerce Park Subdivision be **APPROVED** subject to:

1. The drainage report is to be approved by the City of Topeka Department of Public Works prior to the final plats consideration by the City Council.
2. Under **General Notes** add the following note: *"Drainage detention facilities and easements are mandatory for all lots within the subdivision and are to be reviewed and approved at time of site plan."*
3. Required stream buffers are to be approved by the City of Topeka Department of Public Works Water Pollution Control Division prior to the final plats consideration by the City Council.
4. The Planning Commission grants a design variance to pursuant to the provisions of Section 134-4 of the City of Topeka Subdivision Regulations as follows:
 - *A variance to the provisions of Code Section 134-134(a) to exceed the 1,200 maximum block length between SW 57th Street and SW 49th Street. (final plat is to reflect this wording)*
 - **OPTION #1:** Add the following plat note: *"A variance to Section 134-173, to allow for the absence of sidewalks along the east side of SW Wenger Street."*
 - **OPTION #2:** Add the following plat note: *"A variance to Section 134-173, to allow for the absence of sidewalks along the east side of SW Wenger Street. providing the property owner(s) agree(s) to an irrevocable waiver of objection to the installation of sidewalks along the west side of SW Wenger Street should the governing body deem sidewalks are necessary and reasonable for the public."*

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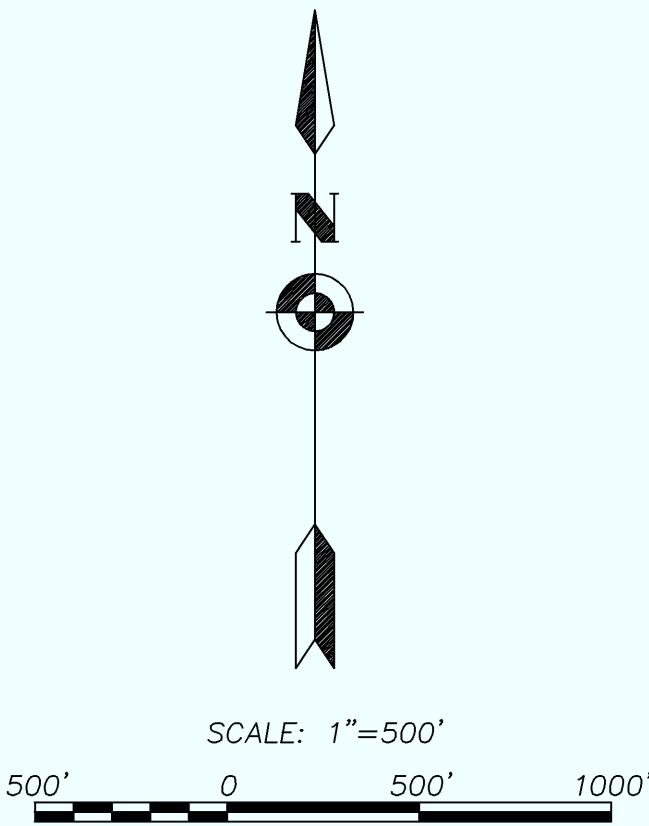
5. The plat legal description needs to indicate the total number of acres contained within the legal description i.e. *"Containing 357.5 acres more or less."*
6. The final plat shall be revised to dedicate right-of-way along SW Wenger Street of no more than the 75' and where necessary vacate existing right-of-way in excess of the 75' required for an industrial street, prior to the final plat's consideration by the City Council.
7. Under STREET'S add the following note: *"No certificate of occupancy permits shall be issued for any lot fronting SW 49th Street until such time as SW Wenger Street is connected to SW 49th Street and SW 49th Street is constructed to City of Topeka standards the entire length of the lot's frontage along SW 49th Street, or until all such improvements are under contract with the City of Topeka. Furthermore, no certificate of occupancy permits shall be issued for any portion of Lot 1, Block "C" until such time as SW 49th Street is constructed to City Topeka standards from SW Wenger Street to SW Topeka Boulevard or until such improvements are under contract with the City of Topeka "The property owner(s) agree(s) to an irrevocable waiver of objection to participation in a street benefit district for improvements to SW 49th Street."*

Prepared by: Dean W. Diediker
Planner II

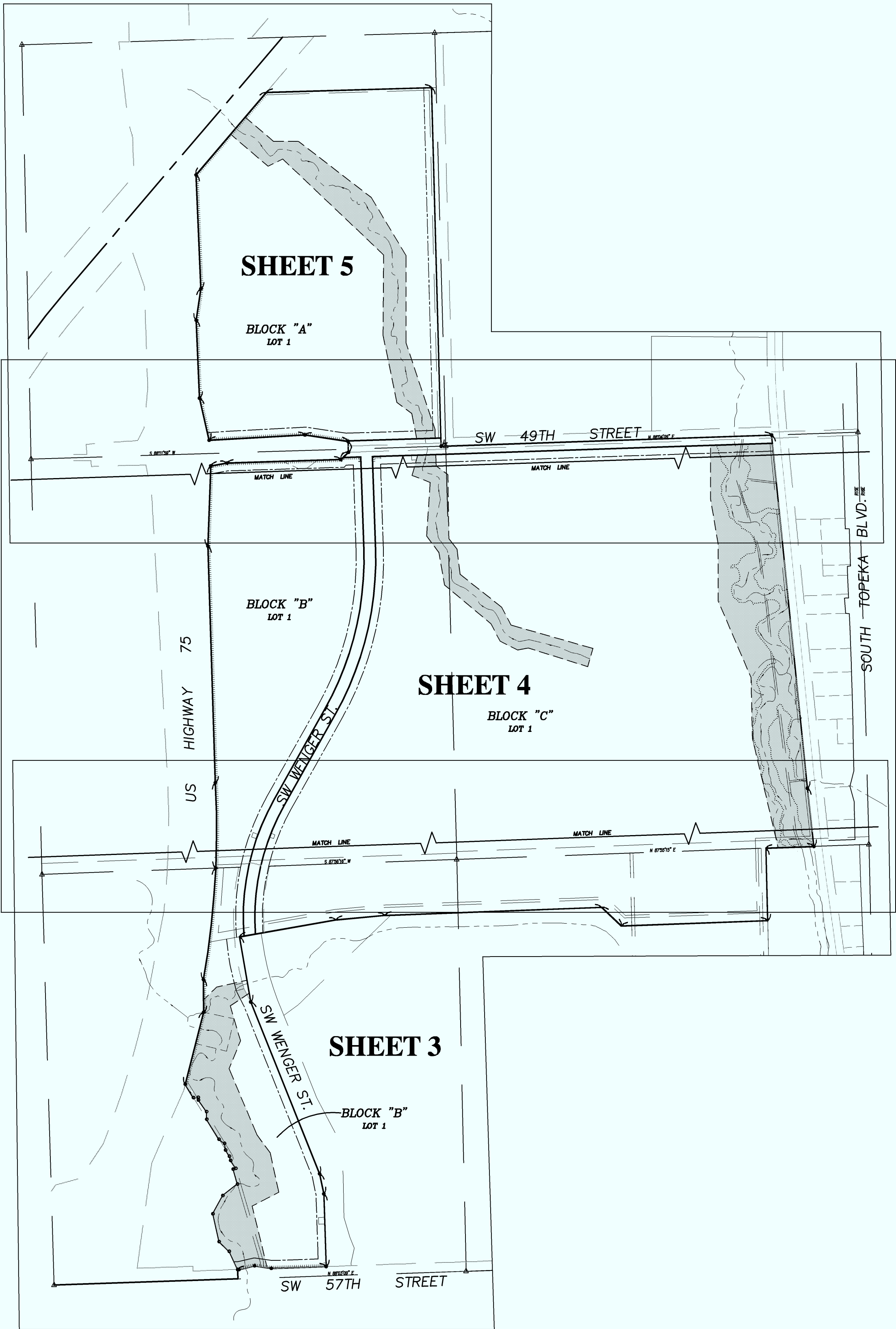
FINAL PLAT
CENTRAL CROSSING COMMERCE PARK SUBDIVISION

A tract of land being a portion of the North One-Half of Section 36, and the South One-Half, and the Northwest Quarter of Section 25, and a Re-Plat of Tindell Subdivision all in Township 12 South, Range 15 East of the 6th P.M., in Shawnee County, Kansas.

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



Attachment number 2
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FINAL PLAT
CENTRAL CROSSING COMMERCE PARK SUBDIVISION

A tract of land being a portion of the North One-Half of Section 36, and the South One-Half, and the Northwest Quarter of Section 25, and a Re-Plat of Tindell Subdivision all in Township 12 South, Range 15 East of the 6th P.M., in Shawnee County, Kansas.

LEGAL DESCRIPTION

A tract of land being a portion of the North one-half of Section 36, and the South one-half and the Northwest Quarter of Section 25, all of Township 12 South, Range 15 East, in the City of Topeka, Shawnee County Kansas described as follows: Commencing at the Southwest corner of the Northwest Quarter of said Section 36, Township 12 South, Range 15 East; thence on an assumed bearing of North 88 degrees 03 minutes 09 seconds East along the South line of said Northwest Quarter a distance of 1,179.01 feet; thence North 01 degrees 56 minutes 51 seconds West a distance of 60.00 feet to the Point of Beginning, said point being the Southeast corner of Lot 1, Block A, South View Subdivision; thence North 24 degrees 41 minutes 41 seconds West along the East line of said Lot 1, a distance of 128.50 feet; thence continuing along said East line, North 46 degrees 16 minutes 02 seconds West a distance of 89.63 feet; thence continuing along said East line, North 12 degrees 31 minutes 57 seconds West a distance of 183.18 feet; thence continuing along said East line, North 28 degrees 27 minutes 34 seconds East a distance of 132.94 feet; thence continuing along said East line, North 52 degrees 16 minutes 26 seconds East a distance of 119.63 feet; thence continuing along said East line, North 16 degrees 15 minutes 12 seconds West a distance of 100.14 feet; thence continuing along said East line, North 73 degrees 44 minutes 48 seconds East a distance 18.00 feet; thence continuing along said East line, North 33 degrees 24 minutes 57 seconds West a distance of 61.00 feet; thence continuing along said East line, North 16 degrees 15 minutes 12 seconds West a distance of 27.67 feet; thence continuing along said East line, North 31 degrees 31 minutes 47 seconds West a distance of 47.12 feet; thence continuing along said East line, North 9 degrees 05 minutes 14 seconds West a distance of 43.00 feet; thence continuing along said East line, North 53 degrees 26 minutes 08 seconds West a distance of 44.00 feet; thence continuing along said East line, North 31 degrees 31 minutes 47 seconds West a distance of 150.41 feet; thence continuing along said East line, North 00 degrees 55 minutes 51 seconds West a distance of 49.00 feet; thence continuing along said East line, North 35 degrees 18 minutes 06 seconds West a distance of 91.00 feet; thence continuing along said East line, North 02 degrees 17 minutes 44 seconds West a distance of 17.00 feet; thence continuing along said East line, South 86 degrees 54 minutes 45 seconds West a distance of 31.00 feet; thence continuing along said East line, North 33 degrees 31 minutes 47 seconds West a distance of 101.35 feet to a point on the Easterly Right of Way of US Highway 75; thence North 14 degrees 17 minutes 21 seconds East along said Easterly Right of Way a distance of 475.34 feet; thence continuing along said Easterly Right of Way, North 00 degrees 04 minutes 36 seconds West a distance of 210.05 feet; thence continuing along said Easterly Right of Way, on a curve to the left having a radius of 5889.58 feet, a chord which bears North 06 degrees 17 minutes 36 seconds East a distance of 718.89 feet, an arc distance of 719.34 feet to a point on the North line of the Northwest Quarter of said Section 36; thence continuing along said Easterly right of way on a curve to the left having a radius of 5,889.58 feet, a chord which bears North 00 degrees 16 minutes 47 seconds West a distance of 547.66 feet, an arc distance of 547.86 feet; thence continuing along said Easterly right of way, North 01 degrees 48 minutes 08 seconds West a distance of 1517.06 feet; thence continuing along said Easterly right of way, North 02 degrees 03 minutes 31 seconds East a distance of 514.28 feet to the Southerly right of way of SW 49th Street; thence North 80 degrees 03 minutes 35 seconds East a distance of 105.94 feet; thence continuing along said Southerly right of way, North 88 degrees 11 minutes 59 seconds East a distance of 729.61 feet; thence continuing along said Southerly right of way, North 46 degrees 12 minutes 45 seconds East a distance of 67.27 feet; thence North 01 degrees 48 minutes 01 seconds West a distance of 20.00 feet to the North line of the Southwest Quarter of said Section 25; thence continuing North 01 degrees 48 minutes 01 seconds West a distance of 50.00 feet; thence North 81 degrees 29 minutes 44 seconds West along the Northerly right of way line of said SW 49th Street a distance of 279.51 feet; thence continuing along said Northerly right of way line, South 86 degrees 48 minutes 09 seconds West a distance of 615.18 feet to the Easterly right of way of US Highway 75; thence North 12 degrees 58 minutes 52 seconds West a distance of 276.92 feet; thence continuing along said Easterly right of way, North 02 degrees 24 minutes 32 seconds West a distance of 500.00 feet; thence continuing along said Easterly right of way, North 08 degrees 36 minutes 44 seconds East a distance of 203.79 feet; thence continuing along said Easterly right of way, North 02 degrees 27 minutes 43 seconds West a distance of 730.85 feet to the Southeasterly right of way of the Kansas Turnpike Authority, thence along said Southeasterly right of way North 40 degrees 24 minutes 33 seconds East a distance of 695.14 feet; thence North 88 degrees 21 minutes 26 seconds East a distance of 1,059.70 feet to a point which is 30 feet West of the East line of said Northwest Quarter; thence South 01 degrees 31 minutes 43 seconds East, parallel and 30 feet West of the East line of said Northwest Quarter a distance of 2,299.87 feet to the South line of said Northwest Quarter; thence North 88 degrees 11 minutes 59 seconds East a distance of 30.00 feet to the Southeast corner of said Northwest Quarter; thence North 88 degrees 04 minutes 09 seconds East along the North line of the Southeast Quarter of said Section 25 a distance of 2,089.18 feet to the Westerly right of way line of the Burlington Northern and Santa Fe Railway; thence South 05 degrees 47 minutes 08 seconds East along said Westerly right of way a distance of 2,275.45 feet; thence continuing along said Westerly right of way on a curve to the left having a radius of 17,238.74 feet and a chord which bears South 06 degrees 24 minutes 34 seconds East a distance of 375.45 feet, and arc distance of 375.46 feet to the Northeast corner of Lot 1, Block A, Laird Nollar Subdivision; thence South 87 degrees 55 minutes 15 seconds West along the North line of said Lot 1, Block A, a distance of 308.62 feet (measured), 307.38 feet (platted) to the Northwest corner of said Lot 1, Block A; thence South 01 degrees 23 minutes 44 seconds East along the West line of said Lot 1, Block A, a distance of 1454.21 feet to the Northeast corner of SW 57th Street Distribution Center Subdivision; thence South 87 degrees 55 minutes 31 seconds West along the North line of said subdivision, a distance of 937.07 feet; thence continuing along said North line, North 47 degrees 04 minutes 31 seconds West a distance of 173.56 feet; thence continuing along said North line, South 87 degrees 55 minutes 31 seconds West a distance of 1,389.95 feet; thence continuing along said North line, South 84 degrees 44 minutes 03 seconds West a distance of 314.84 feet; thence continuing along said North line, South 79 degrees 59 minutes 50 seconds West a distance of 628.57 feet to the Northwest corner of said SW 57th Street Distribution Center Subdivision; thence South 09 degrees 48 minutes 05 seconds East along the West line of said subdivision a distance of 423.68 feet; thence continuing along said West line, South 21 degrees 50 minutes 02 seconds East a distance of 1,186.54 feet; thence continuing along said West line, South 11 degrees 51 minutes 13 seconds East a distance of 131.81 feet; thence continuing along said West line, South 01 degrees 52 minutes 25 seconds East a distance of 465.90 feet to the Southwest corner of said SW 57th Street Distribution Center Subdivision and the North right of way line of SW 57th Street; thence South 88 degrees 03 minutes 09 seconds West along said North right of way line a distance of 351.78 feet; thence North 81 degrees 21 minutes 36 seconds West, along said North right of way line, a distance of 108.85 feet; thence South 76 degrees 44 minutes 33 seconds West, along said North right of way line, a distance of 101.98 feet; thence South 88 degrees 13 minutes 09 seconds West, along said North right of way line, a distance of 9.13 feet, to the Point of Beginning. Containing 357.5 acres more or less.

GENERAL NOTES

- 1. No building permits shall be issued until arrangements for the installation of water mains and/or connection charges have been made with the City of Topeka Water Department.
- 2. All easements and building setback lines described on the Final Plat of Tindell Subdivision (Book 35, Page 145) are hereby vacated.
- 3. Basis of bearings: The North line of the Southwest Quarter of Section 25, Township 12 South, Range 15 East, having an assumed bearing of North 88 degrees 11 minutes 59 seconds East.
- 4. All utilities shall be placed underground pursuant to the City's right-of-way management standards.
- 5. Property owners shall be admonished from placing any permanent or semi-permanent obstruction in permanent easements. This includes, but is not limited to trees, shrubs, fences, retaining walls, buildings, or other miscellaneous obstructions that interfere with access and egress of maintenance vehicles and 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 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.
- 6. Easements shown on plat are centered on lot lines unless otherwise noted.
- 7. Notice: In the event there are other owners 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 in the office of the Register of Deeds, the plat shall be null and void.
- 9. Drainage detention facilities and easements are mandatory for all lots within the subdivision and are to be reviewed and approved at time of site plan.

DEDICATION: The undersigned proprietor of the above described tract of land has caused the same to be subdivided in the manner shown on the accompanying plat, which subdivision shall be known as CENTRAL CROSSING COMMERCE PARK.

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

GENERAL DRAINAGE EASEMENTS: 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 improvements for the drainage of said water, all as may be determined and/or approved by the Director of applicable Department of Public Works. Property owners shall not place any permanent or semi-permanent obstruction in said easement. All maintenance within the general drainage easement (GDE) shall be the right, duty and responsibility of the property owner(s) of the property in which the easement is so located, however, if maintenance is neglected or subject to other unusual circumstances and is determined to be a hazard or threat to public safety by the Director of the Applicable Department of Public Works, corrective maintenance may be performed by the governing jurisdiction with the 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.

CHANNEL DRAINAGE EASEMENT: Channel drainage easements shall not be obstructed by any permanent or semi-permanent obstruction. This includes, but is not limited to, new trees or shrubs, fences, retaining walls, buildings or other miscellaneous obstructions that interfere with access and egress of maintenance vehicles and equipment or obstruct the flow of water in the channel such that the design conditions are not present. Any permanent or semi-permanent obstruction located in the easement may be removed by personnel representing the City of Topeka to provide for the proper operation and maintenance of the channel without cost or obligation for replacement. Cost of removal and replacement shall be the responsibility of the property owner.

TRAIL EASEMENT: An area in which pedestrian and bicycle traffic is permitted. To be constructed and maintained by the City of Topeka.

STREETS: Streets shown on this plat and not heretofore dedicated to public use are hereby so dedicated.

No certificate of occupancy permits shall be issued for any lot fronting SW 49th Street until such time as SW Wenger Street is connected to SW 49th Street and SW 49th Street is constructed to City of Topeka standards the entire length of the lot's frontage along SW 49th Street, or until all such improvements are under contract with the City of Topeka. Furthermore, no certificate of occupancy permits shall be issued for any portion of Lot 1, Block "C" until such time as SW 49th Street is constructed to City of Topeka standards from SW Wenger Street to SW Topeka Boulevard or until such improvements are under contract with the City of Topeka.

The property owner(s) agree(s) to an irrevocable waiver of objection to participation in a street benefit district for improvements to SW 49th Street.

BUILDING LINES: building or setback lines are hereby established as shown on the accompanying plat and no building or portion thereof shall be built between this line and the street right-of way line.

VARIANCE: Pursuant with Section 134-4 of the City of Topeka Subdivision Regulations, the Topeka Planning Commission hereby grants the following design variances to the provisions of the Subdivision Regulations:

- 1. A variance to Section 134-134(a), to exceed the 1,200' maximum block length between SW 57th Street and SW 49th Street.
- 2. A variance to Section 134-173, to allow for the absence of sidewalks along the east side of SW Wenger Street providing the property owner(s) agree(s) to an irrevocable waiver of objection to the installation of sidewalks along the west side of SW Wenger Street should the governing body deem sidewalks are necessary and reasonable for the public.

DEFINITIONS: Restricted Access Line: Defines portion of subdivision boundary in which the public is not allowed to cross in order to gain access to the subdivision. The governing body may cross this line to gain access to the subdivision.

BOOK: PAGE:
DATE: TIME:

IN TESTIMONY WHEREOF:

The Owner, Growth Organization of Topeka/Shawnee County, Inc., by its President Douglas S. Kinsinger, has caused these presents to be signed this day of , 2008

Douglas S. Kinsinger, President
Growth Organization of Topeka/Shawnee County Inc.
STATE OF KANSAS ss)
COUNTY OF SHAWNEE ss)

BE IT REMEMBERED, That on this day of A.D., 2008, before me the undersigned, a Notary Public, in and for the County and State aforesaid, came who are personally known to me who executed the within instrument of writing.

IN TESTIMONY THEREOF, I have hereunto set my hand, and affixed my seal the day and year last above mentioned.

Term Expires Notary Public

CERTIFICATE OF SURVEYOR: 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 of land have been monumented, that iron pins are set as shown on the attached plat this day of , 2008.

COOK, FLATT & STROBEL, ENGINEERS, P.A.
2930 SW Woodside Drive, Topeka, Kansas 66614

Michael A. Adams, L.S. 1126

CERTIFICATE OF APPROVAL:

Approved by the Topeka Planning Commission this day of , 2008.

Chairman, Topeka Planning Commission

David F. Thurbon
Planning Director

REVIEWED BY SHAWNEE COUNTY SURVEYOR, this day of , 2008.

Rule A. Seymour, LS 834

This subdivision has been presented to the City Council, City of Topeka, Kansas, on the day of , 2008, for acceptance of land to be dedicated for public purposes. The City Council hereby accepts the land for public purposes.

By the City Council
City of Topeka, Kansas

William W. Bunten, Mayor

Brenda Younger, City Clerk

ENTERED ON THE TRANSFER RECORD OF SHAWNEE COUNTY, KANSAS, this day of , 2008.

Cynthia A. Beck, County Clerk

FILED FOR RECORD IN THE OFFICE OF THE SHAWNEE COUNTY REGISTER OF DEEDS this day of , 2008, at o'clock M.

Marilyn L. Nichols, Register of Deeds

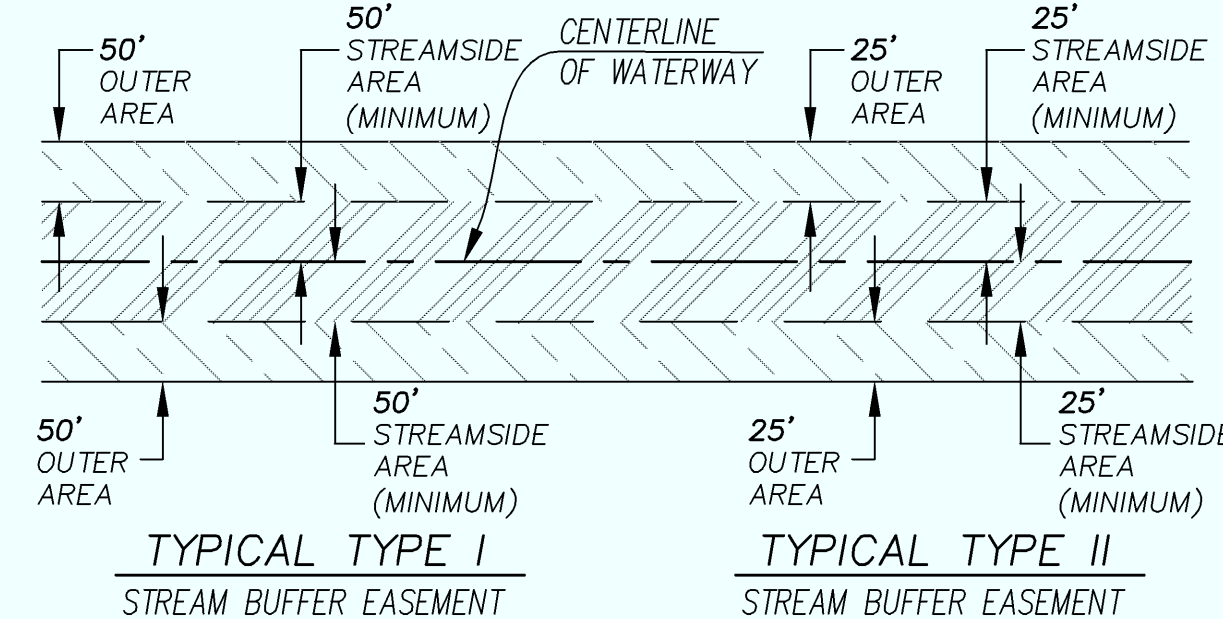
J:\2008Proj\08573\DWGS\FINAL PLAT.dwg 10/30/2008 - 9:35am reldr

- 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

- STREAM BUFFER EASEMENT:
a.) 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.
b.) ANY BUFFER SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.
c.) PLEASE REFER TO SECTION 6 OF CITY OF TOPEKA CODE 66-151 FOR ALL PERTINENT MANAGEMENT GUIDELINES AND PROHIBITED PRACTICES AND ACTIVITIES WITHIN THE STREAM BUFFER AREAS.

STREAM BUFFER NOTE:

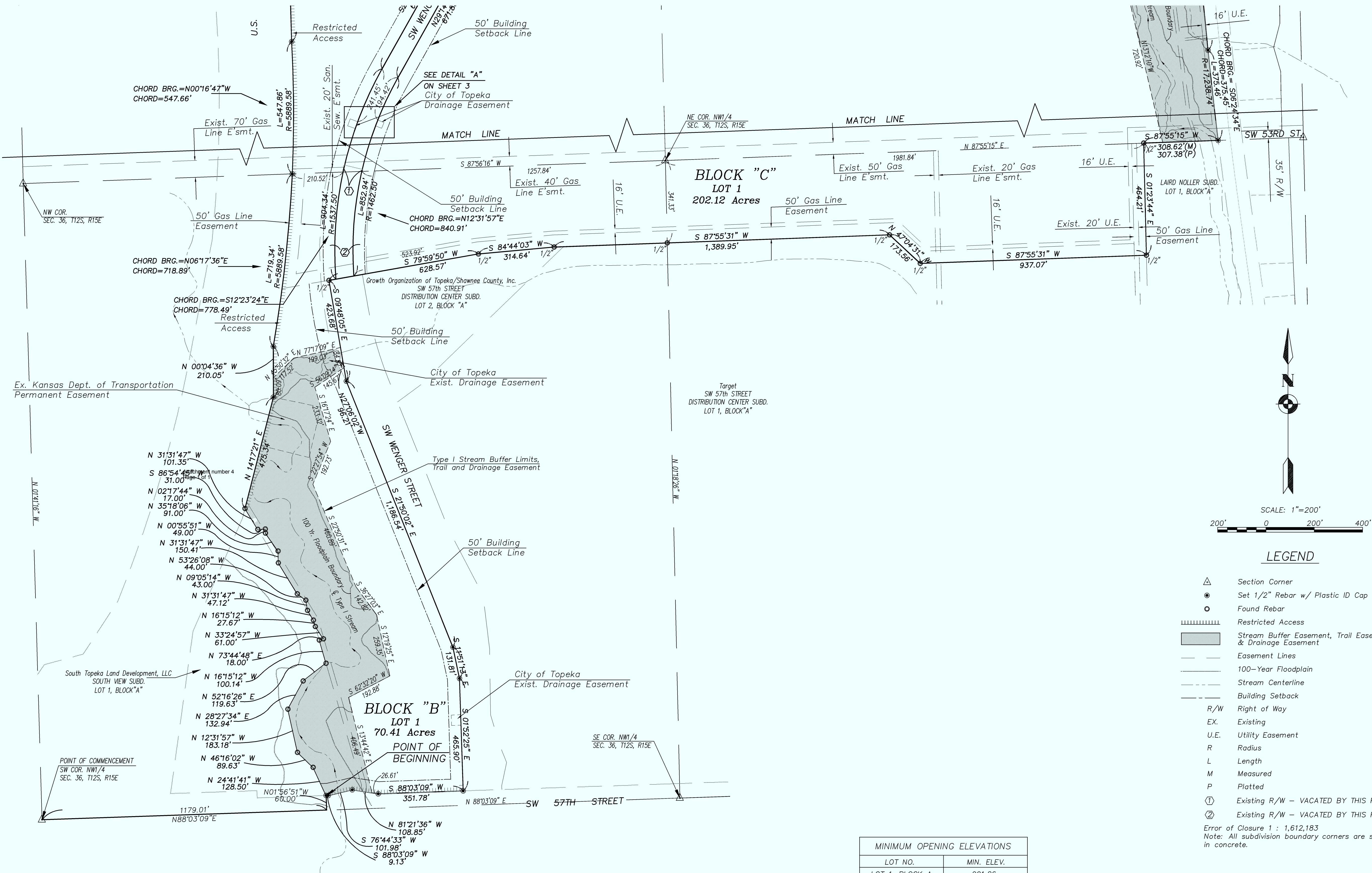
STREAM BUFFER EASEMENTS ARE HERREBY ESTABLISHED AS SHOWN TO PROVIDE FOR INFORMAL GREEN SPACE AND THE NATURAL UNOBSTRUCTED OVERLAND FLOW OF SURFACE WATER IN EXISTING DRAINAGE WAYS. PROPERTY OWNER(S) SHALL NOT PLACE PERMANENT OR SEMI-PERMANENT OBSTRUCTION IN SAID EASEMENT. ALL MAINTENANCE WITHIN THE STREAM BUFFER EASEMENT (SBE) 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 THE PURPOSE OF PERIODIC INSPECTION AND/OR CORRECTIVE MAINTENANCE.



FINAL PLAT
CENTRAL CROSSING COMMERCE PARK SUBDIVISION

A tract of land being a portion of the North One-Half of Section 36, and the South One-Half, and the Northwest Quarter of Section 25, and a Re-Plat of Tindell Subdivision all in Township 12 South, Range 15 East of the 6th P.M., in Shawnee County, Kansas.

BOOK: _____ PAGE: _____
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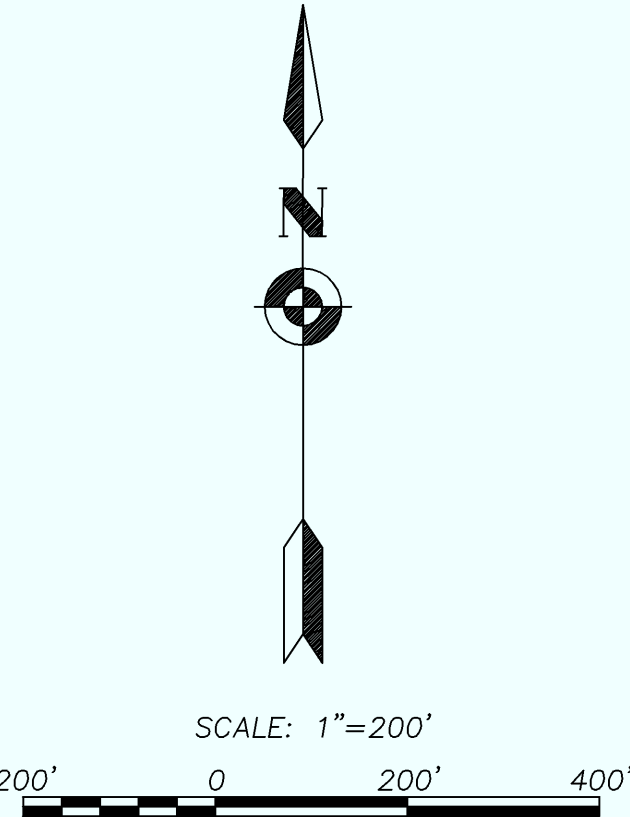
MINIMUM OPENING ELEVATIONS	
LOT NO.	MIN. ELEV.
LOT 1, BLOCK A	991.26
LOT 1, BLOCK B	984.40
LOT 1, BLOCK C	1000.06

FLOOD PLAIN NOTE: The subject tract lies partly in Zone C, area of minimal flooding and partly in Zone A, area of 100 year flood as per Federal Emergency Management Agency, Flood Insurance Rate Map (FIRM) No. 2003310125C with an effective date of June 1, 1982.

FINAL PLAT CENTRAL CROSSING COMMERCE PARK SUBDIVISION

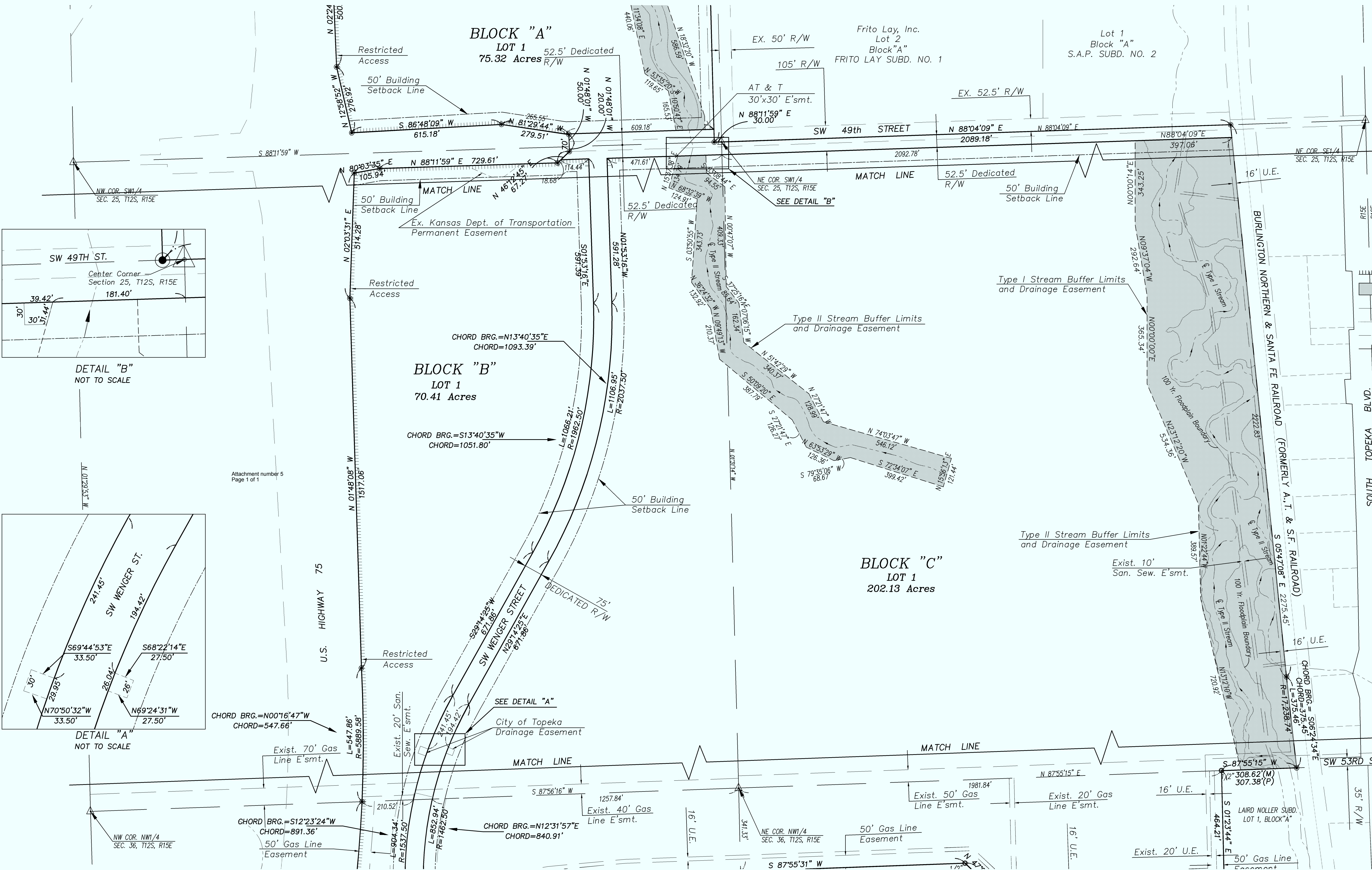
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LEGEND

- Section Corner
 - Set 1/2" Rebar w/ Plastic ID Cap (CLS 80)
 - Found Rebar
 - Restricted Access
 - Stream Buffer Easement
 - Drainage Easement
 - Easement Lines
 - 100-Year Floodplain
 - Stream Centerline
 - Building Setback
 - R/W Right of Way
 - EX. Existing
 - U.E. Utility Easement
 - R Radius
 - L Length
 - M Measured
 - P Platted
- Error of Closure 1 : 1,612,183
Note: All subdivision boundary corners are set in concrete.



MINIMUM OPENING ELEVATIONS	
LOT NO.	MIN. ELEV.
LOT 1, BLOCK A	991.26
LOT 1, BLOCK B	984.40
LOT 1, BLOCK C	1000.06

FLOOD PLAIN NOTE: The subject tract lies partly in Zone C, area of minimal flooding and partly in Zone A, area of 100 year flood as per Federal Emergency Management Agency, Flood Insurance Rate Map (FIRM) No. 2003310125C with an effective date of June 1, 1982.

SHEET 4 OF 5



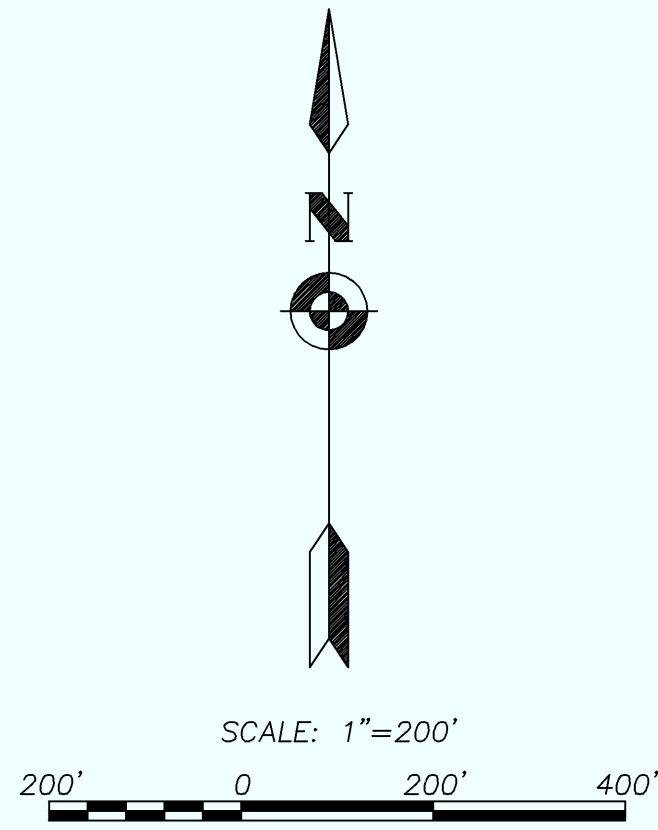
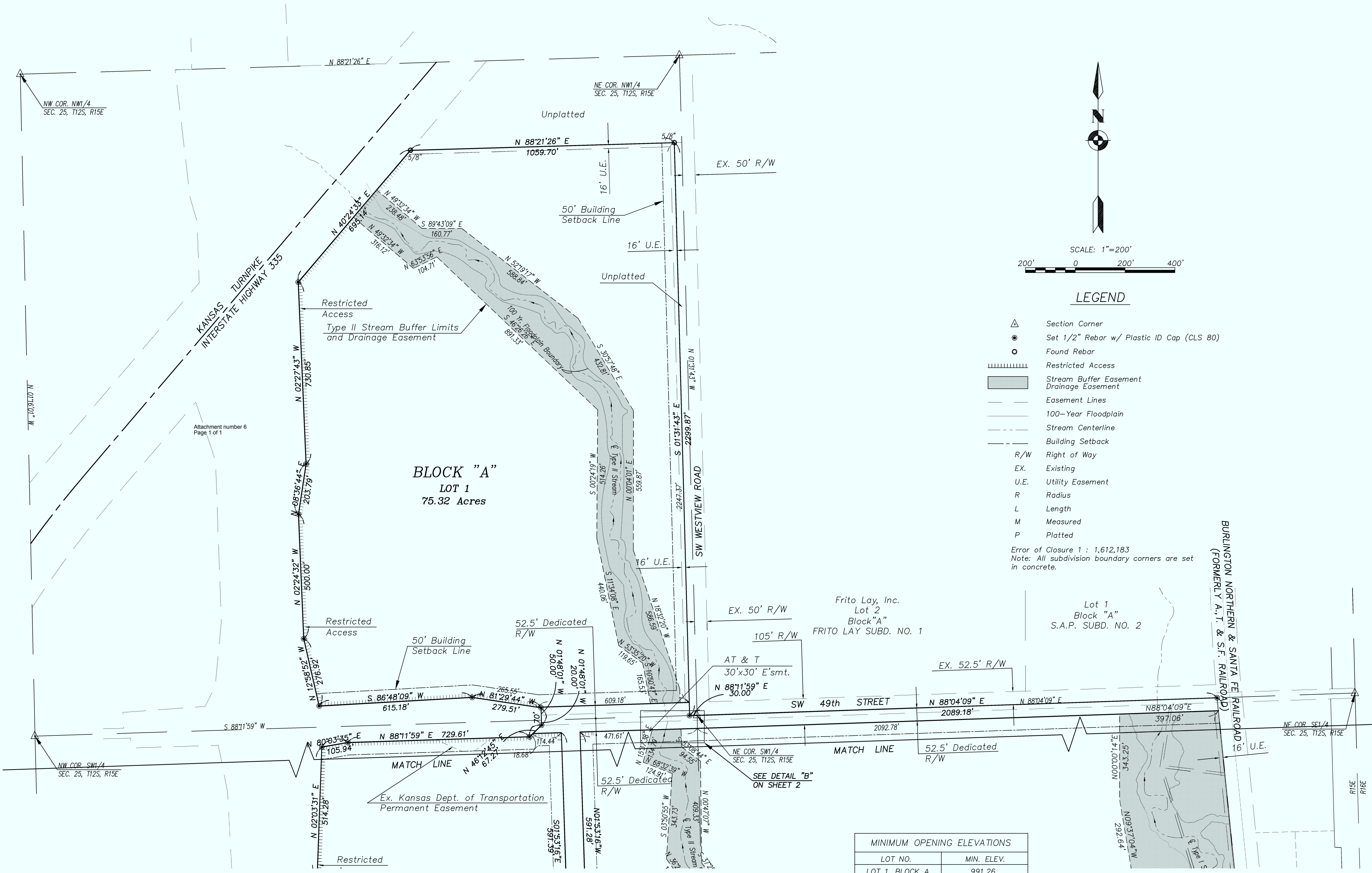
Cook, Flatt & Strobel
ENGINEERS, P.A.
2930 SW WOODSIDE DR., TOPEKA, KS 66614
(785)272-4706 FAX (785)272-4736

FINAL PLAT

CENTRAL CROSSING COMMERCE PARK SUBDIVISION

A tract of land being a portion of the North One-Half of Section 36, and the South One-Half, and the Northwest Quarter of Section 25, and a Re-Plat of Tindell Subdivision all in Township 12 South, Range 15 East of the 6th P.M., in Shawnee County, Kansas.

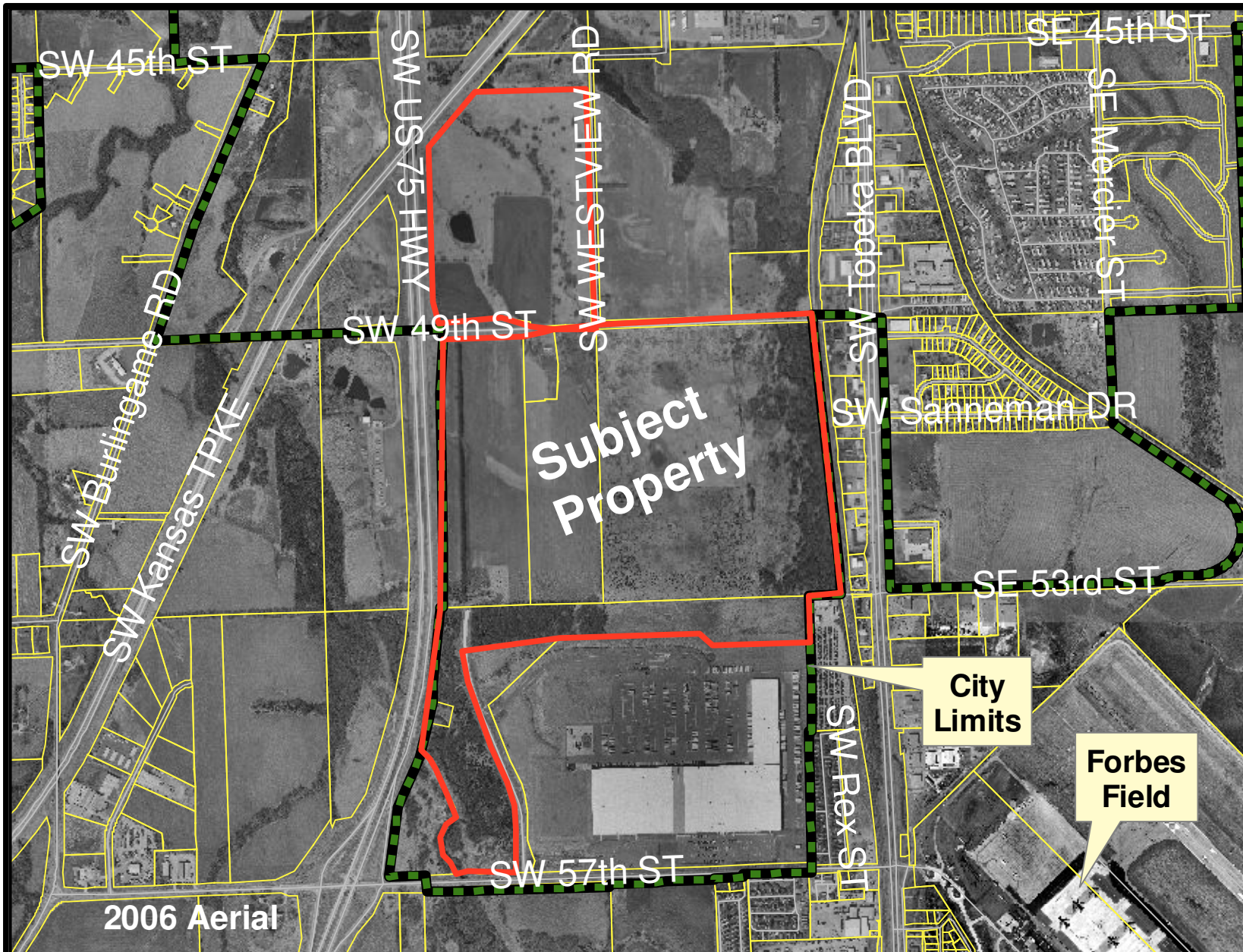
BOOK: _____ PAGE: _____
DATE: _____ TIME: _____



- LEGEND**
- △ Section Corner
 - Set 1/2" Rebar w/ Plastic ID Cap (CLS 80)
 - Found Rebar
 - ||||| Restricted Access
 - ▨ Stream Buffer Easement
 - ▨ Drainage Easement
 - Easement Lines
 - 100-Year Floodplain
 - Stream Centerline
 - Building Setback
 - R/W Right of Way
 - EX. Existing
 - U.E. Utility Easement
 - R Radius
 - L Length
 - M Measured
 - P Platted
- Error of Closure 1 : 1,612,183
Note: All subdivision boundary corners are set in concrete.

MINIMUM OPENING ELEVATIONS	
LOT NO.	MIN. ELEV.
LOT 1, BLOCK A	991.26
LOT 1, BLOCK B	984.40
LOT 1, BLOCK C	1000.06

FLOOD PLAIN NOTE: The subject tract lies partly in Zone C, area of minimal flooding and partly in Zone A, area of 100 year flood as per Federal Emergency Management Agency, Flood Insurance Rate Map (FIRM) No. 2003310125C with an effective date of June 1, 1982.



P08/25 Central Crossing Commerce Park Subdivision

DRAFT

**Minutes of the
Topeka Planning Commission
October 20, 2008**

Central Crossing Commerce Park Subdivision (Preliminary and Final Plat Phases)(P08/25) by Growth Organization of Topeka/Shawnee County, Topeka, Ks located on property south of the Kansas Turnpike and extending south to SW 57th Street lying between US 75 Highway and SW Topeka Boulevard. **(Diediker)** Dean Diediker summarized the staff report.

Discussion by members:

Doug Bassett asked if improvements to 49th Street are in the CIP? Mr. Diediker replied no, and in staff condition #7 it basically states no certificate of occupancy for lots on 49th Street until SW 49th Street is constructed to City standards along their frontage. The improvements could be funded by a benefit district.

Proponents:

Kevin Beck, Cook, Flatt and Strobel, spoke in favor of the proposal. He said in the staff report, condition #4 offers two options and at this time we would like option #2. There are no sidewalks on any of the surrounding streets currently and we would like them not to be required unless it becomes necessary in the future.

Mark Boyd stated he was involved in this project in my previous position but I have no current involvement so I will vote.

Mark Boyd moved approval as written by staff using option #2 for staff condition #4, seconded by Jim Brown.
APPROVAL. (6-0-0)



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 12, 2008

+ Back Print

DATE: November 25, 2008

CONTACT PERSON: Mike Teply **DOCUMENT #:**

SECOND PARTY/SUBJECT: Comtel Telcom Assets, L.P. / Contract Franchise Ordinance **PROJECT #:**

CATEGORY/SUBCATEGORY 013 Ordinances - Codified / 160 Franchises

CIP PROJECT: No

ACTION OF COUNCIL: 11/18/08 First Reading **JOURNAL #:** 08

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. regarding a Contract Franchise Ordinance granted to Comtel Telcom Assets, LP, a telecommunications local exchange service provider providing local exchange service within the City of Topeka, Kansas. Final Reading.

(Approval would establish a two-year franchise agreement ending November 30, 2010.)

POLICY ISSUE:

K.S.A. 12-2001 gives the City the right to acquire the provider to enter into a contract franchise ordinance.

STAFF RECOMMENDATION:

Approve

BACKGROUND:

The City of Topeka does not currently have an agreement with this provider. This provides for a twenty-four (24) month agreement ending November 30, 2010.

BUDGETARY IMPACT:

Franchise fees will be paid to the City of Topeka for the duration of this agreement.

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Franchise Ordinance](#)

Item #8

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. regarding a Contract Franchise Ordinance granted to Comtel Telcom Assets, LP, a telecommunications local exchange service provider providing local exchange service within the City of Topeka, Kansas.

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

Section 1. Pursuant to K.S.A. 12-2001, as amended, a Contract Franchise Ordinance is hereby granted to Comtel Telcom Assets, LP, a telecommunications local exchange service provider providing local exchange service hereinafter referred to as "Local Provider" within the City of Topeka, Kansas ("City"), subject to the provisions contained hereafter. The initial term of this Contract Franchise Ordinance shall be for a period of two (2) years beginning December 1, 2008, and ending November 30, 2010. Thereafter, this Contract Franchise Ordinance will automatically renew for additional one (1) year terms, unless either party notifies the other party of its intent to terminate the Contract Franchise Ordinance at least ninety (90) days before the termination of the then current term. The additional term shall be deemed a continuation of this Contract Franchise Ordinance and not as a new Contract Franchise Ordinance or amendment. Pursuant to K.S.A. 12-2001(b)(2), as amended, under no circumstances shall this Contract Franchise Ordinance exceed twenty (20) years from the effective date of the Contract Franchise Ordinance. Compensation for said Contract Franchise Ordinance shall be established pursuant to Section 3 of this ordinance.

Section 2. For the purpose of this Contract Franchise Ordinance, the following words and phrases and their derivations shall have the following meaning:

"Gross receipts" means only those receipts collected from within the corporate

boundaries of the city enacting the franchise and which are derived from the following:

(A) Recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features and measured local calls; (B) recurring local exchange access line services for pay phone lines provided by a telecommunications local exchange service provider to all pay phone service providers; (C) local directory assistance revenue; (D) line status verification/busy interrupt revenue; (E) local operator assistance revenue; and (F) nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including, but not limited to, revenues from extended area service, the sale of lease of unbundled network elements, nonregulated services, carrier and end user access, long distance, wireless telecommunications services, lines providing only data service without voice services processed by a telecommunications local exchange service provider, privateline service arrangements, internet, broadband and all other services not wholly local in nature are excluded from gross receipts. Gross receipts shall be reduced by bad debt expenses. Uncollectible and late charges shall not be included within gross receipts. If a telecommunications local exchange service provider offers additional services of a wholly local nature which if in existence on or before July 1, 2002, would have been included with the definition of gross receipts, such services shall be included from the date of the offering of such services in the city.

“Local exchange service” means local switched telecommunications service within any local exchange service area approved by the state corporation commission, regardless of the medium by which the local telecommunications service is provided. The term local exchange service shall not include wireless communication services.

“Telecommunications local exchange service provider” means a local exchange carrier as defined in subsection (h) of K.S.A. 66-1,187, and amendments thereto, and a telecommunications carrier as defined in subsection (m) of K.S.A. 66-1,187, and amendments thereto, which does, or in good faith intends to, provide local exchange service. The term telecommunications local exchange service provider does not include an interexchange carrier that does not provide local exchange service, competitive access provider that does not provide local exchange service or any wireless telecommunications local exchange service provider.

“Telecommunications services” means providing the means of transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.

Section 3. Compensation made pursuant to this Contract Franchise Ordinance shall be paid on a quarterly basis without invoice or reminder from the City and paid not later than forty-five (45) days after the end of the remittal period. Compensation shall be payable from services provided by the Local Provider from the effective date of the Franchise Contract which is contemplated by the parties to be on or after the effective date of the Contract Franchise Ordinance adopted by the Council of the City of Topeka. For the first year of this Contract Franchise Ordinance, said compensation shall be a sum equal to five percent (5%) of gross receipts. Thereafter, compensation for each calendar year of the remaining term of the Contract Franchise Ordinance shall continue to be based on a sum equal to five percent (5%) of gross receipts; unless the City notifies Local Provider prior to ninety days (90) before the end of the calendar year that it intends to increase or decrease the percentage of gross receipts for the following calendar year. Any increased gross receipt fee shall be in compliance with the public

notification procedures set forth in subsections (l) and (m) K.S.A. 12-2001, as amended. Nothing herein shall prohibit the City from changing the method of compensation from gross receipts to an access line fee pursuant to K.S.A. 12-2001, as amended, through amendment to the Contract Franchise Ordinance or establishment of a new Contract Franchise Ordinance.

Section 4. The City shall have the right to examine, upon written notice to the Local Provider, no more than once per calendar year, those records necessary to verify the correctness of the compensation paid pursuant to this Contract Franchise Ordinance.

Section 5. The use of the Right-of-Way under this Franchise by the Local Provider shall be subject to all rules, regulations, policies, resolutions, and ordinances now or hereafter adopted or promulgated by the City in the reasonable exercise of its police power relating to use, placement, location, or management of utilities located in the City's Right-of-Way. In addition, the Local Provider shall be subject to all laws, rules, regulations, policies, resolutions, and ordinances now or hereafter adopted or promulgated by the City in the reasonable exercise of its police power relating to permits, fees, sidewalk and pavement cuts, utility location, construction coordination, screening, and other requirements on the use of the Right-of-Way; provided, however, that nothing contained herein shall constitute a waiver of or be construed as waiving the right of the Local Provider to oppose, challenge, or seek judicial review of, in such manner as is now or may hereafter be provided by law, any such rules, regulation, policy, resolution, or ordinance proposed, adopted, or promulgated by the City. Further, the Local Provider shall comply with the following:

a. The Local Provider's use of the Right-of-Way shall in all matters be

subordinate to the City's use of the Right-of-Way for any public purpose. The Local Provider shall coordinate the installation of its Facilities in the Right-of-Way in a manner which minimizes adverse impact on Public Improvements, as reasonably determined by the City. Where installation is not otherwise regulated, the Facilities shall be placed with adequate clearance from such Public Improvements so as not to conflict with such Public Improvement.

b. All earth, materials, sidewalks, paving, crossings, utilities, Public Improvements, or improvements of any kind located within the Right-of-Way damaged or removed by the Local Provider in its activities under this Franchise shall be fully repaired or replaced promptly by the Local Provider without cost to the City, however, when such activity is a joint project of utilities or franchise holders, the expenses thereof shall be prorated among the participants, and to the reasonable satisfaction of the City in accordance with the ordinances and regulations of the City pertaining thereto.

c. Except in the event of an emergency, as reasonably determined by the Local Provider, the Local Provider shall comply with all laws, rules, regulations, policies, resolutions, or ordinances now or hereinafter adopted or promulgated by the City relating to any construction, reconstruction, repair, or relocation of Facilities which would require any street closure which reduces traffic flow. Notwithstanding the foregoing exception, all work including emergency work performed in the traveled way or which in any way impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected.

d. The Local Provider shall cooperate promptly and fully with the City and take all reasonable measures necessary to provide accurate and complete information regarding the location of its Facilities located within the Right-of-Way when requested

by the City or its authorized agents for a Public Project. Such location and identification shall be promptly communicated in writing to the City without cost to the City, its employees, agents, or authorized contractors. The Local Provider shall designate and maintain an agent, familiar with the Facilities, who is responsible for providing timely information needed by the City for the design and replacement of Facilities in the Right-of-Way during and for the design of Public Improvements. At the request of the Local Provider, the City may include design for Facilities in the design of Public Projects. Also at the request of the Local Provider, the City and/or its contractor(s) or agent(s) shall provide accurate and timely field locations of proposed Public Projects in the event the Local Provider is required to install new and/or relocate its Facilities.

e. The Local Provider shall promptly locate, remove, relocate, or adjust any Facilities located in the Right-of-Way if reasonably necessary and requested by the City for a Public Project. Such location removal, relocation, or adjustment for a particular Public Project shall be performed by the Local Provider without expense to the City, its employees, agents, or authorized contractors, and shall be specifically subject to rules and regulations of the City pertaining to such. If additional location, removal, relocation, or adjustment is the result of the inaccurate or mistaken information of the Local Provider, the Local Provider shall be responsible for costs associated with such without expense to the City. Likewise, if additional location, removal, relocations or adjustment is the result of inaccurate or mistaken information of the City, the City shall reimburse the Local Provider for any additional expense necessarily incurred by the Local Provider directly due to such inaccurate or mistaken information. The Local Provider shall only be responsible for removal, relocation, or adjustment of Facilities located in the Right-of-Way at the Local Provider's sole cost once each five (5) years for that particular facility.

The City shall reimburse the Local Provider for the removal, relocation, or adjustment of the Local Provider's Facilities located in the Right-of-Way if required before the expiration of five (5) years from the date of the last relocation, removal, or adjustment of that particular facility.

The Local Provider shall not be responsible for the expenses of relocation to accommodate any new Public Project for Private Development initiated after the effective date of this Ordinance. The expenses attributable to such a project shall be the responsibility of the third (3rd) party upon the request and appropriate documentation of the Local Provider. Before such expenses may be billed to the third (3rd) party, the Local Provider shall be required to coordinate with the third (3rd) party and the City on the design and construction to ensure that the work required is necessary and done in a cost effective manner. The Local Provider may require payment in advance of estimated costs or relocation prior to undertaking any work required to accommodate any new Public Project for Private Development initiated after the effective date of this Ordinance.

The City may continue to provide a location in the Right-of-Way for the Local Provider's Facilities as part of a Public Project, provided that the Local Provider has cooperated promptly and fully with the City in the design of its Facilities as part of the Public Project.

f. It shall be the responsibility of the Local Provider to take adequate measures to protect and defend its Facilities in the Right-of-Way from harm or damage. If the Local Provider fails to accurately locate Facilities when requested, it shall have no claim for costs or damages against the City. The Local Provider shall be responsible to the City and its agents, representatives, and authorized contractors for all damages

including, but not limited to, delay damages, repair costs, down time, construction delays, penalties or other expenses of any kind arising out of the failure of the Local Provider to perform any of its obligations under this Ordinance. The above general provisions notwithstanding, the City and its authorized contractors shall take reasonable precautionary measures including calling for utility locations through Kansas One Call and exercising due caution when working near the Local Provider's Facilities.

g. All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of the Facilities in the Right-of-Way shall be in accordance with applicable present and future federal, state, and City laws and regulations, including but not limited to the most recent standards of the Kansas Corporation Commission and U.S. Department of Transportation, and further, to the extent they are not inconsistent with federal or state laws, the City of Topeka standard technical specifications as may be amended from time to time, or such substantive equivalents as may hereafter be adopted or promulgated. It is understood that the standards established in this paragraph are minimum standards and the requirements established or referenced in this Franchise may be additional to or stricter than such minimum standards.

h. The City encourages the conservation of the Right-of-Way by the sharing of space by all utilities. Notwithstanding provisions of this Franchise prohibiting third (3rd) party use, to the extent required by federal or state law, the Local Provider will permit any other franchised entity by an appropriate grant, or a contract, or agreement negotiated by the parties, to use any and all Facilities constructed or erected by the Local Provider.

Section 6. Indemnity and hold harmless.

The Local Provider shall indemnify and hold and save the City, its officers, employees, agents, and authorized contractors, harmless from and against all claims, damages, expense, liability, and costs including reasonable attorney fees, to the extent occasioned in any manner by the Local Provider's occupancy of the Right-of-Way. In the event a claim shall be made or an action shall be instituted against the City growing out of such occupancy of the Right-of-Way by Facilities of the Local Provider, then upon notice by the City to the Local Provider, the Local Provider shall assume responsibility for the defense of such actions at the cost of the Local Provider, subject to the option of the City to appear and defend.

Section 7. As a condition of this Contract Franchise Ordinance, Local Provider is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the Federal Communications Commission (FCC) or the Kansas Corporation Commission (KCC), subject to Local Provider's right to challenge in good faith such requirements as established by the FCC, KCC or other City Ordinance. Local Provider shall also comply with all applicable laws, statutes and/or ordinances, subject to Local Provider's right to challenge in good faith such laws, statutes and/or ordinances.

Section 8. Nothing herein contained shall be construed as giving Local Provider any exclusive privileges, nor shall it affect any prior or existing rights of Local Provider to maintain a telecommunications system within the City.

Section 9. The City agrees to provide Local Provider with notification in the event that it annexes property into the corporate boundaries of the City that would require Local Provider to collect and pay a franchise fee on access lines or gross

receipts which prior to the annexation of the property Local Provider was not required to pay a franchise fee. The City agrees to provide Local Provider with notification in the event the City rennumbers or renames any streets that would require Local Provider to collect and pay a franchise fee on access lines or gross receipts which prior to the renumbering or renaming of the streets Local Provider would not have been required to pay a franchise fee.

Section 10. The City agrees that under K.S.A 12-2001, as amended, and other state and federal laws, this Contract Franchise Ordinance must be competitively neutral and may not be unreasonable or discriminatory to any telecommunications local exchange service provider operating in the City.

Section 11. Any required or permitted notice under this Contract Franchise Ordinance shall be in writing. Notice upon the City shall be delivered to the City Clerk by first class United States mail or by personal delivery. Notice upon Local Provider shall be delivered by first class United States mail or by personal delivery to:

Comtel Telcom Assets LP
Attn: Contracts
433 E. Las Colinas Boulevard, Suite 1300
Irving, TX 75039

Section 12. The failure of either party to enforce and remedy any noncompliance of the terms and conditions of this Contract Franchise Ordinance shall not constitute a waiver of rights nor a waiver of the other party's obligations as provided herein.

Section 13. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond Local Provider's or the City's control.

Section 14. Local Provider has entered into this Contract Franchise Ordinance as required by the City and K.S.A. 12-2001, as amended. If any clause, sentence, section, or provision of K.S.A. 12-2001, as amended, shall be held to be invalid by a court of competent jurisdiction, either the City or Local Provider may elect to terminate the entire Contract Franchise Ordinance. In the event a court of competent jurisdiction invalidates K.S.A. 12-2001, as amended, if Local Provider is required by law to enter into a Contract Franchise Ordinance with the City, the parties agree to act in good faith in promptly negotiating a new Contract Franchise Ordinance.

Section 15. In entering into this Contract Franchise Ordinance, neither the City's nor Local Provider's present or future legal rights, positions, claims, assertions or arguments before any administrative agency or court of law are in any way prejudiced or waived. By entering into the Contract Franchise Ordinance, neither the City nor Local Provider waive any rights, but instead expressly reserve any and all rights, remedies, and arguments the City or Local Provider may have at law or equity, without limitation, to argue, assert, and/or take any position as to the legality or appropriateness of this Contract Franchise Ordinance or any present or future laws, ordinances, and/or rulings which may be the basis for the City and Local Provider entering into this Contract Franchise Ordinance.

Section 16. The parties agree that in the event of a breach of this Contract Franchise Ordinance by either party, the non breaching party has the right to terminate the Contract Franchise Ordinance as set forth herein. Prior to terminating the Contract Franchise Ordinance, the non breaching party shall first serve a written notice upon the breaching party, setting forth in detail the nature of the breach, and the breaching party shall have thirty (30) days thereafter in which to cure the breach. If at the end of such

thirty (30) day period the non breaching party deems that the breach has not been cured, the non breaching party may take action to terminate this Contract Franchise Ordinance.

Section 17. This Contract Franchise Ordinance is made under and in conformity with the laws of the State of Kansas. No such Contract Franchise Ordinance shall be effective until the ordinance granting the same has been adopted as provided by law.

Section 18. This ordinance shall take effect and be in force from December 1, 2008, 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. Buntten, 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 7, 2008

+ Back Print

DATE: November 25, 2008

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

October 7, 2008

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

DATE: November 25, 2008

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

November 12, 2008

+ Back Print

DATE: November 25, 2008

CONTACT PERSON: Bill Fiander/David Thurbon **DOCUMENT #:** V08E/3

SECOND PARTY/SUBJECT: Cantilever Topeka LLC **PROJECT #:**

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 V08E/3 by Cantilever Topeka, L.L.C., to vacate a 20-foot wide portion of a 50-foot wide platted drainage easement being the west 20-feet of the east 50-feet of Lots 4 and 5, Block A, Butler Plaza Subdivision located north of SW 29th Street between SW Fairlawn road and SW Prairie road City of Topeka, Shawnee County, Kansas.

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of a 20-foot wide portion of a 50-foot wide platted drainage easement being the west 20-feet of the east 50-feet of Lots 4 and 5, Block A, Butler Plaza Subdivision located north of SW 29th Street between SW Fairlawn Road and SW Prairie Road, City of Topeka, Shawnee County, Kansas. **Final Reading.** (V08E/3) (Council District No. 7)

(Approval would vacate a 20-foot wide portion of a 50-foot wide platted drainage easement that is not being used for drainage purposes.)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

The Planning Department Staff has evaluated this proposal relative to the existing land uses and plat of subdivision, and, recommends APPROVAL of the proposed vacation of the platted drainage easement conditioned upon the construction and completion of the proposed storm sewer system as required by the City of Topeka Engineering Department.

BACKGROUND:

- The Kansas Statutes and Topeka City Code Section 130-476(b) requires a public hearing in conjunction with proposed vacation petitions which have been filed in accordance with a prescribed procedure.
- The property owners wish to vacate a 20-foot wide portion of a 50-foot wide platted drainage easement that is not being utilized for drainage purposes to facilitate development of the property in accordance with its current zoning classification.
- Approval of the vacation should not be construed to imply support for any existing or subsequent land

development.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Ordinance](#)

[Aerial](#)

[Legal Ad](#)

[Department Comments](#)

[Application 3 pages](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO.

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of a 20-foot wide portion of a 50-foot wide drainage easement, located north of SW 29th Street between SW Fairlawn Road and SW Prairie Road, City of Topeka, Shawnee County, Kansas. **(V08E/3) (Council District No. 7)**

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 Cantilever Topeka LLC, as property owner, has been filed with the office of the City Clerk, requesting the vacation of the following described platted drainage easement located within the City of Topeka, Shawnee County, Kansas:

Partial Drainage Easement Vacation

A part of the platted drainage easement on Lots 4 and 5, Block "A" in Butler Plaza Subdivision in the City of Topeka, Shawnee County, Kansas, described as: Commencing at the Southeast corner of Lot 4; thence on a plat bearing of South 88°20'27" West on the South line of Lot 4, 30.00 feet to the point of beginning; thence continuing on South 88°20'27" West on the South line of Lot 4, 13.00 feet, thence North 00°04'09" East, parallel with the East line of Lot 4, 17.51 feet; thence North 23°04'21" West, 17.81 feet; thence North 00°04'09" East on a line 30.00 feet west of the East line of Lot 4, 272.64 feet; thence North 90°00'00" East on the North line of Lot 4, 20.00 feet; thence South 00°04'09" East on a line which is 30.00 feet west of the East line of Lot 4, 306.16 feet to the point of beginning; ALSO: The West 20 feet of the East 50 feet of Lot 5.

Section 2. That said petition has been duly published for two (2) consecutive weeks in a newspaper of general circulation and on November 25, 2008 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 drainage easement located within the City of Topeka, Kansas:

Partial Drainage Easement Vacation

A part of the platted drainage easement on Lots 4 and 5, Block "A" in Butler Plaza Subdivision in the City of Topeka, Shawnee County, Kansas, described as: Commencing at the Southeast corner of Lot 4; thence on a plat bearing of South 88°20'27" West on the South line of Lot 4, 30.00 feet to the point of beginning; thence continuing on South 88°20'27" West on the South line of Lot 4, 13.00 feet, thence North 00°04'09" East, parallel with the East line of Lot 4, 17.51 feet; thence North 23°04'21" West, 17.81 feet; thence North 00°04'09" East on a line 30.00 feet west of the East line of Lot 4, 272.64 feet; thence North 90°00'00" East on the North line of Lot 4, 20.00 feet; thence South 00°04'09" East on a line which is 30.00 feet west of the East line of Lot 4, 306.16 feet to the point of beginning; ALSO: The West 20 feet of the East 50 feet of Lot 5.

Section 5. That the Council of the City of Topeka does hereby find that justice further requires vacation of the 20-foot wide portion of the 50-foot wide drainage easement is to be contingent upon implementation of the Engineering Divisions approved drainage ditch design and construction within the remaining drainage easement.

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.

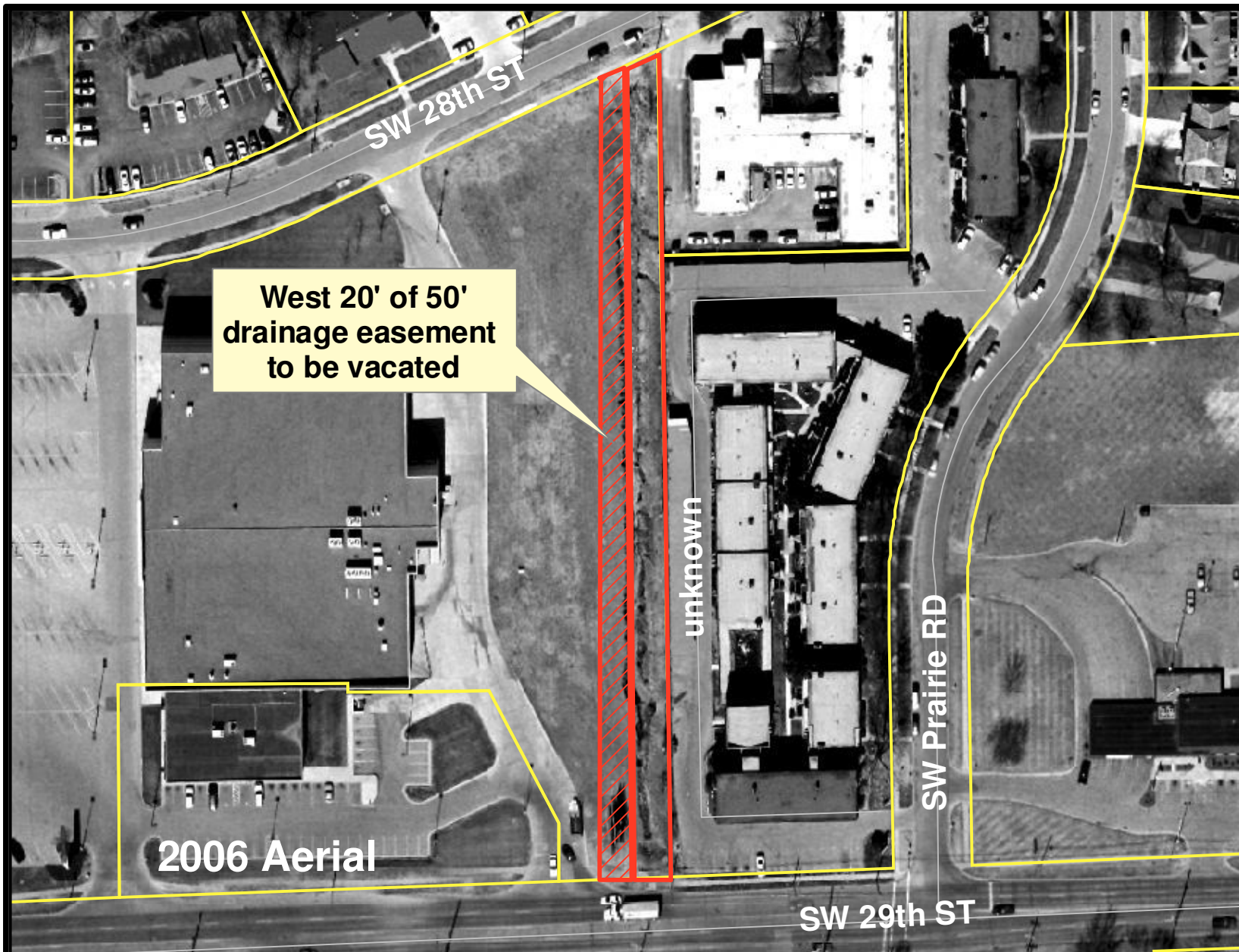
PASSED AND APPROVED by the Council of the City of Topeka _____, 2008.

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified _____
Not To Be Codified __X__



V08E/3 by Cantilever Topeka, LLC.

Please have the attached published in the Topeka Metro News in the Legal Advertising Section on October 31, 2008 and again on November 7, 2008.

IN THE MATTER OF THE PROPOSED VACATION OF:

A 20' wide portion of a 50' wide platted drainage easement being the west 20-feet of the east 50-feet of Lots 4 and 5, Block A, Butler Plaza Subdivision, located north of SW 29th Street between SW Fairlawn Road and SW Prairie Road, City of Topeka, Shawnee County, Kansas. **(V08E/3) (Council District No. 7)**

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 Cantilever Topeka LLC, owners of the concerned property, praying that a 20' wide portion of the above stated platted drainage easement located on said property be vacated.

The petition will be presented to the Council of the City of Topeka for hearing on November 25, 2008 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**

V08E/3 by Cantilever Topeka, LLC
BUTLER PLAZA SUBDIVISION
DRAINAGE EASEMENT VACATION REQUEST

REVIEW COMMENTS

Jennifer Harrell, City Engineering

1. Engineering approves the vacation request contingent upon construction and completion of the proposed storm water sewer system. The City's latest drainage study shows the 100-yr water surface elevation between 936 and 937 and would require the minimum opening elevation of the site to be 937.5. The City also recommends the easement to contain an overflow swale for reasons of the pipe being clogged, a rainfall event greater than the 100-yr, public safety or any other unforeseen circumstances.

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

PLANNING OFFICE USE ONLY	
Date Submitted <u>7/28/08</u>	Date Advertised
Application No. <u>V08E/3</u>	Date of Public Hearing
TO BE COMPLETED BY CITY CLERK'S OFFICE	
Filing Fee \$ <u>\$200.00</u>	Receipt No.

APPLICATION

City Vacation of Streets, Alleys and Easements

1. Applicant(s): Cantilever Topeka LLC
2. Applicant's Mailing Address: 1909 3rd Street

City Clay Center
State: Kansas
Zip: 67432
3. Telephone: Area Code: _____ No.: _____

4. Legal description of property requested to be vacated as prepared by the City of Topeka

Department of Public Works:

The west 20 feet of the east 50 feet of Lots 4 and 5, Block A, Butler Plaza Subdivision in the City of
Topeka, Shawnee County, Kansas

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 4 and 5 Block No. A
In Butler Plaza Subdivision

Metes and Bounds Description, if unplatted:

RECEIVED
CITY CLERK
2008 JUL 22 A 10:28
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.

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

The subject property is currently undeveloped. Vacation of a portion of the existing drainage easement that is not utilized for drainage purposes would allow development to occur in accordance with the existing office and commercial zoning.
--

9. Will the area proposed for vacation preclude, restrict, hamper or lessen ingress-egress to other similarly abutting properties?

No, it will actually increase accessibility

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?

Not applicable, this is a drainage easement.
--

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

13. How are adjoining properties used?

The former Albertson's grocery store and current Hollywood Video store are to the west. Multi-family residential to the east.

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)

Phillip E. Frigon managing member

Cantilever Topeka LLC

By Phillip E. Frigon

(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 Mike Engler, Bartlett & West Inc.

Street Address 1200 SW Executive Drive

City Topeka

State Kansas

Zip Code 66615-3850

Telephone No. (785) 272-2252 ext 270

Fax No. (785) 273-8735



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 12, 2008

+ Back Print

DATE: November 25, 2008

CONTACT PERSON: Howard H Giles **DOCUMENT #:**

SECOND PARTY/SUBJECT: Fire Civil Service **PROJECT #:**

CATEGORY/SUBCATEGORY 013 Ordinances - Codified / 159 Charter

CIP PROJECT: No

ACTION OF COUNCIL: 05/13/08 Postponed for **JOURNAL #:** 08
six months 11/18/08 First
Reading

PAGE #:

DOCUMENT DESCRIPTION:

A CHARTER ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Section A6-16 and Section A6-17, and repealing said original sections. Final Reading.

(Approval would clarify the civil service hiring process affected by City ordinances and repeal an ordinance requiring a Fire Promotion Board.)

POLICY ISSUE:

The repeal of the ordinance requiring a Fire Promotion Board is appropriate since there is a separate Promotion Board required by the fire contract which is applicable to bargaining unit members. This Charter Ordinance clarifies that Civil Service examinations will only be required of firefighter III applicants.

STAFF RECOMMENDATION:

Adopt the charter ordinance.

BACKGROUND:

This change provides a clarification to existing charter ordinance that effectively gives the fire chief, like other department heads, the responsibility and flexibility to manage their departments.

BUDGETARY IMPACT:

NONE

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Ordinance](#)

Item #12

(Published in the Topeka Metro New _____ and _____).

CHARTER ORDINANCE NO. _____

A CHARTER ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code § A6-16 and § A6-17, and repealing said original sections.

BE IT ORDERED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS, THAT:

Section 1. That § A6-16, Civil service examination required, of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Civil service examination required.

All new applicants for entry level firefighter positions in the fire department of the city shall be required to submit to a civil service examination for the position of third class fireman.

Section 2. That § A6-17, Promotion board, of the Code of the City of Topeka, Kansas, is hereby repealed:

~~Promotion board.~~

~~There is hereby created a promotion board which shall consist of five members of the department appointed by the chief of the department. Three members of such promotion board shall be appointed for terms of two years and two members shall be appointed for terms of three years. The chief of the department shall serve as ex officio chairman of said board.~~

Section 3. That original City of Topeka Code § A6-16 and § A6-17 are hereby specifically repealed.

Section 4. This Ordinance shall be published once each week for two (2) consecutive weeks in the official City newspaper.

33
34 CITY OF TOPEKA, KANSAS

40 ATTEST:

41
42
43
44
45 Brenda Younger, City Clerk

STATEMENT OF MANNER OF ADOPTION OF FOREGOING

The foregoing Charter Ordinance No. _____ was passed on the _____ day of _____, 2008, as shown by the minutes, Book _____ Page _____, by a vote of _____ for and _____ against, being not less than two-thirds (2/3) of the members-elect of the governing body, published in the Topeka Metro News, the official city newspaper, on the _____ day of _____, 2008, and on the _____ day of _____, 2008, being once each week for two (2) consecutive weeks, and there being no petition demanding a referendum filed with the City Clerk within sixty (60) days after the final publication, said Charter Ordinance took effect on the _____ day of _____, 2008.

Brenda Younger, City Clerk

CERTIFICATE

CITY OF TOPEKA)
COUNTY OF SHAWNEE) ss:
STATE OF KANSAS)

I, Brenda Younger, City Clerk of the City of Topeka, County of Shawnee, State of Kansas, do hereby certify that the above and foregoing, consisting of _____ typewritten pages, including the page upon which this Certificate is written, is a full true and correct copy of Charter Ordinance No. _____ of the said City of Topeka, that all acts and things required by Article 12, Section 5 of the Constitution of the State of Kansas were done and performed in the manner and within the time prescribed and that said Ordinance became effective on the _____ day of _____, 2008.

Brenda Younger, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 12, 2008

+ Back Print

DATE: November 25, 2008
CONTACT PERSON: Howard H Giles **DOCUMENT #:**
SECOND PARTY/SUBJECT: Fire and Police Selection **PROJECT #:**
Process
CATEGORY/SUBCATEGORY 013 Ordinances - Codified / 106 Personnel
CIP PROJECT: No
ACTION OF COUNCIL: 11/18/08 First Reading **JOURNAL #:** 08
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., repealing City of Topeka Code Sections 106-44, 106-46, 106-47, 106-49, 106-52, and 106-74 concerning police officers and firefighters civil service commission and classification and pay plan. Final Reading.

(Approval would amend City Code to clarify which positions in the Fire and Police Departments are subject to the Civil Service Commission and repeals the section relating to promotions.)

POLICY ISSUE:

This follows a previous ordinance change that allows the Police Chief the flexibility to determine the relevant criteria to consider in making promotions to the Police Lieutenant position. Likewise, this ordinance change will allow the Fire Chief such flexibility in determining the relevant criteria to consider in making promotions to the Fire Battalion Chief, Shift Commander, other Management positions and specialty positions when necessary. The selection process used to fill these positions would be approved by the City Manager.

STAFF RECOMMENDATION:

Adopt the ordinance.

BACKGROUND:

This follows action recently taken by the Council (to repeal ordinances) and will bring about consistency within the City's Police and Fire Departments. The changes effectively give the fire and police chiefs, like other department heads, the responsibility and flexibility to manage their departments.

BUDGETARY IMPACT:

NONE.

SOURCE OF FUNDING:

n/a.

Item #13

ATTACHMENTS:

[Ordinance](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code § 106-44, § 106-46, § 106-47, § 106-49, § 106-52, and § 106-74 concerning police officers and firefighters civil service commission and classification and pay plan, and specifically repealing said original section.

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

Section 1. That section 106-44, Control of exams; nature of exams, of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Control of exams; nature of exams.

The civil service commission shall control all examinations for entry level patrol officer or entry level firefighter. With advice from the police chief, fire chief, technical advisor and city attorney, or their respective designees, the commission shall provide uniform rules with respect thereto, and shall hold such examinations as are necessary for the purpose of determining the qualifications and fitness of applicants for entry level patrol officer or entry level firefighter positions on the police and fire departments. All such examinations shall be practical and shall fairly test the fitness of applicants to discharge the position to which they seek to be appointed. No questions shall relate to religious faith or party affiliations.

Section 2. That section 106-46, Notification of vacancies, of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Notification of vacancies.

The chief of the fire department or the chief of the police department, whomever is applicable, shall immediately notify the chairperson of the civil service commission

whenever a vacancy exists in any department, when the vacant position is one ~~that may be filled by appointment only from the applicants examined by the civil service commission~~ for entry level patrol officer or entry level firefighter.

Section 3. That section 106-47, Certification of applicants, of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Certification of applicants.

The civil service commission shall certify the names and addresses of eligible applicants to the fire chief or police chief, whichever is applicable, who shall make appointments only from such list so certified. Whenever the eligible list of the civil service commission contains fewer than double the number of applicants to fill the vacancy or vacancies existing, the ~~personnel division~~ human resources department shall advertise for applicants and the examination procedure shall commence as soon as practical thereafter. The civil service commission shall document why a candidate is or is not certified for entry level patrol officer or entry level firefighter. What documentation is required will be decided by the city attorney and the technical advisor. The ~~personnel~~ human resources director shall provide whatever support is appropriate to provide documentation.

Section 4. That section 106-49, Striking eligibles from list, of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Striking eligibles from list.

The civil service commission may strike from the eligible list the names of all applicants for entry level patrol officer or entry level firefighter after they have remained thereon for more than one year and have failed to be appointed.

54 Section 5. That section 106-52, New applicants for police and fire positions to
55 submit to exam, of the Code of the City of Topeka, Kansas, is hereby amended to read
56 as follows:

57 **New applicants for police and fire positions to submit to exam.**

58 All new applicants for positions of entry level patrol officer or entry level firefighter
59 in the police department and fire department of the city shall be required to submit to a
60 civil service examination ~~for position of police officer or firefighter.~~ Nothing in this
61 section is intended to prohibit the fire chief or police chief or their designees from
62 advertising or selecting individuals to fill vacant management level positions from
63 applicants not currently employed by the City of Topeka.

64 Section 6. That section 106-74, Promotions, of the Code of the City of Topeka,
65 Kansas, is hereby repealed:

66 **Promotions.**

67 ~~(a) *Fire department.* All promotions of fire department personnel covered by~~
68 ~~this article shall be in accordance with Charter Ordinance No. 10 (App. A, § A6-16 et~~
69 ~~seq.).~~

70 ~~(b) *Police department.* All promotions of police department personnel~~
71 ~~covered by this article shall be in accordance with section 106-58.~~

72 Section 7. That City of Topeka Code § 106-44, § 106-46, § 106-47, § 106-49,
73 § 106-52, and § 106-74 are hereby specifically repealed.

74 Section 8. This ordinance shall take effect and be in force from and after its
75 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



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 12, 2008

+ Back Print

DATE: November 25, 2008
CONTACT PERSON: Jim Langford
SECOND PARTY/SUBJECT: HND
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL:
DOCUMENT #:
PROJECT #:
JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

APPROVAL of funding recommendations of the Topeka-Shawnee County Alcohol-Drug Abuse Advisory Council for the 2009 grant awards from the Special Alcohol Program Fund.

(Approval would outline the annual recommendations of the Advisory Council and requests City Council approval of the grant awards.)

POLICY ISSUE:

Whether to award the grants based upon the recommendations of the Advisory Council.

STAFF RECOMMENDATION:

Approve the recommendations of the Topeka-Shawnee County Alcohol-Drug Abuse Advisory Council.

BACKGROUND:

The Advisory Council has completed its annual review of proposals for funding from the Special Alcohol Program Fund. The recommendations for 2009 are contained in the attached memorandum. Kansas cities receive 70.0 percent of the revenue generated by the state liquor drink excise tax, which is 10.0 percent of the gross receipts for the sale of alcoholic liquor. The revenue is divided equally between the General Fund, the Parks and Recreation Fund, and the Special Alcohol Program Fund.

BUDGETARY IMPACT:

The Advisory Council recommends grants totaling \$445,299 for 2009. The recommendation is within the \$620,000 expenditure limitation for the fund.

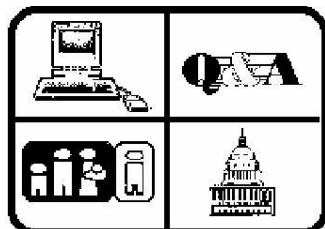
SOURCE OF FUNDING:

Special Alcohol Program Fund.

ATTACHMENTS:

[Recommendations of Grant Review Team](#)

Item #14



Community Resources Council

501 SE Jefferson Street, Suite 30

Topeka, KS 66607

785-233-1365 ♦ Fax 785-233-1905

www.crcnet.org

October 27, 2009

To: Mayor and City Council of Topeka, Kansas

From: Shawnee County/Topeka Social Services Review Team

Subject: **2009 City Alcohol and Drug Funding Recommendations**

Review Team Members

Larry Hinton, United Way of Greater Topeka
Steve Christenberry, Family Service & Guidance Center
Nancy Johnson [Chairman], Community Resources Council
Ron Eisenbarth, Eisenbarth & Associates
Jared Harsin, Shawnee County Court Services

Review Team funding recommendations are summarized in a table on page two, followed by the report narrative.

Therapy Services, a private for profit small, woman-owned business, applied for \$50,000 for start-up costs in Topeka/Shawnee County. The money governed by Statue Number 79-41a04 reads in part....”the establishment and operation of a domestic violence program operated by a not-for-profit organization....” The review team did not fund Therapy Service based on three premises: 1. A profit organization; 2. Failed to attended the orientation meeting as required; and, 3. Failure to use proper grant funding forms.

The City of Topeka budgeted \$620,000 for 2009 alcohol and drug contracts. We appreciate the City of Topeka decision to provide funds for the alcohol and drug programs in Topeka.

This report was prepared at the request of the City of Topeka. The opinions and recommendations contained in this report are those of the Alcohol and Drug Grant Review Team and do not necessarily reflect the views of the City of Topeka or the agencies and departments with which reviewers are affiliated.

City of Topeka 2009 Social Services – Applicant Agency	Program Name	2008 Approved	2009 Request	2009 Recom mended	Change from 2008
Shawnee Regional Prevention and Recovery Services	Community Prevention Program	\$109,607	\$113,915	\$113,915	\$4,308
Shawnee Regional Prevention and Recovery Services	Youth Evaluation Program	\$36,643	\$38,085	\$38,085	\$1,442
Topeka Youth Project	Jobs for Young Adults	\$35,488	\$35,488	\$35,488	\$0
Valeo Behavioral Health Center	Social Detox	\$215,035	\$220,686	\$220,686	\$5,651
Valeo Behavioral Health Center	Reintegration	\$36,485	\$37,125	\$37,125	\$ 640
TOTAL		\$433,258	\$445,299	\$445,299	\$ 12,041

<u>Shawnee Regional Prevention & Recovery Services</u>	<u>Recommended 2009</u>	<u>Increase/Decrease</u>
<u>Community Prevention Program</u>	\$113,915	\$ 4,308

Prevention and Recovery Services uses the evidence-based Strategic Prevention Framework as its prevention model. This program helps reduce risk factors and increase protective factors related to alcohol and other drug abuse and a number of related social problems that share the same risk and protective factors with the following strategies: assessment, capacity, planning, implementation, evaluation, training, Community Baseline Training, Choosing Health Options in Challenging Environment and Situations, Guiding good Choices, SPICEline workshops, crank It Up Workshops and Community that Care-Strategic Prevention Framework Workshops.

<u>Shawnee Regional Prevention & Recovery Services</u>	<u>Recommended 2009</u>	<u>Increase/Decrease</u>
<u>Youth Evaluation Program</u>	\$38,085	\$ 1,442

Youth Evaluation Program provides children and teenagers with substance abuse assessments, evaluations and referrals. These clients typically are referred to the program by schools after they have been found to be in violation of school alcohol and drug policies. However, young people and families may self-refer. The evaluation process involves the young person, parents and the schools. Siblings may also be brought into the process if their involvement is indicated during the first evaluation session. These clients may be referred to treatment, individual counseling, group therapy or complete closure of the process after the evaluation is completed. Parents may also be referred to treatment, counseling, parenting groups or complete closure the after the evaluation is completed.

<u>Topeka Youth Project</u>	<u>Recommended 2009</u>	<u>Increase/Decrease</u>
<u>Jobs for Young Adults</u>	\$ 35,488	\$ 0

Jobs for Young Adults focus on building productive taxpaying citizens making positive choices and learning how drugs/alcohol can be a road block to their success. Upon completion of the program, they have access to 150 employers who participate in the program and provide drug free working environments. They maintain a 96% certification rate and a 96% employment rate. They follow the employee and participant for 6 months. They recognize the participant's hard work with a Recognition Dinner at the Capital Plaza Hotel. They are enrolling a second generation as the program has been operating for 25 years and has served over 5,000.

<u>VALEO Behavioral Health Care</u>	<u>Recommended 2009</u>	<u>Increase/Decrease</u>
<u>Social Detox</u>	\$ 220,686	\$ 5,651

Social Detox is a safe, non-medical, therapeutic environment for acute withdrawal from chemicals. The goals of Social Detox are twofold: 1. to facilitate successful completion of the detox process, which includes reduction of symptoms and completion of a clinical assessment of treatment needs, and 2. to transfer clients to appropriate treatment modalities. The average length of stay in Social Detox ranges from 24 hours to six days. Social Detox operates year round.

<u>VALEO Behavioral Health Care</u>	<u>Recommended 2009</u>	<u>Increase/Decrease</u>
<u>Reintegration</u>	\$ 37,125	\$ 640

Stepping Stones is a reintegration program, which provides 24-hour supportive, residential living for recovering alcoholics and/or drug dependent persons. Services provided include individual and group counseling, case management, employment readiness program, connection with self-help community, recreational and social activities and individual work therapies designed to promote re-

CC: Shawnee County Commission



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 6, 2008

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

DATE: November 25, 2008

CONTACT PERSON: Deputy Mayor Jeff Preisner **DOCUMENT #:**

SECOND PARTY/SUBJECT: Statewide Comprehensive Transportation Program-
City/County
Transportation
Improvements **PROJECT #:**

CATEGORY/SUBCATEGORY 020 Resolutions / 005 Miscellaneous

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

A JOINT CITY OF TOPEKA AND SHAWNEE COUNTY RESOLUTION introduced by City of Topeka Deputy Mayor Jeff Preisner and Shawnee County Commission Chair Michele Buhler, endorsing transportation improvements for Shawnee County, Kansas and the City of Topeka, Kansas concerning the enactment by the Kansas Legislature of a new state-wide comprehensive transportation program.

(Identifies the transportation capital improvements needed within the City of Topeka and Shawnee County.)

POLICY ISSUE:

Whether or not to adopt the joint resolution.

STAFF RECOMMENDATION:

N/A

BACKGROUND:

Adoption of the Resolution would approve the recommendations of the 2008-2009 Transportation Priorities Committee which met on three occasions to discuss and identify transportation capital improvements. The Committee found the identified improvements vital to the future economic growth and development of the City of Topeka and Shawnee County and the safety of their citizens and to all those who use the mentioned highways and other means of transportation.

The Resolution also declares the City and County's endorsement and support of enactment of a new Comprehensive Transportation Program by the Kansas Legislature of sufficient size and magnitude to address the specifically identified transportation capital improvements.

Item #15

BUDGETARY IMPACT:

None

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Priority Transportation Projects of Topeka and Shawnee County](#)

[Transportation Priority Map](#)

[Revised KAA Position Paper](#)

[Proposed Bike Routes](#)

[Committee List](#)

[City-County Resolution](#)

**PRIORITY TRANSPORTATION PROJECTS
SHAWNEE COUNTY
AND
CITY OF TOPEKA**

State Highway Projects

1. ***I-70 Polk Quincy Viaduct – reconstruct and realign for safety reasons and to maximize riverfront development.***
 - This elevated 4-lane segment of I-70 through downtown Topeka was constructed in 1963. Based on today's design requirements this roadway has several non-standard features including a sharp dangerous curve. This curve has contributed to many traffic accidents particularly the overturning of semi-tractor trailers. (From 1995-2007 there have been 130 accidents on the Viaduct with 47 injury accidents.) Additionally there is significant deterioration with concrete chunks falling from the underside of the bridge. The viaduct has undergone deck improvements and structural repairs but remains a concern because of its age, very tight corner and future deterioration. According to a 1998 KDOT study, the viaduct will reach an unacceptable level of service based on traffic volume by 2015; the on/off ramps at 1st and 3rd Streets are rapidly becoming unacceptable as well.
 - The Polk Quincy Viaduct is located in an area slated for riverfront development in downtown Topeka. It is very important consideration be given to future public and private riverfront development as the viaduct is redesigned. The design can positively affect the project to enhance riverfront development and subsequent private investment, or it can be designed to impede future development depriving the capital city of an economically and aesthetically improved area currently not utilized at its highest and best use.
2. ***Improve the US-24 Corridor according to recommendations from the 2 Corridor Studies, including improvements west to Manhattan and east to Lawrence.***
 - Economic growth in the northern region of Topeka/Shawnee County has emerged primarily around the US-24 corridor.
 - Significant commercial growth has occurred at US-24 and Rochester Rd. With growth transportation problems have developed.
 - Additionally, access to US-24 from north Topeka Blvd is challenged by use of an aging cloverleaf as traffic continues to increase. Possible reconstruction of this interchange needs resolution that is financially and functionally acceptable to preserve US-24 as a major commercial corridor.
 - A Corridor Study currently underway is evaluating requirements for industrial access to US-24. Several major manufacturing and distribution facilities operate within the corridor.
 - The importance of a regional view of improvements within the US-24 corridor is critical, enhancements made to the system outside Shawnee County, west to Manhattan and east to Lawrence will enhance the highway's value as an key transportation corridor for transporting products within the state of Kansas and beyond.
3. ***Southside Corridor – Connecting local project, 77th St to 15th St to I-70.***
 - The city of Topeka is currently making improvements within the southern quadrant of the city to alleviate congestion on Topeka Blvd. The Southside Corridor is expected to run north/south approximately from SW 77th St and Topeka Blvd to approx. SW 40th St and Topeka Blvd, then northeasterly to SW 37th St and Kansas Ave along the new Kansas Ave Extension alignment, then following Kansas Ave to SW 29th Street, then northeasterly to the Adams/I-70 interchange.
 - Connecting 77th St to I-70 and the Turnpike will provide new opportunities for increased investment in a depressed urban area and raise property use to its highest and best value.
4. ***US-75 interchange at 49th St and US-75 corridor improvements south to Lyndon and north from Holton to Nebraska.***

- The completion of the connection from US-75 to I-470 and the Kansas Turnpike has opened the surrounding area to economic development. Central Crossing Commerce Park, a major industrial/distribution park, has developed along the new stretch of US-75. One major tenant has located in the park and local authorities are working to locate additional tenants in the park. With growth in the industrial/distribution sector there is a projected need for a second highway interchange on US-75 at 49th St.
 - The importance of quality regional transportation connections along the US-75 corridor has been a long term goal, it is essential that improvements are made to the system beyond Shawnee County, south to Lyndon and north from Holton to Nebraska. US-75 improvements in adjoining counties will enhance the highway's worth as a critical transportation corridor for transporting goods and agricultural products within the state of Kansas and beyond. Such improvements emphasize US-75 as a major north/south corridor within the United States.
- 5. *Complete the Oakland Expressway, add additional 2-lanes the entire Oakland Expressway route & complete the connection from the Oakland Expressway through US-24 to northern K-4.***
- The addition of the Oakland Expressway and the river crossing has benefited the community and state by creating highway access to industrial businesses in northeastern Topeka/Shawnee County. The Expressway has provided a direct route for Jefferson County to become a source for Shawnee County workers.
 - Completing the connection of the Oakland Expressway with K-4 will eliminate two intersections, one from the Oakland Expressway at US-24 and then from US-24 to K-4. This is particularly advantageous for truck traffic.
 - Right-away is available for 4-lanes.
 - Continued infrastructure improvement of the northeastern quadrant of the county will enhance the area for commercial/industrial/residential development.
- 6. *K-10, construct a 4-lane extension from Lawrence to Topeka.***
- Traffic continues to increase between Topeka, Lawrence and the KC Metro area. In order to alleviate congestion KTA added lanes to the Turnpike between Topeka and Lawrence. As development continues to occur and workers commute within the corridor, additional transportation routes between communities will be needed. K-10 offers an opportunity to further connect the northeast urban areas of the state.

Local Highway Projects

- 1. *Convert Carlson Road to state highway connecting link, including the replacement of the Willard Bridge between I-70 and US-24.***
- NW Carlson Road is a critical link for northwest Shawnee County and the city of Rossville. It is the only roadway link to northwest Shawnee County from I-70. Twenty-two communities are connected to I-70 as state-operated connecting roadways. Carlson Road is the only locally-operated connecting roadway from a small community (Rossville) & US-24 to I-70.
 - Willard Bridge is fracture critical; if one of the pins fails, there is no other support from adjacent members and it will collapse without warning. Shawnee County recently reduced the weight limits for the bridge in an effort to lengthen its life. This weight reduction greatly impacts agricultural and commercial industries. As a result, grain trucks, semis and dump trucks can no longer legally cross the bridge.
- 2. *Increase the share of transportation revenues to city & county governments for use within local transportation systems.***

Public Transit

- 1. *Increases in state funds for public transit operations.***
- Due to a significant increase in public transit ridership there is a need to expand bus service hours, offer Sunday bus service and decrease the wait-time for rider pick-up. The changing face of commuters and the need for flexibility to meet the needs of the commuter.
- 2. *Park & ride service for commuter traffic between Topeka and Lawrence.***

- Funds are needed to initiate and support commuter bus service between Topeka and Lawrence. This service would provide connectivity between two cities and counties in a much utilized transportation corridor. There is demand for intra-city transit service between the two cities to carry workers to their jobs, much like the successful transit service between Lawrence and Olathe primarily serving students.
- Develop a joint venture project to construct a parking area in eastern Topeka for transit commuters travelling to Lawrence, for connecting bike routes and overnight motor carrier parking.

Highway Policy Recommendation

- 1. *Establish statewide policies to address overnight truck parking needs in major corridor projects as they are planned and constructed.***
 - The only overnight parking facility for trucks was eliminated in Topeka with new road construction. City and county regulations prohibit truck parking on local streets and roads. Truckers are left with the only option of inappropriate parking at rest stops and areas not designed for such heavy loads.

Aviation

- 1. *Support the Kansas Association of Airports Improvement Program to increase funding for airport infrastructure.***

Bicycle & Pedestrian Trails

- 1. *The completion of pedestrian trails radiating within Topeka/Shawnee County, then to surrounding cities and counties.***
 - Trail connectivity is essential to allow pedestrian and bike access throughout the community. Trails should connect to the public transit system to allow individuals to utilize both forms of transportation as they travel to work, for recreation and for travel to other communities.
 - Illuminating highly-utilized trails is recommended.
- 2. *Incorporation of bike routes in highway & local street construction and reconstruction.***
 - As street and highway projects are constructed, consideration should be given to include bike routes & trails as a coordinating component of the project.

Railroads

- 1. *Improve safety by addressing at-grade crossings that are identified as problematic.***
- 2. *Increase access to passenger rail service to commute to Kansas City and Oklahoma City.***

Attachments:

- Map of highway projects
- Kansas Association of Airports Improvement Program
- Proposed bike routes list
- Priority Transportation Projects for Shawnee County Committee List



Priority Transportation Projects Shawnee County

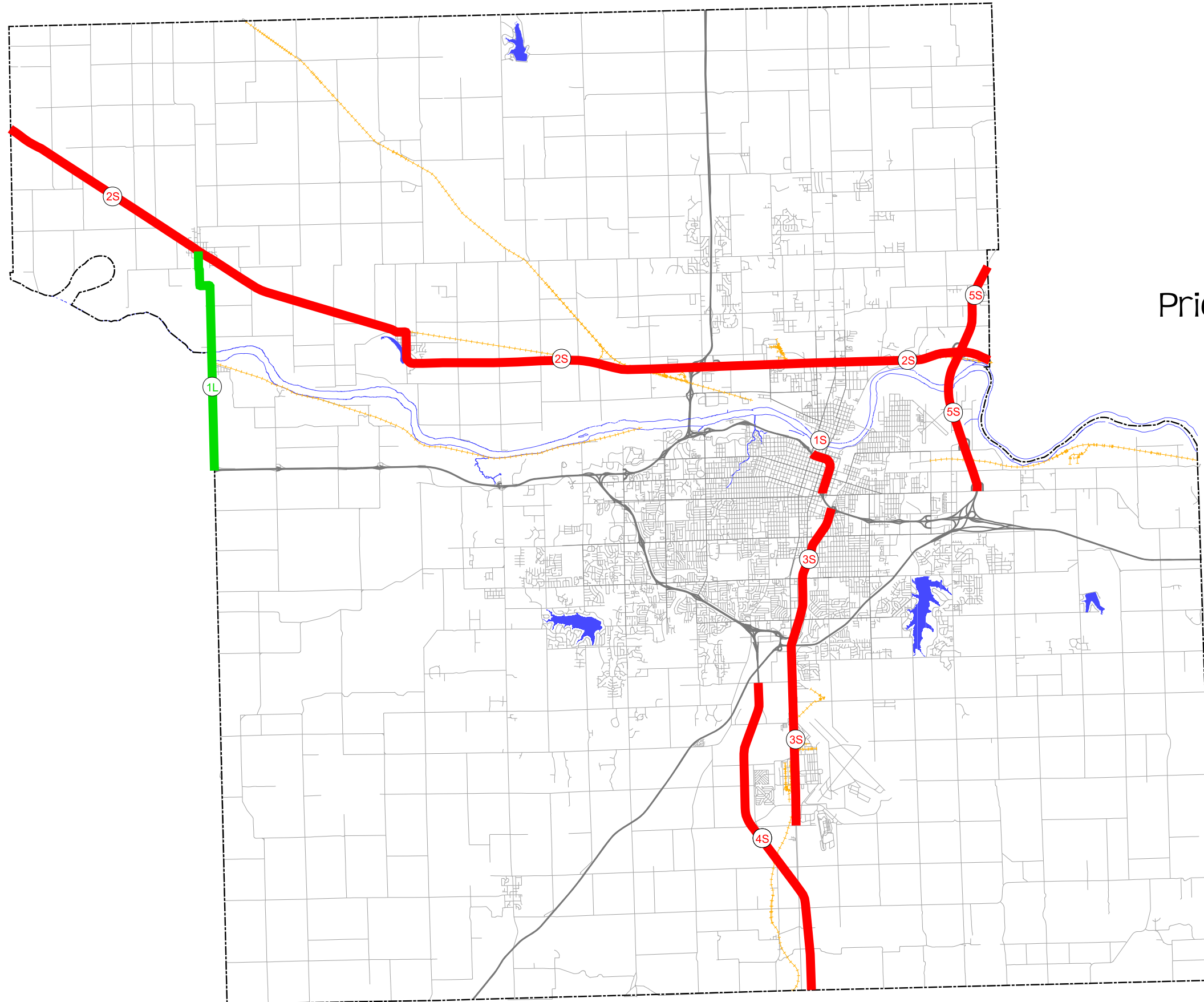


State Highway Projects

- 1S I-70 Polk Quincy Viaduct
- 2S US 24 Corridor
- 3S Southside Corridor
- 4S US 75 Interchange and US 75 Corridor
- 5S Oakland Expressway

Local Highway Projects

- 1L NW Carlson Road and Willard Bridge Improvements



POSITION PAPER

KANSAS ASSOCIATION OF AIRPORTS

INTRODUCTION

This paper highlights the needs of the 143 public use airports in the state of Kansas. As the Kansas Department of Transportation(KDOT) prepares its recommendations for the Long Range Transportation Plan(LRTP), our organization of airport owners, cities, and counties offers this assessment of the aviation mode of transportation, its successes, and the opportunities to capitalize on safety, critical health care, and economic growth in this state.

BACKGROUND

Until 1999, Kansas expended few resources on these 143 airports. The Kansas Airport Improvement Program(KAIP) was funded at \$3 million per year to improve the ailing pavements on Kansas airports. Since that time, when one in four of our airports had poor or worse pavements, we now have only one in twenty in that category. KDOT's Division of Aviation has very successfully reversed the downward trend in pavements, and has also made significant progress towards KDOT's goal of providing each Kansan access to an air ambulance within 30 miles. **This effort is commendable with an expenditure of one dollar per year per Kansas resident. Each Kansas resident, meanwhile, benefits over \$2560 per year from the aviation industry.**

Key to the KAIP was the goal to place an air ambulance within 30 miles of every Kansan. A great stride toward this goal has been made. This goal remains unreachable during bad weather, however, unless further improvements to our airport infrastructure are made.

THE CHALLENGES AHEAD

Inflation

By 2008, the \$3 million KAIP will be able to purchase only \$1.5 million in airport improvements, due to inflation and construction cost increases.

Insufficient Funds for Preservation and Improvement

With only \$3 million in state funds available to our airports per year, the needs over the last 10 years are as follows:

<u>YEAR</u>	<u># OF REQUESTS</u>	<u>AMOUNT</u>
2000	33	\$12,321,445.00
2001	44	\$11,536,073.00
2002	33	\$8,905,582.00
2003	44	\$14,166,218.00
2004	37	\$9,906,349.00
2005	37	\$10,264,892.00
2006	64	\$17,391,617.00
2007	77	\$15,879,780.00
2008	85	\$13,735,833.00
2009	101	\$18,087,628.00

AVERAGES 55.5 **\$13,219,541.70**

Over the last five years, the need has exceeded the state's budget by an average of over \$12 million per year. Meanwhile, 40 airports will fall below the 'very good' rating in 2010. Pavement preservation needs alone will exceed Kansas' current annual outlay by nearly \$2.7 million annually over the next 10 years(\$56.8 million).

Approaches

52 counties in Kansas lack instrument approaches for their airports. In addition, many approaches to Kansas airports are becoming obsolete. *This means that even though a Kansas resident may live within 30 miles of a suitable air ambulance runway, the weather, not the pavement, will determine if that resident is delivered to a critical care facility.* Again, this affects almost half of the counties in Kansas. Automated weather observation systems(AWOS) *do not exist* in 50 counties. These systems are required for poor-weather approaches by aircraft.

New Approaches and the New Technology

GPS technology is about to revolutionize aircraft approaches to airports worldwide, and at a much lower cost.. With additional staff and funding, KDOT's Division of Aviation could complete 17 approach surveys per year, and place 5 AWOS systems a year. Kansas has a very good opportunity to be pro-active in this category. At present, KDOT has the technology and expertise to perform the requisite approach surveys. They simply lack staffing and funding. Federal money, through the Federal Aviation Administration(FAA) will fund only two or three approaches in Kansas per year. Without a navigational aid/flight procedure department in Kansas, we lack the ability to get ahead of the curve in safety and emergency air service. Most business aircraft are being equipped for this technology.

A Plan for our State's Airports

Without a long-range statewide aviation system plan, Kansas has only been able to respond to individual airport requests. Pro-actively, KDOT's Division of Aviation should have sufficient funding and staffing to 'inventory' our airports and create a prioritized list of projects based on ranking and classification of our 143 airports. Effectively managed, a state plan will make better use of both state and federal funds. Ultimately, Kansas will be able to boast a higher degree of economic self-sufficiency in its airport system.

Flexibility for Economic Growth Opportunities

Economic opportunities for Kansas are emerging more swiftly and on a larger scale. Our aviation infrastructure can be crucial to the recruitment of new business. Our state must have sufficient funds to capitalize on these opportunities. All-weather access for not only critical medical care needs, but for economic development projects, allows Kansas to be ready for growth. Other states have recognized this potential. Nebraska funds a staff of six for the sole purpose of developing instrument approaches(Kansas' total staff is three). Georgia budgets \$15 million annually for its airports, compared to our \$3 million.

THE ESTIMATED COST

In its LRTP Report, KDOT has identified the annual need of Kansas airports(exclusive of airfare subsidies) at \$80 million/year. The Federal Aviation Administration has set the annual need at \$57 million for the nationally-recognized 55% of Kansas' airports. Federal funds are estimated to annually offset approximately \$30 million of this need. The resulting balance is a consistent \$50 million per year.

How Does Kansas Compare to Other States?

Half of the states in this country spend more per capita on aviation than Kansas. Yet Kansas ranks number one in the economic benefit of aviation, and number seven in the number of public use airports. The aviation benefit of over \$2560 per Kansan exceeds the number two state by over \$1500.

THE RECOMMENDATION

The following recommendation falls directly in line with KDOT's priority statement for aviation. KDOT has identified these goals as the follows:

- Support investment in needed technological upgrades. This will get Kansas on the curve for needed safety and economic development.
- Provide an appropriate level of access for all Kansas to air-ambulance-capable airports – in all weather conditions. A lack of proper approaches and infrastructure here will penalize the increasing rural population of Kansas because of weather.
- Develop a long-range statewide aviation system plan. This is needed to prioritize projects based on a classification of Kansas' public use airports.

IN OTHER WORDS...

- Preserve existing airport infrastructure first
- Align the aviation system to better support the Kansas economy
- Provide leadership and strategic investment for the aviation mode
- Take advantage of technological upgrades for safety, quality of life, and economic development

SPECIFICALLY

For the next ten years, KDOT can meet these critical unmet needs by providing:

Navigational Aids/ Approaches - \$2 million per year

To obtain all-weather access, surveys, weather stations, GPS approaches

Pavement Preservation - \$10 million per year

To proactively maintain a high pavement rating for runways, taxiways, and aircraft aprons

Airport Improvements/Safety Enhancements - \$8 million per year

To provide safety areas around runways and taxiway systems. Required for all-weather access.

Planning and Economic Development - \$5 million per year.

To provide funding for airport self-sufficiency, economic opportunities statewide, and other airport capital costs.

The total: \$25 million/year

Proposed Bike Routes

To Southeast Topeka and Lake Shawnee

1. (From the Shunga Trail) Exit onto 15th St off the trail.
East on 15th, past Adams, curve south on Hudson Blvd.
East on 21st to Virginia.
North to 27th.
East to Colorado.
North to 29th.
East to Westedge.
Southeast into the LK SN trail at the Marina.
2. (From the Shunga Trail) Exit south onto the Landon Trail.
East on 25th, past Adams, to Maryland.
North to 27th.
East to Colorado.
North to 28th.
East past California, to Golden.
North to 29th.
East to Westedge.
Southeast into the LK SN trail at the Marina.

To Southwest Topeka

1. (From Kansas Ave) West on 12th past Gage/merge with Huntoon.
End at Wanamaker.
Return on Huntoon to Kansas.
2. (From 12th) South on Washburn to Shunga Trail
Return on Lane to Huntoon.
3. (From 12th) South on Medford to 19th.
West to Randolph.
South to Shunga Dr.
East to Murrow Ct.
Through McDonald Field parking lot to Shunga Trail.
West on Shunga Trail to Randolph Trail connection.
South under 29th.
South on Randolph.
End at 37th.

4. (From 12th) South on Belle to 25th.
West on 25th to Urish.

Other Routes Discussed but Not Proposed

1. Connecting South Topeka through Knollwood via College Ped Bridge and Expo Center grounds.
2. Oakland & North Topeka via Topeka Blvd Bridge.
3. Potwin and west via 4th & 5th.

2008/2009 Transportation Priorities Committee

Tom	Vlach	Public Works Director	Shawnee County
Barry	Beagle	Planning Director	Shawnee County
Thomas	Flanagan	Civil Engineer	Shawnee County
Shelly	Buhler	Commission Chair	Shawnee County
Shawn	Bruns	City Engineer	Topeka
David	Thurbon	Planning Director	Topeka
Randy	Speaker	Deputy City Manager	Topeka
Jeff	Preisner	Deputy Mayor	Topeka
Janlyn	Nesbett-Tucker	General Manager & CEO	Topeka Transit
Eric	Johnson	President	MTAA
Vicki	Schmidt	Senator	State of Kansas
Mike	Burgess	Representative	State of Kansas
Anthony	Hensley	Senator	State of Kansas
Jason	Hammes	Distribution Manager	Frito Lay
James	Davis	Owner	Custom Neon & Vinyl Graphics
Barbara	Moore	Regional Manager - Industrial Development	Union Pacific Railroad
Steve	Linton	Vice President of Operations	US Foodservice
Kurt	Chaffee	Local Business Agent	International Union of Operating Engineers Local 101
Steve	Dodd		Burlington Northern Santa Fe Railroad
Coleen	Jennison	Director, Government Affairs	Cox Communications
Christy	Caldwell	Vice President Government Relations	Greater Topeka Chamber of Commerce

CITY OF TOPEKA RESOLUTION NO. _____

SHAWNEE COUNTY RESOLUTION NO. _____

A JOINT CITY OF TOPEKA AND SHAWNEE COUNTY RESOLUTION introduced by Deputy Mayor Jeff Preisner, endorsing transportation improvements for Shawnee County, Kansas, and the City of Topeka, Kansas, concerning the enactment by the Kansas Legislature of a new state-wide comprehensive transportation program.

WHEREAS, one of the major responsibilities of Shawnee County and the City of Topeka is to plan for the immediate and long-term transportation needs of the Shawnee County and the City of Topeka within the county; and

WHEREAS, the governing bodies of Shawnee County and the City of Topeka have identified the transportation capital improvements that are needed within Shawnee County and the City of Topeka; and

WHEREAS, these specific transportation capital improvements are essential to the health, safety and welfare of our citizens in the future; and

WHEREAS, these specific transportation capital improvements are essential to the economic well-being of Shawnee County and the City of Topeka and to their long-term growth and development; and

WHEREAS, the failure to undertake these transportation capital improvements will impede and may prevent the economic needs and goals of Shawnee County and the City of Topeka from being accomplished; and

WHEREAS, Shawnee County and the City of Topeka are unable to finance such capital transportation improvements without substantial assistance from the State of Kansas and the Kansas Department of Transportation; and

WHEREAS, the State of Kansas and the Kansas Department of Transportation cannot sufficiently address the transportation needs of Shawnee County and the City of Topeka and other cities and counties across the state without the enactment of a new Comprehensive Transportation Program by the Kansas Legislature.

NOW, THEREFORE BE IT JOINTLY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHAWNEE COUNTY, KANSAS AND THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

Section 1. Priority Transportation Projects.

After careful investigation of the transportation needs in Shawnee County and the City of Topeka, the following transportation capital improvements are hereby declared to be vital to the future economic growth and development of the county and city and the safety of their citizens and to all those who use the mentioned highways and other means of transportation:

State Highway Projects

1. I-70 Polk Quincy Viaduct – reconstruct and realign for safety reasons and to maximize riverfront development.
2. Improve the US-24 Corridor according to recommendations from Corridor Studies, including improvements west to Manhattan and east to Lawrence.
3. Southside Corridor – Connecting local project, 77th St to 15th St to I-70.
4. US-75 interchange at 49th St and US-75 corridor improvements south to Lyndon and north from Holton to Nebraska.
5. Complete the Oakland Expressway, add additional 2-lanes the entire Oakland Expressway route & complete the connection from the Oakland Expressway through US-24 to northern K-4.
6. K-10, construct a 4-lane extension from Lawrence to Topeka.

Local Highway Projects

- 62 1. Convert Carlson Road to state highway connecting link, including the replacement
63 of the Willard Bridge between I-70 and US-24.

- 64
65 2. Increase the share of transportation revenues to city & county governments for use
66 within local transportation systems.

67
68 Public Transit

- 69
70 1. Increases in state funds for public transit operations.
71
72 2. Park & ride service for commuter traffic between Topeka and Lawrence.

73
74 Highway Policy Recommendation

- 75
76 1. Establish statewide policies to address overnight truck parking needs in major
77 corridor projects as they are planned and constructed.

78
79 Aviation

- 80
81 1. Support the Kansas Association of Airports Improvement Program to increase
82 funding for airport infrastructure.

83
84 Bicycle & Pedestrian Trails

- 85
86 1. The completion of pedestrian trails radiating within Topeka/Shawnee County, then
87 to surrounding cities and counties.
88
89 2. Incorporation of bike routes in highway & local street construction and
90 reconstruction.

91
92 Railroads

- 93
94 1. Improve safety by addressing at-grade crossings that are identified as problematic.
95
96 2. Increase access to passenger rail service to commute to Kansas City and
97 Oklahoma City.

98
99 Section 2. **New Comprehensive Transportation Program.**

100
101 Shawnee County and the City of Topeka hereby endorse and support the
102 enactment of a new Comprehensive Transportation Program by the Kansas Legislature of
103 sufficient size and magnitude to address the specific transportation capital improvements
104 set forth in Section 1.

105 BE IT FURTHER RESOLVED, that the Shawnee County Clerk and the Topeka City
106 Clerk shall send copies of this Resolution and any supporting documents to the following:
107 Governor Kathleen Sebelius; State Senator Laura Kelly; State Senator Anthony Hensley,
108 State Senator Vicki Schmidt; State Representative Rocky Fund; State Representative Mike
109 Burgess; State Representative Lana Gordon; State Representative Ann Mah; State
110 Representative Joe Patton; State Representative Annie Kuether; State Representative
111 Annie Tietze; State Representative Vaughn Flora; State Representative Harold Lane; and,
112 State Representative-Elect Sean Gatewood; all local news media outlets; the Kansas
113 Association of Counties; and the League of Kansas Municipalities.

ADOPTED and APPROVED by City Council _____

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

APPROVED AS TO FORM AND LEGALITY

DATE _____ BY _____

ADOPTED and APPROVED by the Board of County Commissioners, Shawnee

County, Kansas _____.

BOARD OF COUNTY COMMISSIONERS
Shawnee County, Kansas

Michelle Buhler, Chair

Vic Miller, Vice Chair

Theodore Ensley, Member

ATTEST:

Cynthia Beck, County Clerk

APPROVED AS TO FORM AND LEGALITY

DATE _____ BY _____



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 27, 2008

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

DATE: November 25, 2008
CONTACT PERSON: Jim Langford
SECOND PARTY/SUBJECT: Parks and Recreation
CATEGORY/SUBCATEGORY 004 Budgets or Appropriations / 001 Operating Budget - City
CIP PROJECT: No
ACTION OF COUNCIL:

DOCUMENT #:
PROJECT #:
JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

AUTHORIZING a public hearing on December 9, 2008 for the purpose of hearing and answering objections of taxpayers to the proposed amendments to the 2008 Operating Budget.

(Approval would increase the expenditure limit for the Parks and Recreation Fund to accommodate expenditures made for clean-up efforts for the ice storm last winter. It would also authorize unbudgeted transfers to Capital Projects Funds. The Notice of Public Hearing will be published in the November 28, 2008 edition of the Topeka Metro Newspaper.)

POLICY ISSUE:

Cities are authorized by K.S.A.79-2929a to amend budgets to spend money not in the original budget. The additional expenditures cannot be financed by additional tax levy. The policy question is whether to set a public hearing and consider amending the 2008 budget to increase expenditures from the Parks and Recreation Fund.

STAFF RECOMMENDATION:

Schedule the public hearing.

BACKGROUND:

The amendment would provide adequate budget authority to accommodate additional expenses for the cleanup of the December 2007 ice storm. The Parks and Recreation Fund was reimbursed 75 percent of the costs by FEMA and 10 percent by the State of Kansas for these expenditures. The amendment ensures that expenditures for the ice storm will not cause the Fund to exceed its expenditure limit.

The amendment would also provide authority for unbudgeted transfers to capital projects funds. The first would be for \$2,643,140 from the Half-Cent Sales Tax Fund for the SW 21st Street and Urish Road projects (70198 Phases I, II, and III). The second would provide authority for the transfer of \$5,119 from the Special Street Fund to the 21st Street and Arrowhead Intersection Project (18025-00). The project budget was amended by Ordinance 19158 on 9/9/08 to include this funding.

BUDGETARY IMPACT:

Item #16

Additional expenditures from the Parks and Recreation Fund are financed from the unbudgeted revenue from FEMA.

SOURCE OF FUNDING:

Federal fund reimbursement of City expenditures from the Parks and Recreation Fund.

ATTACHMENTS:

[Public Hearing Notice](#)

NOTICE OF BUDGET HEARING AMENDING THE 2008 BUDGET

The governing body of the CITY OF TOPEKA, KANSAS will meet on the 9th day of December, 2008 at 6:00 pm,
at the CITY COUNCIL CHAMBERS at 214 E. Eighth Street, for the purpose of hearing and answering
objections of taxpayers relating to the proposed amended use of funds.

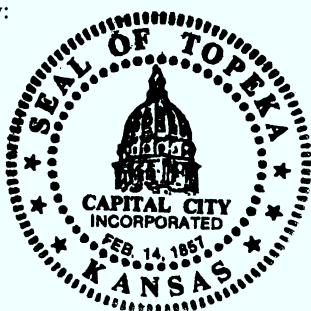
Detailed budget information is available at OFFICE OF THE CITY MANAGER, CITY HALL and will be available at this hearing.

BUDGET SUMMARY

The amendments would increase the expenditure limit for the Parks and Recreation Fund and authorize transfers from the Half-Cent.
Sales Tax Fund and Special Street Fund to Capital Projects Funds.

Fund	Adopted Budget 2008			Proposed Amendment 2008
	Actual Tax Rate	Amount of Ad Valorem Tax	Expenditures	Expenditures
Parks and Recreation	5.388	\$ 5,601,167	\$ 8,824,012	\$ 9,120,384

By Order of the governing Body:



Brenda Younger

City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 10, 2008

+ Back Print

DATE: November 25, 2008
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 November 3, 2008, through November 9, 2008, 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 November 3, 2008, through November 9, 2008, in the amount of \$7,928,728.24.

SOURCE OF FUNDING:

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

ATTACHMENTS:

[Weekly Expenditures](#)

(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 November 3, 2008, through November 9, 2008, 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 1477 vendor checks written in this period	\$5,238,759.23
	Total vendor checks voided in this period (net)	(000.00)
	Total electronic transfers to vendors in this period	180,655.02
	Total net payroll to employees this period	1,601,089.94
	Total payroll related electronic transfers this period	<u>908,224.05</u>
	Total for expenditures in this period	<u>\$7,928,728.24</u>

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

PASSED and APPROVED by the City Council _____.

ATTEST:

William W. Bunten, Mayor

Brenda Younger, City Clerk



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 12, 2008

+ Back Print

DATE:	November 25, 2008		
CONTACT PERSON:	David Thurbon/Bill Fiander	DOCUMENT #:	HL08/03
SECOND PARTY/SUBJECT:	Twin Oaks Holding Company #2	PROJECT #:	
CATEGORY/SUBCATEGORY	014 Ordinances – Non-Codified / 007 Zoning		
CIP PROJECT:	No		
ACTION OF COUNCIL:	11/18/08 First Reading.	JOURNAL #:	08
		PAGE #:	

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., designating real property more specifically described herein as an historic landmark and presently zoned “C-5” Commercial District and located at 123 SE 6th Avenue in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4. **Final Reading.** (HL08/03) (Council District No. 1)

(Approval would add historic landmark overlay zoning to the property located at 123 SE 6th Avenue.)

POLICY ISSUE:

Approval of the request will reinforce the goals and objectives of the Downtown Topeka Revitalization Plan, and the Topeka-Shawnee County Historic Preservation Plan.

STAFF RECOMMENDATION:

The Planning Commission recommended this proposal be **APPROVED** by a vote of 7-0-0 at their October 20, 2008 meeting as referenced in the attached minutes. The Topeka Landmarks Commission considered this request on July 10, 2008, and recommended that it be **APPROVED** by a vote of 8-0-0. Planning Department staff recommended that this request be **APPROVED**.

BACKGROUND:

See attached 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 vote (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 #18

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Staff Report](#)

[Aerial Photo](#)

[Photo](#)

[Application](#)

[Historical Information](#)

[Historical Information](#)

[Ordinance](#)

[PC Minutes](#)

July 21, 2008
Agenda Item G.2

Presented to the Topeka Landmarks Commission: July 10, 2008

HISTORIC LANDMARKS REPORT

TOPEKA PLANNING DEPARTMENT

CASE NO: HL08/03

by: Twin Oaks Holding Company #2

PROPOSAL: Requesting to amend the District Zoning Classification by granting the “HL” Historic Landmark Overlay District to property currently zoned “C-5” Commercial District and located at 123 SE 6th Street in the City of Topeka, Kansas.

HISTORICAL SIGNIFICANCE: 123 SE 6th Street dates to 1917 and was built as the home of the Dibble Grocery Store. The Dibble Grocery business was founded in 1885 by Daniel W. Dibble, and did business in a variety of locations prior to the move to 123 SE 6th Street. D. W. Dibble died in 1912 and passed the business on to his two sons, who opened up the store’s new home at this location. The new grocery store provided them an expanded storeroom, offices, full basement for an expanded inventory, and a soda fountain. By 1926, the Dibble Grocery business was the largest non-department store retailer in Topeka. The business continued in this location until 1951, when they relocated into other Topeka locations. Since this time, the building has been home to several local businesses and offices.

The lower façade facing SE 6th Street was replaced at some point after the closure of the Dibble Grocery store in this location. However, the current owner is actively engaged in a wholesale remodeling of the building. The lower façade has been replaced to a more traditional appearance, and the interior has been converted from retail uses to office space. The structure was built primarily of brick and stone, and is typical of early 20th Century commercial storefront architecture.

STAFF SUMMARY: The applicant seeks authorization to designate the property located at 123 SE 6th Street as a local historic landmark. Local landmark designation is strictly voluntary and requires the recipient to maintain their property in accordance with certain historic standards and prevent them from deteriorating. This designation does not impose any restrictions or limitations on adjoining properties. Principally, landmark designation is a matter of pride to the property owner and demonstrates a commitment to historic preservation.

The applicant has sufficiently satisfied the requirements of the landmark designation process as set out by City of Topeka Ordinance No. 18420.

RECOMENDATION: The Topeka Landmarks Commission considered this proposal at their July 10, 2008 meeting. At that time, the Commission recommended **APPROVAL** of the proposal by a vote of 8-0-0.

Therefore, the Planning Staff Recommends **APPROVAL** of this proposal.

Prepared by: Tim Paris Planner II

HL08/03 by Twin Oaks Holding Co. #2 LLC





Topeka Landmarks Commission
620 SE Madison Street, 3rd Floor ~ Topeka, Kansas 66607
(785) 368-3728

**NOMINATION FOR HISTORIC LANDMARK DESIGNATION
INDIVIDUAL PROPERTY INVENTORY FORM**

I (We) hereby nominate the following described property to become designated as HISTORIC LANDMARK, as established by City of Topeka Ordinance No. 18420 on April 19, 2005.

1. Location / Address: 123 SE 6th Ave. Topeka. KS
2. Owner(s): Twin Oaks Holding Company #2
3. Address of Owner (if different): % Jim Klausman
3715 SW 29th St.
Topeka. KS 66614
4. Telephone number for Owner: 785-272-1535 785-272-7693
Daytime Evening
5. Real Estate Tax Identification Number: 1093104002001000
6. a. Approximate date of (original) construction: 1917
b. Approximate date(s) of major alterations, if known: 2008
7. Builder and/or architect, if known: Original - Unknown Alteration - Schwerdt
Design
8. Architectural Style: Downtown Row Type
9. Primary building materials: Brick/Wood
10. Comments: Legal Desc: Sixth Ave East Lots 117-119

Topeka Landmarks Commission
620 SE Madison Street, 3rd Floor ~ Topeka, Kansas 66607
(785) 368-3728

11. In the designation of buildings, structures and objects as historic landmarks, certain criteria must be met. The property normally must be 50 or more years old. In addition, the historic resources must meet one or more of the following criteria.

Please indicate the category under which you are submitting this property for designation.
(Check all that apply.)

A. Property is fifty (50) years old or older, and meets one or more of the following criteria:

- ☐ a. Property is associated with events that have made a significant contribution to the broad pattern of history of the city, county, state, or nation.
- ☒ b. Property is associated with a significant person or group of persons in the history of the city, county, state, or nation.
- ☒ c. Embodies distinctive characteristics of a type, period or method of construction; represents the work of a master builder/architect; possesses high artistic values; or represents a distinguishable entity whose components may lack individual distinction.
- ☐ d. Yields or is likely to yield information important in prehistory or history.
- ☒ e. Possesses integrity of location, design setting, materials and workmanship.

B. Properties less than fifty (50) years old may be eligible provided that they are of extreme historical significance. All other criteria listed above also apply.

☐ If your nomination is based upon this provision, please check at left and attach supporting information.

12. Attach to this nomination inventory form the following supportive documents:

- A. Copy of the last deed filed for record in the office of the Register of Deeds of Shawnee County, Kansas.
- B. Photographs, at least one each of the front, rear, and each side.
- C. Additional information to describe historical significance (optional).

Topeka Landmarks Commission
620 SE Madison Street, 3rd Floor ~ Topeka, Kansas 66607
(785) 368-3728

DECLARATION

I (We), the owner(s) of the property described herein request that the Topeka Landmarks Commission designate the above described property to be a parcel within a historic district as established by ordinance.

OWNER

Signature:

Print Name:

Date:

Jim Klausman
Jim Klausman
5/29/08

OWNER

Signature: _____

Print Name: _____

Date: _____

RETURN THIS FORM AND REQUESTED SUPPORTIVE DOCUMENTATION TO:

Topeka Planning Department
Landmarks Commission
620 SE Madison Street, 3rd Floor
Topeka, KS 66607-1118

QUESTIONS? Call: (785) 368-3728 Fax: (785) 368-2535

The Dibble Building: A Historical Look into a Downtown Topeka Structure

For 91 years the building at the corner of East 6th & Quincy Avenue in downtown Topeka has played a part in the growth of the city and been home to two of the most well-known local businesses of their respective times. From horse and buggy deliveries through the urban renewal of the 1960s and the recent redevelopment of downtown Topeka, the building has continued to share in the history of the city as the years have gone on. To better understand the building's place in Topeka, one would have to know the history and influence of the original owners, the Dibble family.

In 1885, Daniel W. Dibble came to Topeka from Ottawa and started a business wholesaling groceries. By 1887, Dibble had opened a grocery store in a room at 1110 North Kansas Avenue. Within 10 years, he moved his growing business to a larger storeroom at 804 North Kansas. His business would remain there until 1903, when the great Topeka floods not only washed out his store and caused the floor to collapse, but also ruined most of his merchandise, causing over \$5000 in damages. Cleanup efforts were made difficult by the smell of rotting food. Through the flooding, Dibble employees swam several teams of delivery horses from their stables in North Topeka to the safety of the south river shore.

Believing that the store had been located on the wrong side of the river, Dibble immediately moved his business to 117 E. 6th Street on the south side of Topeka. As his new location prospered, he took on his two sons, D. Maynard Dibble and E.C. Dibble who had grown up around the business and were already well trained for the industry.

With the success of the new location, Dibble decided to once again open a store in North Topeka. The 909 North Kansas Avenue location would not only prove to be successful, but stay in business for over 30 years.

In 1912, D.W. Dibble passed away, leaving the Dibble Grocery stores in the hands of his two sons. Though new owners were running the business, D.W.'s philosophies were still the backbone of the Dibble business model. Not only did the customers come first, but Dibble also made sure that Topeka artisans, manufacturers and wholesalers had preference over any companies from outside of the city when ordering goods or services. With business flourishing and the boys looking to expand, plans began for a new building that could hold much more inventory and product lines than the current store space at 117 E. 6th. The Dibbles needed a central location large enough to not only be their main retail store, but also host the business offices for the ever-expanding company. In 1917, Dibble Grocery introduced their brand new location at 121-123 E. 6th St. The building, built on the corner of 6th and Quincy, would be aptly named The Dibble Building.

The new building was a two-story mason and wood structure featuring over 6,500 square feet of space per floor. In addition, a full basement also existed to help with the flow of products and inventory. Dibble Grocery was a pioneer in the Topeka area for using modern electronics and machinery in their buildings and the 6th & Quincy location gave them ample space to incorporate the latest technology. An outside elevator was installed along Quincy Street that would allow for goods to be taken from the basement to the street level in large quantity. This made loading delivery carts and trucks much easier, as well as simplified the process of receiving goods from wholesalers. A phone operator worked in front of a 30-line switchboard that allowed each department to take orders without causing any customers to wait. The space of the main floor allowed for food shows and multiple displays that showcased new products to customers.

With the new location and added space, the Dibbles broadened their services from just groceries to meats, drugs and soda fountains. They also expanded their business into other diverse industries such as restaurants and coffee shops, offering their own Topeka Cup coffee. By 1926, Dibble Grocery was the largest non-department store retailer in Topeka with an annual income of over \$1,000,000 and a fleet of 16 trucks delivering daily.

The downtown store was the steady constant for the business while other Dibble Grocery stores and ventures expanded around Topeka. In 1927, the Dibbles built Elmhurst Plaza, the first Topeka multi-tenant shopping center under one roof. This would be the home for their third grocery store as well as drugstore, soda fountain, and rented shop space for other businesses.

Dibble Grocery would continue to occupy the corner of 6th & Quincy for the next 33 years, being the staple grocer for downtown Topeka. Around 1951, Dibble Grocery would leave the building, but the Dibble family, now headed by D.W. Dibble's grandsons John & Stephen Dibble, would continue to own the building and lease it out to different businesses who wanted to operate in downtown Topeka. Over the next 25 years, businesses such as Cattlemen's Foundation Corporation, Capital Abstract & Title Company, Farmer Stockman's International Life Insurance, and St. Paul Title of Kansas would call 6th & Quincy home. In the 1970s, Legal Aid Society of Topeka and the Public Defender of Shawnee County would both move into offices in the building. During the time after they moved from 6th & Quincy, Dibble Grocery had seen their stores expand to new developments around the city of Topeka. In the 50s they helped see to the creation of Holliday Square at the corner of 29th & Topeka Boulevard. This new shopping center was anchored by a new Dibble Grocery store on the north end. In the early 60s Dibble Grocery opened another location in a new Topeka neighborhood, 21st Street's Fairlawn Plaza. The plaza was a new addition to the growing west side of Topeka. In fact, the area was so new that Fairlawn Road was not yet paved at this time.

It was during this period when Downtown Topeka underwent massive changes. In the early 60s, the Topeka Urban Renewal Project swept through downtown, clearing out much of the slums as well as many of the old buildings that had historic significance to Topeka's downtown timeline. One area that was targeted for this project was the north side of 6th & Quincy. Soon the old structures that housed Offen's Hardware and Sears & Roebuck were razed to make way for what would later become Townsite Office Plaza, which would be the future home of the Topeka Chamber of Commerce and Payless Shoes headquarters.

As the years went on, outside grocers and retailers would enter Topeka to challenge Dibble Grocery's multiple stores for revenue. As the owners grew older and the competition increased, the Dibbles began to restructure their business and sell some of their many assets around the city. Elmhurst Plaza was sold to developers in 1975 and torn down the following year to make way for a new Dillon's store. Though not named traditionally after the family, John Dibble would open the 26,000 square foot Save More Foods on Topeka Boulevard in 1976. In 1978, John & Stephen Dibble sold the building at 6th & Quincy, the namesake building that their grandfather had built over 60 years earlier, to Topeka businessman Damon Hupp.

Hupp had already been a Topeka business mainstay for over 30 years when he purchased the building from the Dibbles. After serving in World War II, Hupp returned to Topeka and started Capital City Blueprint in 1945. Much like the origin of the Dibble Grocery stores, Capital City Blueprint first started on Kansas Avenue and over the years would find itself on both the north and south side of the river. Over the years, Capital City Blueprint would start to branch out in other areas, such as offering office supplies and furniture. In 1978, Damon Hupp was looking for a building that would be able to accommodate the printing portion of his business. After purchasing The Dibble Building, Hupp renamed the building 6Q and moved his printing operation in under the new name, Copy Center of Topeka.

When Hupp purchased 6Q, he knew that there needed to be some modifications made to the layout and updates done to the building. New electrical, plumbing, heating and air-conditioning systems were installed in 1979. The second floor was remodeled as well and offices continued to be rented out to the Public Defenders Office. Copy Center was set up with the printing equipment covering both the basement and half of the first floor along with the offices. A darkroom and development center was also installed in the basement. As 6Q underwent its changes and updates, other buildings nearby would once again fall to make way for urban progress. Just four doors down 113 E. 6th and its connecting buildings were razed to bring in a new parking lot in 1978. The buildings directly south of The Dibble Building on Quincy Street were also torn down to make way for a modern parking garage.

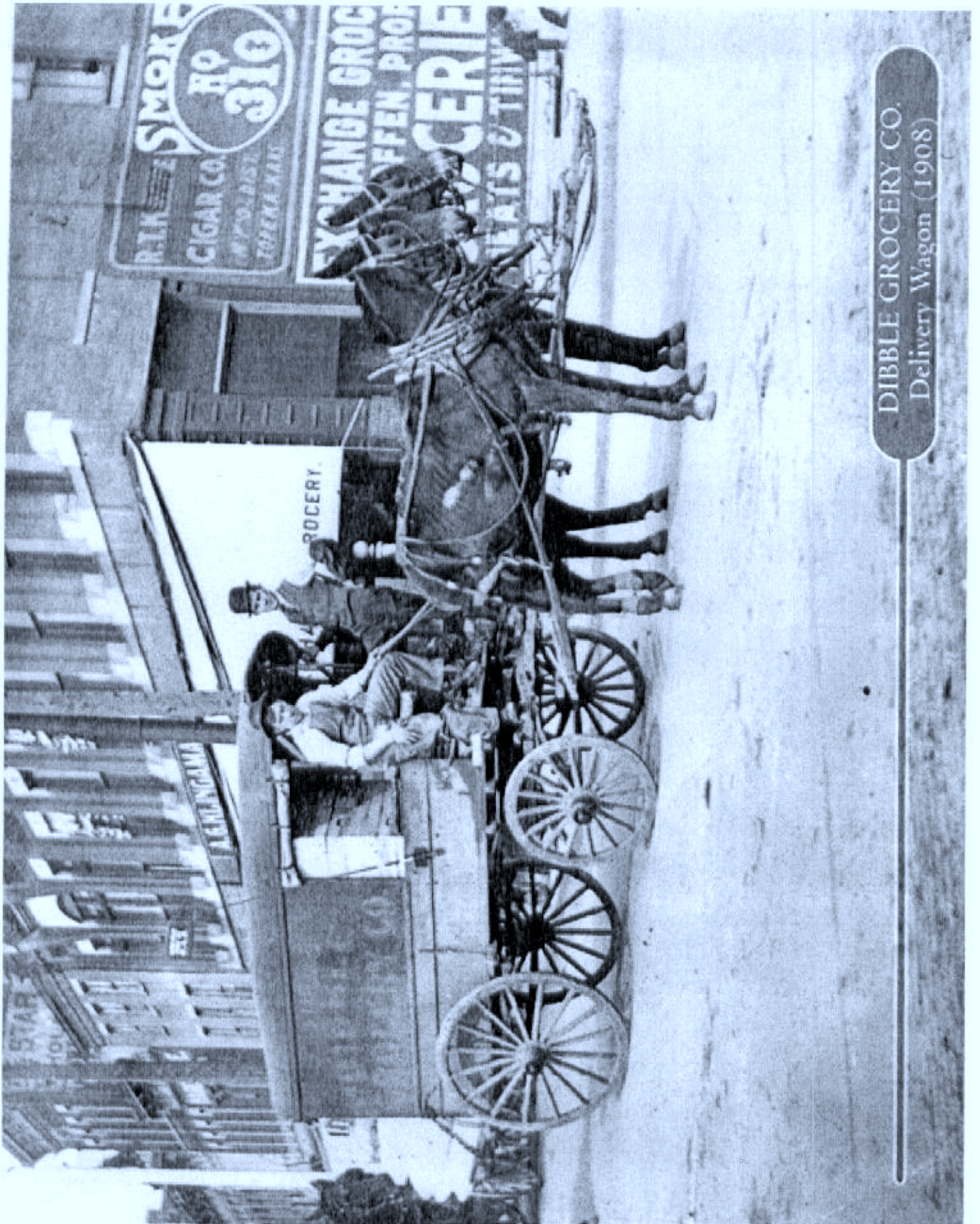
While 6Q and its surroundings continued to change, Dibble Grocery was nearing the end of its long successful run. In November of 1985, John Dibble sold the final three Dibble Grocery stores to a pair of brothers who were looking to break into a larger market area. John

Dibble would keep ownership of the largest store, Save More Foods, until he finally retired in 1987.

When the Dibbles opened their first store in 1887, the amount of grocery stores in the area made it one of the hardest industries in which to succeed. Only 5% of all grocery stores lasted for 10 years, while Dibble Grocery would be around to see 100. They were never afraid to try new ideas and were always ahead of the pack when it came to implementing the most modern equipment and practices. Their code to always put Topeka customers and businesses first led them through a century of success.

As the Dibbles slowly began to downsize and pass the torch on to new grocery chains, Copy Center had become the staple business of 6th & Quincy. The 2nd floor continued to be leased to the Public Defender's Office, as well as other tenants who would pass through. Random upgrades were made as needed, including ADA upgrades to the elevators in 1995. In 2000, Damon Hupp sold the building to another long-time Topeka business, Midwest Health Management. Though the building was in different hands, Copy Center would remain 6Q's major tenant until 2004, when they would move to a different facility and combine with Capital Label and Capital City Graphics. Other tenants would lease the 2nd floor offices, but finally in 2006 the final tenant, Caregivers Home Health, would leave 6Q.

Without any lease commitments, plans for renovation on the building began. A new roof was installed in 2007. In 2008, the demolition to the interior of the building began. Plans were made to update the building as much as possible while also incorporating some of the main historical features that adorned the building when the Dibble family first built it 91 years before. After tearing out the false ceilings, the original tin ceiling tiles were found and salvaged to be used again. Rosettes that once adorned the facade of all the 6th street buildings, but had long been removed when an awning was installed on 6Q, were custom ordered to bring back the historic appeal. The entrance foyer had the sheetrock knocked down to expose the original stone wall. Demolition continued on the second floor, clearing the entire layout for new offices to be built. New windows were added to the front to bring in modern standards, but had the glass frosted at the bottom to simulate storefront windows of the past. With a blessing for the Dibble family, the 6Q building will also be renamed to its original title, The Dibble Building, in honor of the historical significance of that family and building to the city of Topeka.



DIBBLE GROCERY CO.
Delivery Wagon (1908)

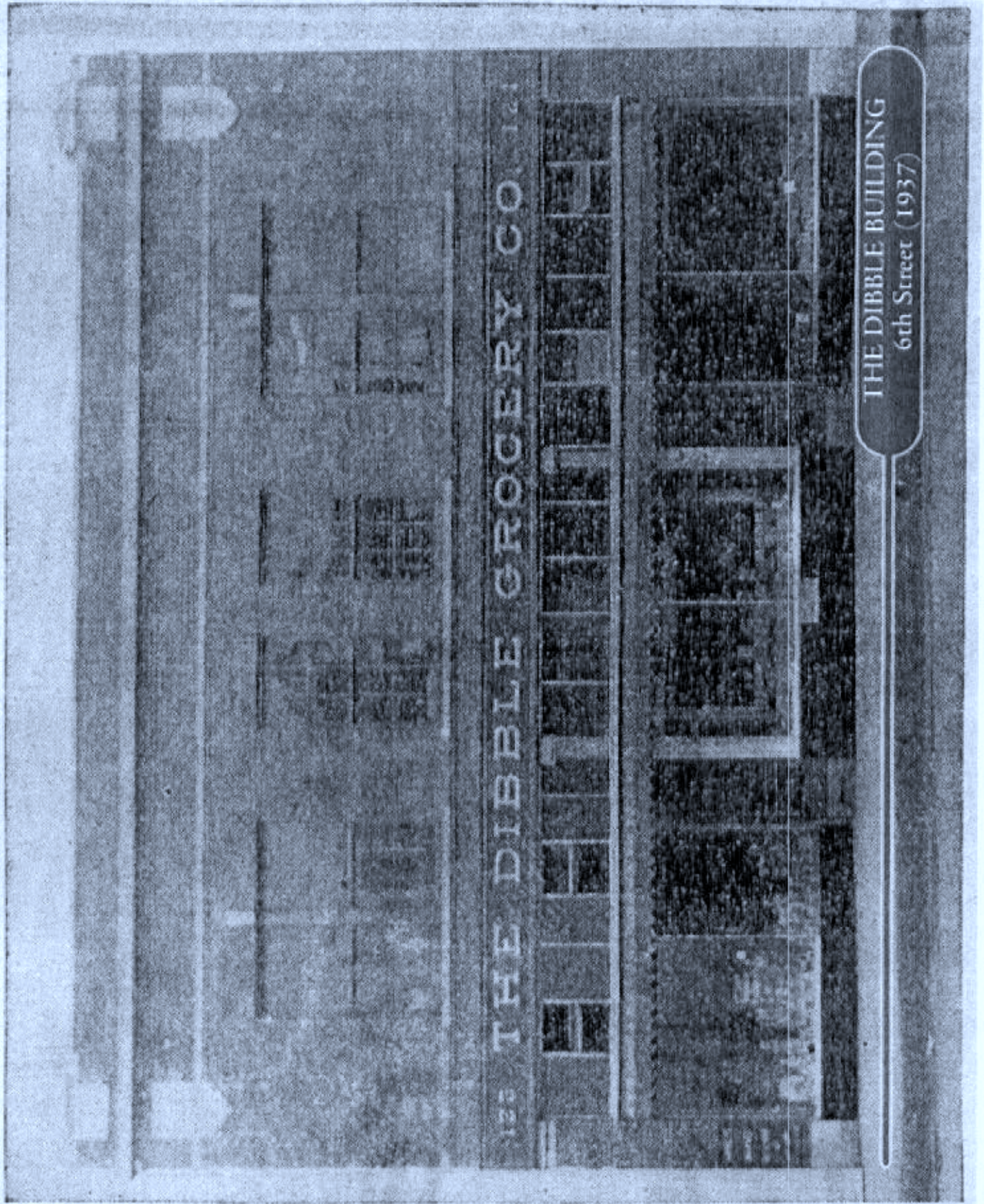


THE DIBBLE BUILDING
Interior (1925)

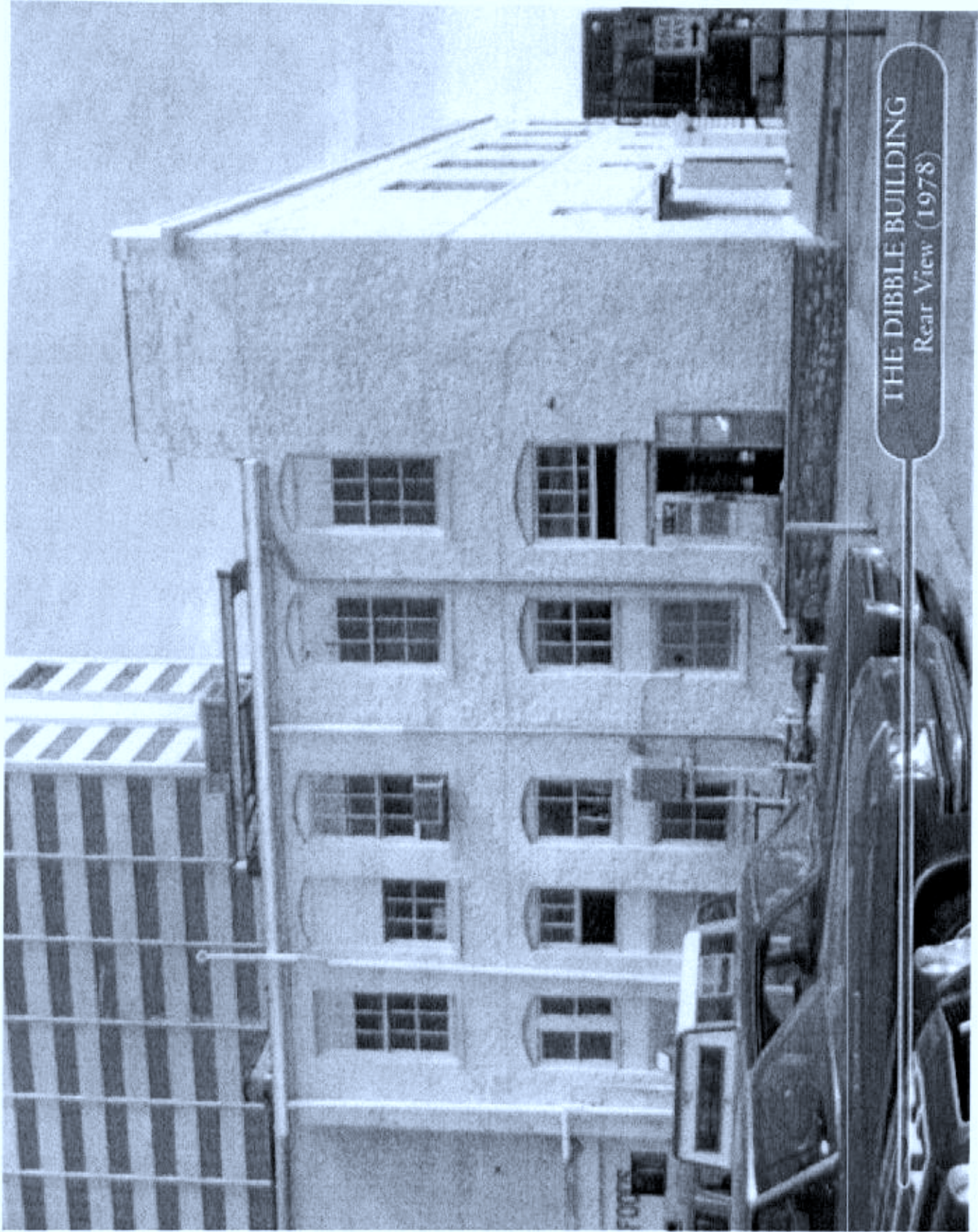


THE DIBBLE BUILDING
Interior (1925)

Dibble's Sixth Avenue Store



THE DIBBLE BUILDING
6th Street (1937)





THE DIBBLE BUILDING
6th Street (1978)

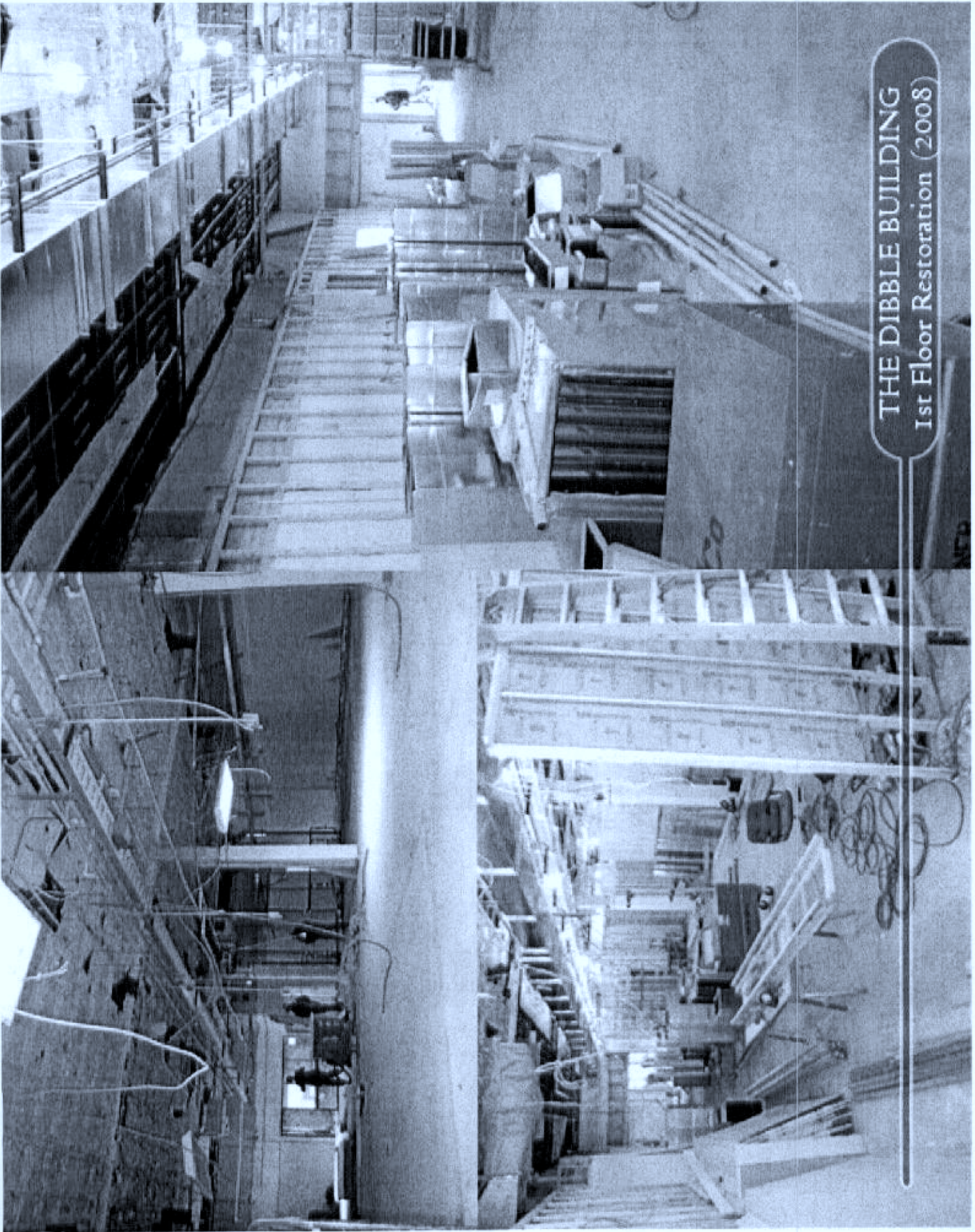


THE DIBBLE BUILDING
Quincy Side (1978)





THE DIBBLE BUILDING
1st Floor Restoration (2008)





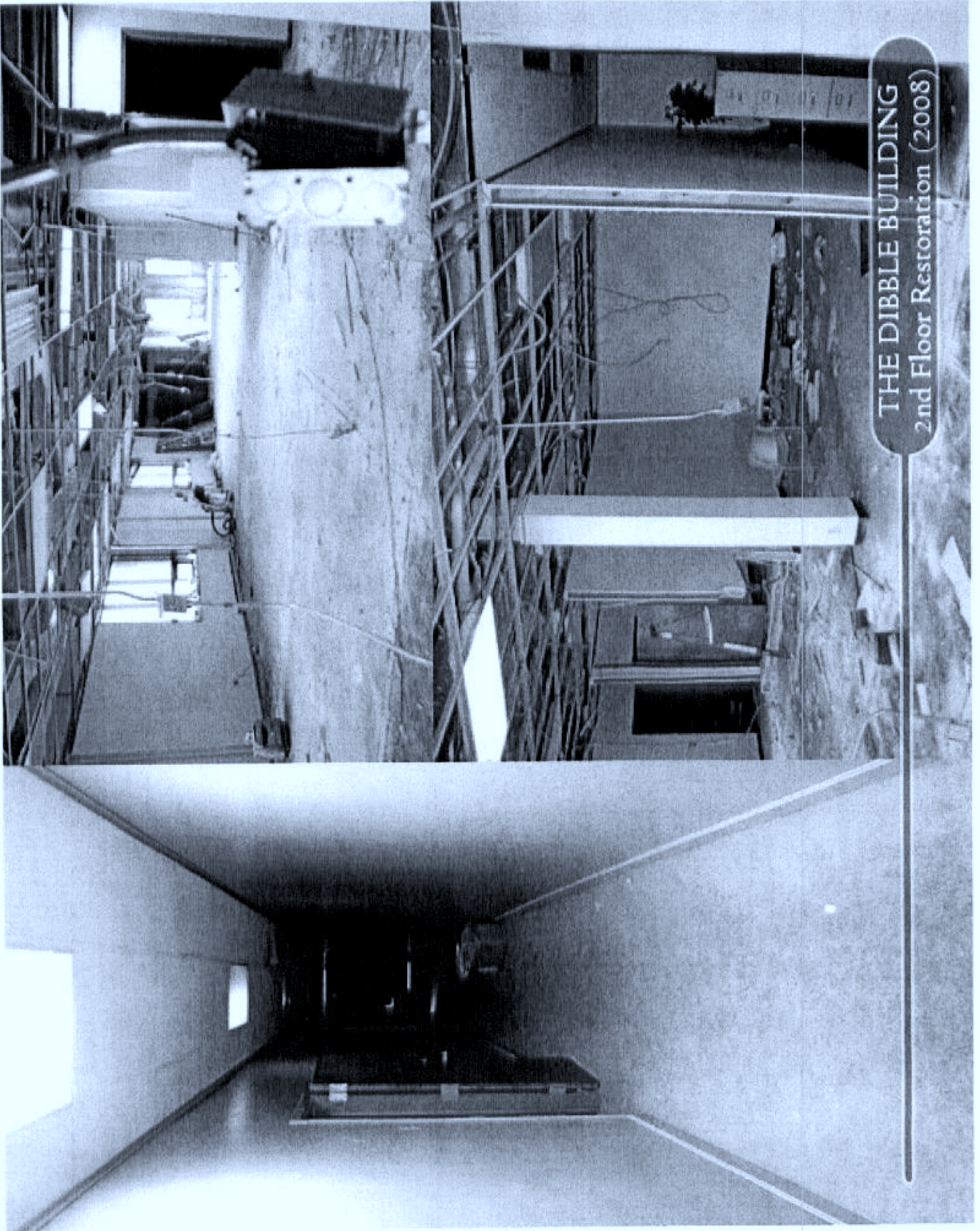
THE DIBBLE BUILDING
Foyer Restoration (2008)



THE DIBBLE BUILDING
Quincy Street Side View (2008)



THE DIBBLE BUILDING
Rear View from Alley (2008)



THE DIBBLE BUILDING
2nd Floor Restoration (2008)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr. designating real property more specifically described herein as a historic landmark and presently zoned "C-5" Commercial District and located at 123 SE 6th Street (The Dibble Building) in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4. **(HL08/3)**
(Council District No. 1)

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 designating the "HL" Historic Landmark Overlay zoning to property zoned "C-5" Commercial District and described as follows:

Lots 117 and 119 on Sixth Avenue East, in the City of Topeka, Shawnee County, Kansas.

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

Section 3. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

Section 4. This Ordinance shall be recorded with the Shawnee County Register of Deeds Office.

PASSED AND APPROVED by the Council of the City of Topeka, _____,
2008.

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified _____

Not To Be Codified X

DRAFT

**Minutes of the
Topeka Planning Commission
October 20, 2008**

HL08/3 by Twin Oaks Holding Company, No. 2, L.L.C. requesting Historic Landmark zoning overlay for property currently zoned "C-5" Commercial District and located at 123 SE 6th Street. **(Paris)** Tim Paris summarized the staff report.

Proponents:

Michael Meade, Midwest Health Management on behalf of Twin Oaks, was available for questions.

Mark Boyd asked if this property is within the revitalization area? Mr. Paris replied yes. He said it is a 15 year rebate since there is a 100% in increase in value. Mr. Boyd asked how the Landmark designation works into a redevelopment effort. What kind of restrictions will go with the designation? Mr. Paris replied if the property had a large scale renovation or had major damage the changes from the original would have to go through the Planning Commission or request to remove the overlay has to come through this body. Mr. Boyd said it would subsequently go to the council. Mr. Paris replied yes.

John Federico complimented the owners and their investment in the renovation. The building is in good proximity to Chamber of Commerce and is great for Topeka.

Exparte communication - none

No one spoke in opposition to the proposal. Richard Beardmore moved approval as written by staff, seconded by John Federico. **APPROVAL. (7-0-0)**



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 12, 2008

+ Back Print

DATE:	November 25, 2008		
CONTACT PERSON:	David Thurbon/Bill Fiander	DOCUMENT #:	PUD04/6A
SECOND PARTY/SUBJECT:	Blue Cross and Blue Shield of Kansas and Kansas Medical Mutual Insurance Co.	PROJECT #:	N/A
CATEGORY/SUBCATEGORY	014 Ordinances – Non-Codified / 007 Zoning		
CIP PROJECT:	No		
ACTION OF COUNCIL:	11/18/08 First Reading.	JOURNAL #:	08
		PAGE #:	

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the Master PUD Plan of Blue Cross and Blue Shield by removing 1034 SW Polk Street (Lots 350, 352, and 354 only), adding 600 SW 11th Street an adjacent vacated alley to the PUD plan. **Final Reading.** (PUD04/6A) (Council District No. 1)

(Approval would allow Blue Cross and Blue Shield to relocate 59 parking spaces from their existing parking lot at 1034 SW Polk Street to 600 SW 11th Street.)

POLICY ISSUE:

The request is consistent with the land use policies and principles of the Historic Holliday Park Neighborhood Plan.

STAFF RECOMMENDATION:

The Planning Commission recommended the request be **APPROVED** by a vote of **6-0-0** at their October 20, 2008 meeting as referenced in the 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 to the Planning Commission with a two-thirds majority 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:

Item #19

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Ordinance](#)

[staff report](#)

[aerial photo](#)

[color zoning map](#)

[PUD Plan Pg. 1](#)

[PUD Plan Pg. 2](#)

[PUD Plan Pg. 3](#)

[application](#)

[PC Minutes](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the Master PUD Plan of Blue Cross and Blue Shield by removing 1034 SW Polk Street (Lots 350, 352 and 354 only), adding 600 SW 11th Street and adjacent alley to the plan. **(PUD04/6A)**
(Council District No. 1)

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

Section 1. That the Master PUD Plan of Blue Cross and Blue Shield, is hereby amended in accordance with Section 48-24.06(b) of the Comprehensive Zoning Regulations by removing 1034 SW Polk Street (Lots 350, 352 and 354), adding 600 SW 11th Street and the adjacent alley to the plan. On property described as follows:

ON POLK STREET, ODD NUMBERED LOTS 349 THROUGH 377, THE WEST 45 FEET OF LOT 389, LOT 391 EXCEPT THE EAST 105 FEET OF THE NORTH 8 1/3 FEET, LOT 393 AND 395, ODD NUMBERED LOTS 417 THROUGH 431, EVEN NUMBERED LOTS 350 356 THROUGH 362, THE NORTH HALF OF LOT 364, EVEN NUMBERED LOTS 368 THROUGH 424, ALL OF THE ALLEY, NOW VACATED, LYING BETWEEN 11TH STREET AND HUNTOON STREET AND BETWEEN POLK STREET AND TYLER STREET EXCEPT FOR THE WEST HALF OF SAID ALLEY LYING ADJACENT TO THE SOUTH HALF OF LOT 364 AND LOT 366; ON TYLER STREET, ODD NUMBERED LOTS 361 355 THROUGH 419, THE ALLEY LYING ADJACENT TO LOTS 355, 357 AND 359, TYLER STREET AND ALL OF TYLER STREET, NOW VACATED, LYING BETWEEN 11TH STREET AND 12TH STREET, EVENED NUMBERED LOTS 338 THROUGH 400, THE NORTH 10 FEET OF LOT 402, ALL OF THE ALLEY, NOW VACATED, LYING BETWEEN TYLER STREET AND TOPEKA BOULEVARD AND BETWEEN 11TH STREET AND 12TH STREET, EXCEPT THE EAST HALF OF SAID ALLEY LYING ADJACENT TO LOTS 367, 369 AND 371 ON TOPEKA BLVD; ON TOPEKA BOULEVARD, THE WEST 46 ½ FEET OF LOTS 361, 363 AND 365, ALL EVEN NUMBERED LOTS 373 THROUGH 395, ALL IN ORIGINAL TOWN; ON TYLER STREET, ODD NUMBERED LOTS 433 THROUGH 439 AND THE NORTH HALF OF LOT 441, ALL IN GOULDS ADDITION; ON TYLER STREET, EVEN NUMBERED LOTS 434 THROUGH 448 TOGETHER WITH THE WEST 5 FEET OF THE ALLEY, NOW VACATED, LAYING ADJACENT TO SAID LOTS, ALL IN JOEL HUNTOONS ADDITION; BEING IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS.

Section 2. That the development of the site by removing 1034 SW Polk Street (Lots 350, 352 and 354 only), adding 600 SW 11th Street and adjacent alley to the plan and shall be in accordance with the Master PUD Plan of Blue Cross and Blue Shield and **subject to:**

- 1. Use and compliance of the site in accordance with the recorded Master Planned Unit Development Plan of Blue Cross and Blue Shield Revision No. 1.**

Section 3. That the amended Master PUD Plan of Blue Cross and Blue Shield 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, _____, 2008.

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified _____

Not To Be Codified X

July 21, 2008
Agenda Items # G-4 & G-5

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z08/16

by: Kansas Medical Mutual Insurance Company and
Blue Cross & Blue Shield of Kansas

PUD04/6A

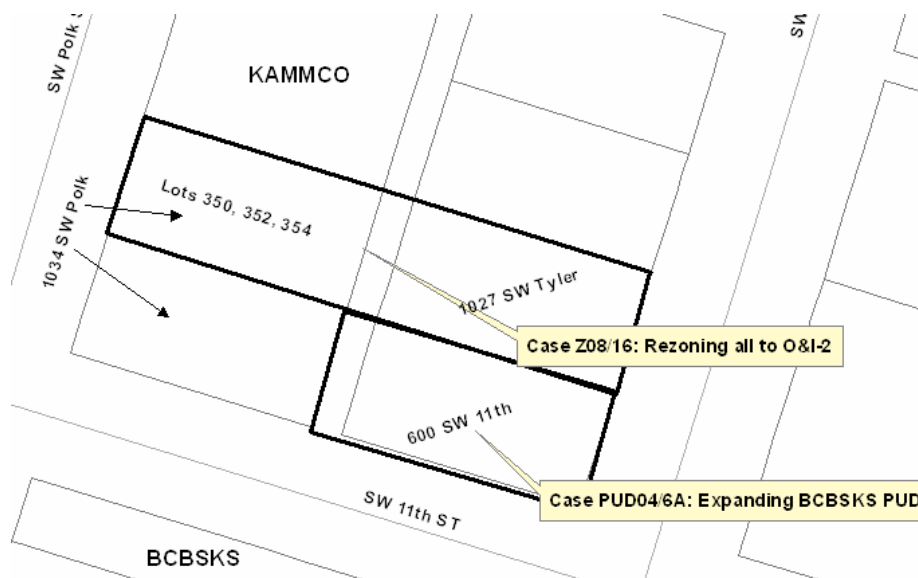
by: Blue Cross & Blue Shield of Kansas and
Kansas Medical Mutual Insurance Company

PROPOSAL: Case Z08/16 amends the zoning classification from “PUD” Planned Unit Development District and “M-3” Multiple-Family Dwelling District **ALL TO** “O&I-2” Office and Institutional District on Lots 350, 352 and 354 of 1034 SW Polk Street and all of 1027 SW Tyler Street to allow additional parking for the Kansas Medical Mutual Insurance Company (KAMMCO).

Case PUD04/6A amends the Master Planned Unit Development Plan for Blue Cross & Blue Shield of Kansas (BCBSKS) to remove Lots 350, 352, and 354 of 1034 SW Polk from the PUD and add the entire property at 600 SW 11th to the PUD in order to relocate the existing BCBSKS parking lot.

PARCEL ID NUMBERS: 1093103014009000, 1093103014008000, and 1093103014007000

LOCATION:



PRESENT USES: 1034 SW Polk Street contains a parking lot associated with Blue Cross and Blue Shield offices; 1027 SW Tyler Street and 600 SW 11th Street are vacant

PROPOSED USE: Lots 350, 352, and 354 of 1034 SW Polk Street and 1027 SW Tyler Street will be used for parking lots associated with the KAMMCO's offices. The existing BCBSKS parking on Lots 350, 352, and 354 will be moved to 600 SW Tyler. BCBSKS will not be adding any additional parking

July 21, 2008
Agenda Items # G-4 & G-5

spaces, but only relocating 58 of their existing parking spaces. The relocation of parking lots between BCBSKS and KAMMCO will allow for a better arrangement of parking between the two entities by enabling each office to have their parking directly adjacent with their buildings.

CHARACTER OF NEIGHBORHOOD: The surrounding neighborhood is comprised entirely of office uses with associated parking. Commercial uses are located at the intersection of SW Topeka and SW 10th.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	“O&I-2” Office and Institutional District	KS Medical Mutual Insurance Co. offices and future parking lot
South:	“PUD” Planned Unit Development (O&I uses)	Blue Cross & Blue Shield offices and parking lot
East:	“PUD” Planned Unit Development (O&I uses)	Blue Cross & Blue Shield parking lot
West:	“PUD” Planned Unit Development (O&I uses)	Blue Cross & Blue Shield parking lot

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The property at 1034 SW Polk has been zoned for a parking lot since 2002. The properties at 1027 SW Tyler and 600 SW 11th have historically been zoned for multiple-family residential uses and until very recently were used for those purposes.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The subject properties are no longer suitable as zoned for multiple-family residential. This block originally contained apartment buildings and was suitably zoned as “M-3” Multiple-Family Dwelling District. However, overtime the apartment buildings have been demolished and the area has transitioned to office use.

CONFORMANCE TO COMPREHENSIVE PLAN: The subject properties are located in the Office and Professional Services Area of the Historic Holliday Park Neighborhood Plan. The proposed parking lots are in conjunction with the expansions of Kansas Medical Mutual Insurance Company and Blue Cross and Blue Shield. Therefore, the proposals are in conformance with the Comprehensive Plan.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: Reclassification of the properties should have no detrimental effect upon the surrounding area, as the area is predominantly comprised of office uses and parking. These proposals allow the block to be zoned consistently with the surrounding area and uses.

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 allow the properties to develop in manner consistent with the pattern of surrounding land uses.

July 21, 2008
Agenda Items # G-4 & G-5

Therefore, there should be no loss to public health, safety, and welfare by the reclassification of the properties.

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are already available in this area.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

Minimum Lot Area: **Compliant-** >10,000 sq. ft.

Setbacks: **Compliant-** No structures are proposed.

Platting: **Compliant-** Lots 350, 352, and 354, Polk Street, Original Town; Lots 349, 351, and 353, Tyler Street, Original Town; and Lots 355, 357, and 359, Tyler Street, Original Town

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 time of site development. As a part of this development, the applicants have applied to vacate the remainder of the alley lying between the properties. The alley has already been vacated up to the point ending at the north boundary of the subject rezoning area.

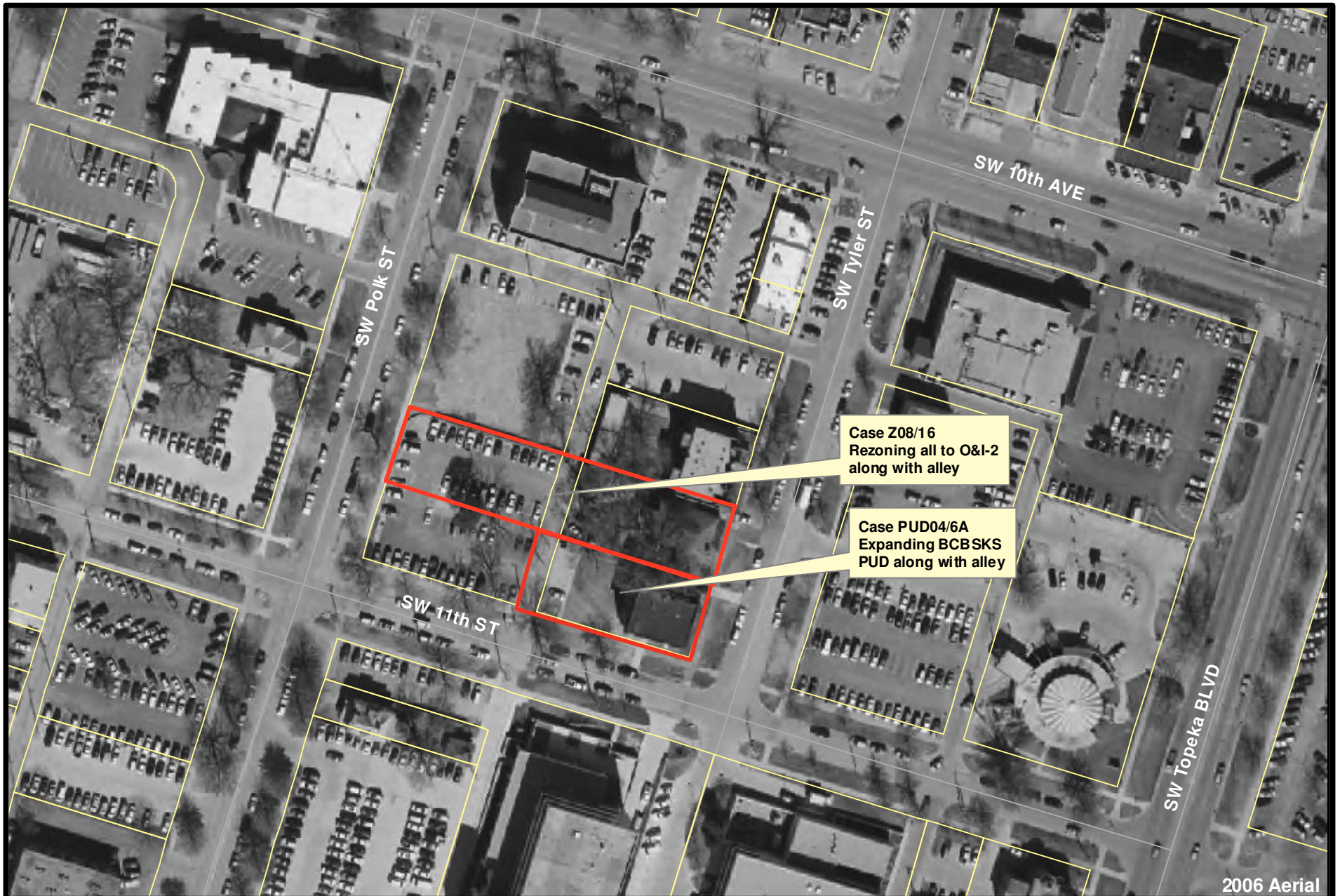
ADDITIONAL FACTORS:

1. Neighborhood Improvement Association: The property is within the Historic Holliday Park NIA and the NIA is supportive of these requests per memo received June 23, 2008.
2. Capitol Area Plaza Authority: The property is within the State zoning control area of the Capital Area Plaza Authority. CAPA has the authority to approve or disapprove the zone change after the City Council acts on the rezoning request. After City Council action, CAPA will be forwarded the zone change for their approval.
3. Historic Properties: The property is within the state historical environs of Topeka High School.

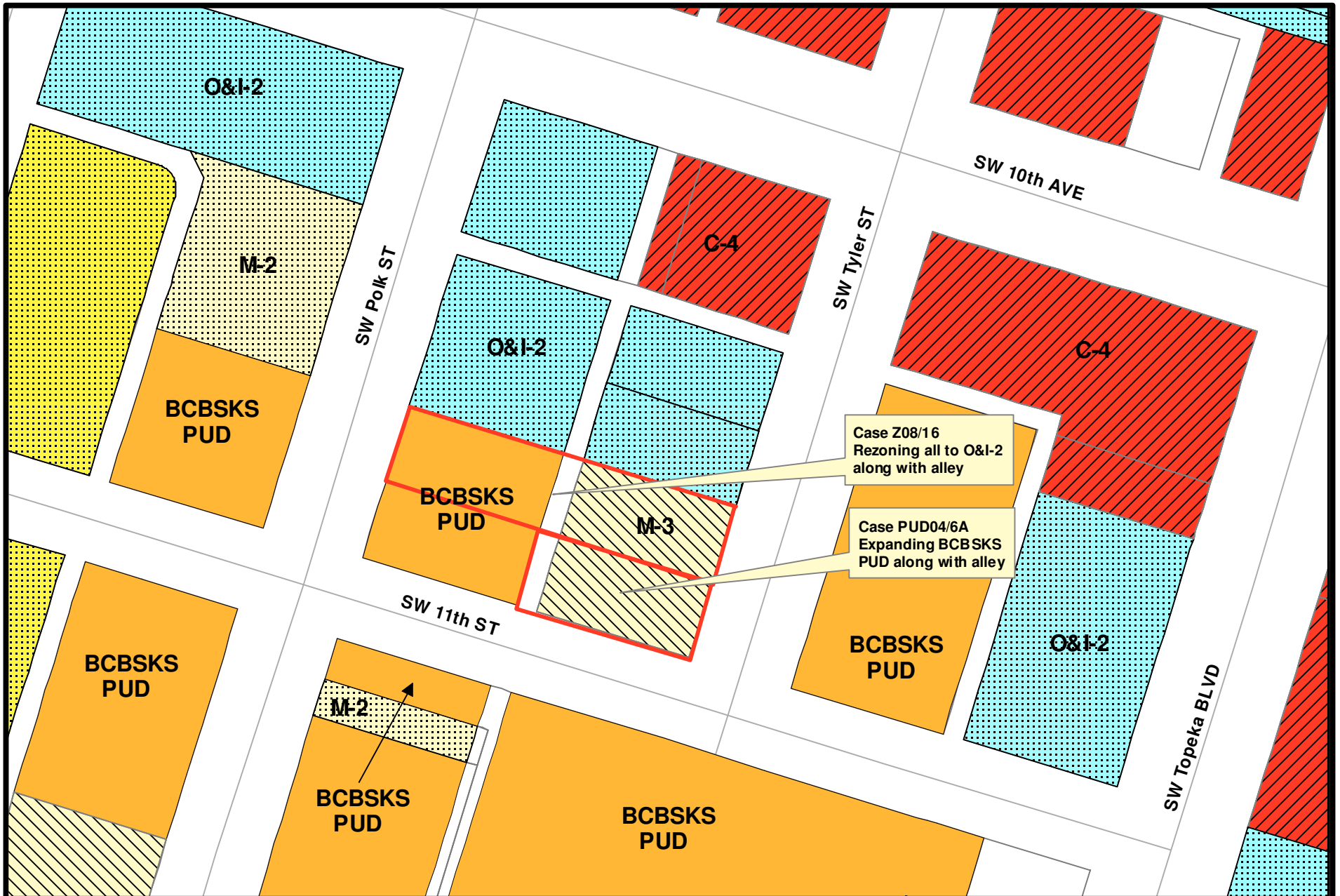
STAFF RECOMMENDATION: Based upon the above findings and analysis, the planning staff recommends **APPROVAL** of both requests. PUD04/6A is subject to:

1. Use and development of the site in accordance with the Master Planned Unit Development Plan for Blue Cross and Blue Shield of Kansas.

Prepared by:
Annie Driver, Planner I



PUD04/6A & Z08/16 by: Kansas Medical Mutual Insurance Company and Blue Cross and Blue Shield of Kansas



PUD04/6A & Z08/16 by: Kansas Medical Mutual Insurance Company and Blue Cross and Blue Shield of Kansas

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

A MAJOR AMENDMENT REVISION No. 1 BLUE CROSS AND BLUE SHIELD MASTER PLANNED UNIT DEVELOPMENT PLAN

Part of the Southwest Quarter of Section 31, Township 11 South, Range 16 East of the 6th Principal Meridian,
and part of the Northwest Quarter of Section 6, Township 12 South, Range 16 East of the 6th Principal Meridian
in Topeka, Shawnee County, Kansas.

MAJOR AMENDMENT REVISION No. 1
LEGAL DESCRIPTION :

ON POLK STREET, ODD NUMBERED LOTS 349 THROUGH 377, THE WEST 45 FEET OF LOT 389, LOT 391 EXCEPT THE EAST 105 FEET OF THE NORTH 81 FEET, LOT 393 AND 395, ODD
NUMBERED LOTS 417 THROUGH 431, EVEN NUMBERED LOTS 358-366 THROUGH 362, THE NORTH HALF OF LOT 364, EVEN NUMBERED LOTS 368 THROUGH 424, ALL OF THE ALLEY, NOW
VACATED, LYING BETWEEN 11TH STREET AND HUNTOON STREET AND BETWEEN POLK STREET AND TYLER STREET EXCEPT FOR THE WEST HALF OF SAID ALLEY LYING ADJACENT TO
THE SOUTH HALF OF LOT 364 AND LOT 366; ON TYLER STREET, ODD NUMBERED LOTS 361-365 THROUGH 419, THE ALLEY LYING ADJACENT TO LOTS 355, 357 AND 359, TYLER STREET
AND ALL OF TYLER STREET, NOW VACATED, LYING BETWEEN 11TH STREET AND 12TH STREET, EVENED NUMBERED LOTS 338 THROUGH 400, THE NORTH 10 FEET OF LOT 402, ALL OF THE
ALLEY, NOW VACATED, LYING BETWEEN TYLER STREET AND TOPEKA BOULEVARD AND BETWEEN 11TH STREET AND 12TH STREET, EXCEPT THE EAST HALF OF SAID ALLEY LYING
ADJACENT TO LOTS 367, 369 AND 371 ON TOPEKA BLVD.; ON TOPEKA BOULEVARD, THE WEST 48 1/2 FEET OF LOTS 361, 363 AND 365, ALL EVEN NUMBERED LOTS 373 THROUGH 395, ALL IN
ORIGINAL TOWN, ON TYLER STREET, ODD NUMBERED LOTS 433 THROUGH 439 AND THE NORTH HALF OF LOT 441, ALL IN GOULDS ADDITION; ON TYLER STREET, EVEN NUMBERED LOTS
434 THROUGH 448 TOGETHER WITH THE WEST 5 FEET OF THE ALLEY, NOW VACATED, LYING ADJACENT TO SAID LOTS, ALL IN JOEL HUNTOONS ADDITION; BEING IN THE CITY OF TOPEKA,
SHAWNEE COUNTY, KANSAS.

LEGAL DESCRIPTION OF PROPERTY WITHIN THE PUD:

On Polk Street, odd numbered Lots 349 through 377, the West 45 feet of Lot 389, Lot 391 except the East 105 feet of the North 81 feet of Lot 393 and 395, odd numbered Lots 417 through 431, even numbered Lots 358 through 362, the North Half of Lot 364, even numbered Lots 368 through 424, all of the alley, now vacated, lying between 11th Street and Huntoon Street and between Polk Street and Tyler Street except for the West Half of said alley lying adjacent to the South Half of Lot 364 and Lot 366; on Tyler Street, odd numbered Lots 361 through 419, all of Tyler Street except the East Half of said alley lying adjacent to the South Half of Lot 364 and Lot 366; on Tyler Street, even numbered Lots 338 through 400, the North 10 feet of Lot 402, all of the alley, now vacated, lying between Tyler Street and Topeka Boulevard and between 11th Street and 12th Street, except the East Half of said alley lying adjacent to the South Half of Lot 364 and Lot 366; on Topeka Boulevard, the West 48 1/2 feet of Lots 361, 363 and 365, all in Original Town; on Tyler Street, odd numbered Lots 433 through 439 and the North Half of Lot 441, all in Goulds Addition; on Tyler Street, even numbered Lots 434 through 448 together with the West 5 feet of the alley, now vacated, lying adjacent to said Lots, all in Joel Huntoons Addition; being in the City of Topeka, Shawnee County, Kansas.

NOTES

- Signage shall be in accordance with that allowed in the O & I-2 use group category.
- Illumination shall be confined to the subject site and is not to exceed 3 foot-candles as measured at the lot line.
- New development within the PUD boundary shall conform to the Landscape Regulations adopted by the Topeka City Council, Ordinance No. 17846, dated June 19, 2002, or the most current regulation in effect at the time of development. Any landscaping materials that die will be replaced within one growing season with a similar species of equal or greater point value to maintain minimum planting requirements as required by the landscaping regulations in perpetuity with the development.
- Pursuant to Section 48-24.05, the applicant must provide the Planning Department a Master PUD plan suitable for recording within 30 days upon approval by the governing body and record it with the Shawnee County Register of Deeds within 45 day upon approval of the governing body or the plan shall be null and void.
- The principle use associated with all surface parking lots within the property encompassed by the PUD includes all related office buildings within said property.

* FORMERLY KNOWN AS:
Kansas Hospital Service Association, Inc.;
Kansas Physicians Service, A Corporation;
Kansas Hospital Service Association, Inc. and Kansas Blue Shield;
Blue Cross of Kansas, Inc. and Blue Shield of Kansas, Inc.;
Blue Cross and Blue Shield, Inc.
* BLUE CROSS & BLUE SHIELD OF KANSAS INC.

PARKING LOT ACCESS

ENTRANCE	WIDTH
A	20'
B	25'
C	17'
D	36'
E	24'
F	25'
G	26'
H	21'
I	25'
J	16'
K	24'
L	20'
M	24'
N	17'
O	24'
P	17'
Q	20'
R	26'
S	24'
T	26'
U	24'
V	25'

NOTE: Parking Lots adjoining alleys have access by alley in addition to the access points indicated.

PARKING REQUIREMENTS

BUILDING NAME	NET AREA TOTAL - OFFICE	NET AREA TOTAL STORAGE
Building A	14,584	5,667
Building B	0	11,910
Building C	41,216	0
Building D	72,891	11,069
Building K	62,318	6,000
Building O (Prop.)	100,000	20,000
1234 Polk (Bldg. G)	10,000	3,200
1010 Tyler (Bldg. N)	4,320	1,260
PHASE 1	305,299	59,097
Building A	<14,584>	<5,667>
Building B	0	<11,910>
Customer Serv. (Prop.)	8,400	0
PHASE 2	299,115	41,520

REQUIRED PARKING BY ZONING

PHASE 1	PHASE 2
59,097 S.F. / 1,000 = 60 cars	41,520 S.F. / 1,000 = 42 cars
305,299 S.F. / 400 = 764 cars	299,115 S.F. / 400 = 748 cars
Total Parking Spaces Required: 824	Total Parking Spaces Required: 790
Total Parking Spaces Provided: 1,103	Total Parking Spaces Provided: 1,079

BOOK 40 PAGE 25

RECORDED WITH THE SHAWNEE COUNTY REGISTER OF DEEDS THIS _____ DAY OF _____, 20__.

MARILYN L. NICHOLS, REGISTER OF DEEDS

CERTIFICATION OF MASTER PLANNED UNIT DEVELOPMENT PLAN APPROVAL :
MAJOR AMENDMENT REVISION No. 1 : REMOVE FROM THE PUD THE PARKING LOT LOCATED ON LOTS 350, 352 AND 354, POLK STREET AND ADD TO THE PUD THE PROPOSED PARKING LOT LOCATED ON LOTS 355, 357 AND 359, TYLER STREET, INCLUDING THE ADJACENT ALLEY, ALL IN ORIGINAL TOWN.

DAVID F. THURBON, PLANNING DIRECTOR

BE IT REMEMBERED THAT ON THIS _____ DAY OF _____, 20__, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE CAME DAVID F. THURBON, WHO IS PERSONALLY KNOWN TO ME TO BE THE SAME PERSON WHO EXECUTED THE WITHIN INSTRUMENT OF WRITING, AND SUCH PERSON DULY ACKNOWLEDGED THE EXECUTION OF THE SAME.

IN WITNESS WHEREOF : I HEREBY SET MY HAND AND AFFIXED MY NOTARY SEAL. THE DAY AND YEAR LAST WRITTEN ABOVE.

NOTE NOTARY PUBLIC

This Planned Unit Development (PUD) Master Plan has been reviewed and approved in accordance with the provisions of Article 24 of the Comprehensive Zoning Regulations of the City of Topeka, Kansas, and may be amended only as prescribed in Section 48-24.06 of said Article and as set forth on this document or as may subsequently be approved and recorded.

AMENDMENTS

The Property Owner(s) solely may initiate amendment(s) to the approved Planned Unit Development Master Plan, and should more than one entity hold title, then all of the Owners of all such title shall be required to execute any such amendments.

VARIANCE NOTE

Pursuant to Section 48-24.07 of the Comprehensive Zoning Regulations, the Topeka Planning Commission hereby grants the following variances.

Variance to reduce the perimeter setback requirement of Section 48-24.02(b)(2)(a) for the following frontages within the subject property:

North right-of-way, SW 12th St. from SW Polk St. to S Topeka Blvd.: from 30 feet to 8 feet.
West right-of-way, SW Topeka Blvd. from SW 11th St. to SW 12th St.: from 30 feet to 20 feet.
South right-of-way, SW 11th St. from SW Polk St. to S Topeka Blvd.: from 30 feet to 20 feet.
East right-of-way, SW Polk St. from SW 11th St. to SW 12th St.: from 30 feet to 20 feet.
1227 SW Polk St.: from 30 feet to 4 feet along SW Polk St., and from 30 feet to 20 feet along SW Huntoon St. to accommodate the existing structure.
1010 SW Tyler: from 30 feet to 0 feet along the adjacent alley right of way, and from 30 feet to 20 feet along SW Tyler St.

IN TESTIMONY WHEREOF: THE OWNER(S), BLUE CROSS & BLUE SHIELD OF KANSAS INC., A KANSAS CORPORATION, BY MATTHEW D. ALL, VICE PRESIDENT AND GENERAL COUNSEL, HAS CAUSED THESE PRESENTS TO BE SIGNED

THIS _____ DAY OF _____, 20__.

MATTHEW D. ALL,
VICE PRESIDENT AND GENERAL COUNSEL,
BLUE CROSS & BLUE SHIELD OF KANSAS, INC.

STATE OF KANSAS, COUNTY OF SHAWNEE, SS:

BE IT REMEMBERED THAT ON THIS _____ DAY OF _____, 20__, BEFORE ME A NOTARY PUBLIC, IN AND FOR THE COUNTY AND STATE AFORESAID, CAME MATTHEW D. ALL, VICE PRESIDENT AND GENERAL COUNSEL, OF BLUE CROSS & BLUE SHIELD OF KANSAS, INC., WHO IS PERSONALLY KNOWN TO ME TO BE THE SAME PERSON(S) WHO EXECUTED THE WITHIN INSTRUMENT OF WRITING, AND SUCH PERSON(S) DULY ACKNOWLEDGED THE EXECUTION OF THE SAME.

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

NOTARY PUBLIC

MY COMMISSION EXPIRES _____

IN TESTIMONY WHEREOF: THE OWNER(S), KANSAS MEDICAL MUTUAL INSURANCE COMPANY, BY DR. DAVID K. ROSS, M.D., CHAIRMAN OF THE BOARD AND PRESIDENT, HAS CAUSED THESE PRESENTS TO BE SIGNED THIS

_____ DAY OF _____, 20__.

DR. DAVID K. ROSS, M.D.,
CHAIRMAN OF THE BOARD AND PRESIDENT,
KANSAS MEDICAL MUTUAL INSURANCE COMPANY

STATE OF KANSAS, COUNTY OF SHAWNEE, SS:

BE IT REMEMBERED THAT ON THIS _____ DAY OF _____, 20__, BEFORE ME A NOTARY PUBLIC, IN AND FOR THE COUNTY AND STATE AFORESAID, CAME DR. DAVID K. ROSS, M.D., CHAIRMAN OF THE BOARD AND PRESIDENT, OF KANSAS MEDICAL MUTUAL INSURANCE COMPANY, WHO IS PERSONALLY KNOWN TO ME TO BE THE SAME PERSON(S) WHO EXECUTED THE WITHIN INSTRUMENT OF WRITING, AND SUCH PERSON(S) DULY ACKNOWLEDGED THE EXECUTION OF THE SAME.

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

NOTARY PUBLIC

MY COMMISSION EXPIRES _____

BARTLETT & WEST

PUD04/06A PROJECT NUMBER - 15489.000
MAJOR REVISION No. 1 - 6/6/2008

Professional Engineering Consultants, P.A.
1203 SW TOPEKA BLVD., TOPEKA, KANSAS 66612
785-233-8300 • FAX 785-233-8055

PLAN PREPARATION DATE: JUNE 9, 2004

Sheet 1 of 3

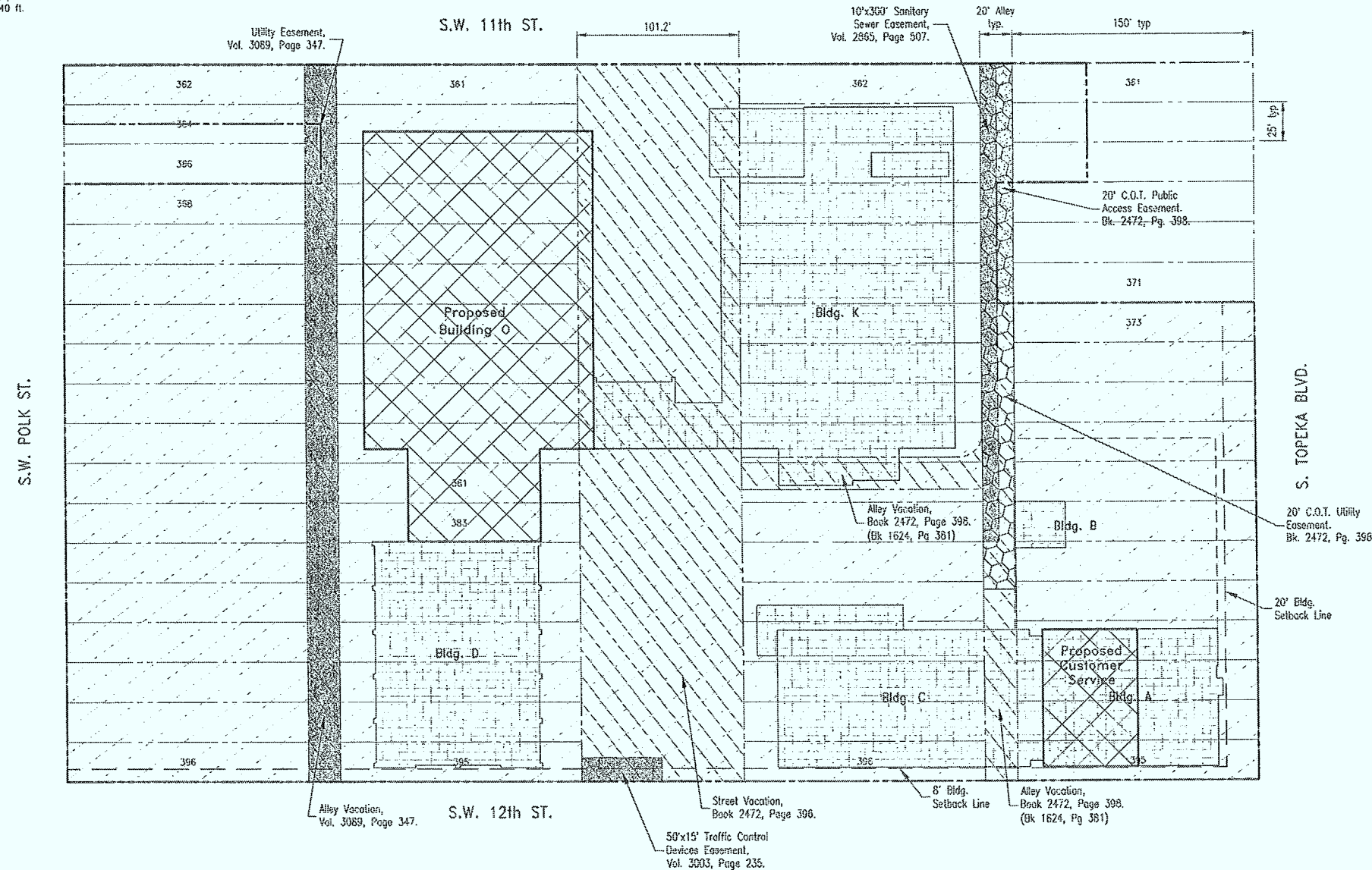
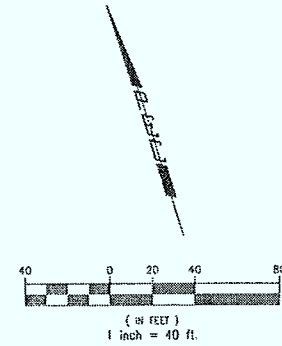
A MAJOR AMENDMENT REVISION No. 1 BLUE CROSS AND BLUE SHIELD MASTER PLANNED UNIT DEVELOPMENT PLAN

Part of the Southwest Quarter of Section 31, Township 11 South, Range 16 East of the 6th Principal Meridian,
and part of the Northwest Quarter of Section 6, Township 12 South, Range 16 East of the 6th Principal Meridian
in Topeka, Shawnee County, Kansas.

BOOK 40 PAGE 26

BOOK: _____ PAGE: _____

DATE: _____ TIME: _____



LEGAL: On Polk Street, Lot 362, the North Half of Lot 364, even numbered Lots 368 through 396, all of the alley, now vacated, lying between 11th Street and 12th Street and between Polk Street and Tyler Street except for the West Half of said alley lying adjacent to the South Half of Lot 364 and Lot 366; on Tyler Street, odd numbered Lots 361 through 395, all of Tyler Street, now vacated, lying between 11th Street and 12th Street, even numbered Lots 362 through 396, the North 10 feet of Lot 402, all of the alley, now vacated, lying between Tyler Street and Topeka Boulevard and between 11th Street and 12th Street, except the East Half of said alley lying adjacent to Lots 367, 369 and 371 on Topeka Blvd; on Topeka Boulevard, the West 46 1/2 feet of Lots 361, 363 and 365, all of even numbered Lots 373 through 395, all in Original Town, being in the City of Topeka, Shawnee County, Kansas.

USE GROUP CATEGORY:
OM-3 office campus with associated surface parking.

TOTAL STRUCTURES:
Existing: 85,430 Square Feet of Ground Floor Area.
Phase I: Additional 40,000 Square Foot maximum Ground Floor Area with 200 stall surface parking.
Phase II: Removal of 24,000 Square Foot building footprint area; addition of 6,000 Square Foot ground floor area max. with a total of 171 stall surface parking.

PARCEL SIZE: 310,125 S.F.

MAXIMUM BUILDING HEIGHT: 90 Feet

LANDSCAPE - PROPERTY						
TREE TYPE	QTY			PTS		
	A	B	C	A	B	C
Blue Spruce	3	0	0	45	0	0
Elm	0	0	0	0	0	0
Hackberry	17	0	0	255	0	0
Locust	5	0	0	75	0	0
Ornamental	17	0	0	255	0	0
Pear	0	0	0	0	0	0
Pine	1	1	0	15	20	0
Pin Oak	6	6	2	120	120	50
Redbud	1	0	0	15	0	0
Silver Maple	0	0	1	0	0	25
Sycamore	0	0	2	0	0	50
Shrub	0	0	0	0	0	0
TOTAL						1,045

A = 6'-10", B = 11'-24", C = 24'-4"

LANDSCAPE - R.O.W.						
TREE TYPE	QTY			PTS		
	A	B	C	A	B	C
Blue Spruce	0	0	0	0	0	0
Elm	0	0	1	0	0	25
Hackberry	1	1	0	15	20	0
Locust	0	0	1	0	0	25
Ornamental	0	0	0	0	0	0
Pear	0	16	4	0	320	100
Pine	0	0	0	0	0	0
Pin Oak	0	0	0	0	0	0
Redbud	0	0	0	0	0	0
Silver Maple	0	0	0	0	0	0
Sycamore	0	0	0	0	0	0
Shrub	10	0	0	10	0	0
TOTAL						515

A = 6'-10", B = 11'-24", C = 24'-4"

LEGEND

-----	PUD Boundary Line	-----	PUD Lot
-----	Lot Line	-----	Existing Building
-----	Right-of-Way	-----	Proposed Building
-----	Easement	-----	Vacation

BARTLETT & WEST

PUD04/06A

PROJECT NUMBER - 15489.000
MAJOR REVISION No. 1 - 6/6/2008



Professional Engineering Consultants, P.A.
1265 S.W. TOPEKA BLVD. • TOPEKA, KANSAS 66612
785-233-6300 • FAX 785-233-8855

PLAN PREPARATION DATE: JUNE 9, 2004

Sheet 2 of 3

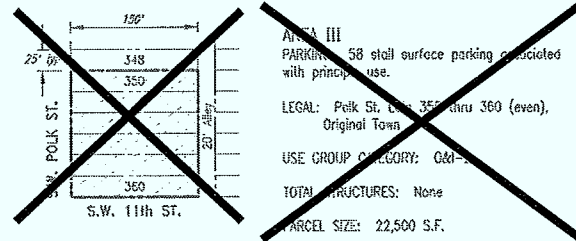
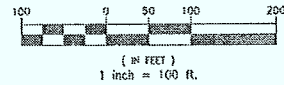
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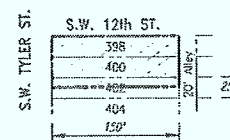
BOOK 40 PAGE 27

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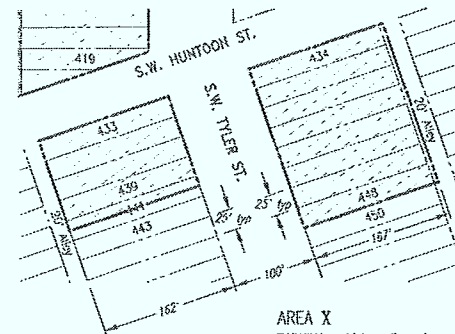
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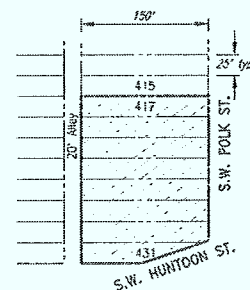
AREA III
PARKING: 58 stall surface parking associated with principle use.
LEGAL: Polk St. Lots 350 thru 360 (even), Original Town
USE GROUP CATEGORY: O&I-2
TOTAL STRUCTURES: None
PARCEL SIZE: 22,500 S.F.



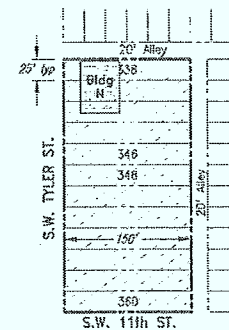
AREA XI
PARKING: 36 stall surface parking associated with principle use.
LEGAL: Tyler St. Lots 398-400, N 10' 402, Original Town
USE GROUP CATEGORY: O&I-2
TOTAL STRUCTURES: None
PARCEL SIZE: 11,250 S.F.



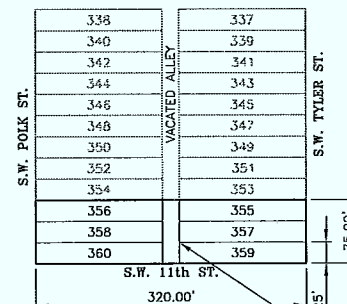
AREA IX
PARKING: 52 stall surface parking associated with principle use.
LEGAL: Tyler St. Lots 433 thru 439 (odd), & N 1/2 Lot 441, Goulds Addition
USE GROUP CATEGORY: O&I-2
TOTAL STRUCTURES: None
PARCEL SIZE: 16,200 S.F.



AREA VII
PARKING: 87 stall surface parking associated with principle use.
LEGAL: Polk St. Lots 417 thru 431 (odd), Original Town
USE GROUP CATEGORY: O&I-2
TOTAL STRUCTURES: None
PARCEL SIZE: 28,950 S.F.



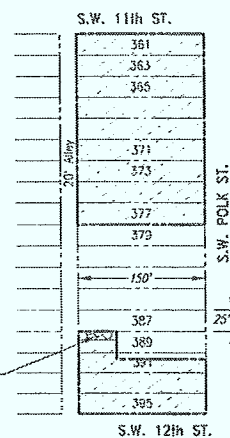
AREA II
PARKING (North): 38 stall surface parking associated with existing office building
LEGAL: Tyler St. Lots 338 thru 346 (even), Original Town
USE GROUP CATEGORY: O&I-2
TOTAL STRUCTURES: Existing 2,852 Square Feet of Ground Floor Area.
PARCEL SIZE: 18,750 S.F.
MAXIMUM BUILDING HEIGHT: 45 Feet
PARKING (South): 78 stall surface parking
LEGAL: Tyler St. Lots 348 thru 360 (even), Original Town
USE GROUP CATEGORY: O&I-2
TOTAL STRUCTURES: None
PARCEL SIZE: 26,250 S.F.



**MAJOR AMENDMENT REVISION No. 1
NEW AREA III**
PARKING - 59 STALL SURFACE PARKING ASSOCIATED WITH PRINCIPAL USE.
LEGAL: LOTS 356, 358 AND 360 POLK STREET AND LOTS 355, 357, AND 359, TYLER STREET, AND ADJACENT ALLEY, ORIGINAL TOWN.
USE GROUP CATEGORY: O&I-2
TOTAL STRUCTURES: NONE
PARCEL SIZE: 24,036 SQ. FT.

20' ALLEY VACATED BY ORDINANCE No. 19141, RECORDED IN BOOK 4630, PAGE 201

AREA V
PARKING: 28 stall surface parking associated with principle use.
LEGAL: Polk St. Lot 361 & N 15' of Lot 363, Ex. W 55' of Lot 361 & W 55' of N 15' of Lot 363 on Polk, Original Town
USE GROUP CATEGORY: O&I-1
TOTAL STRUCTURES: None
PARCEL SIZE: 3,800 S.F.
PARKING: 40 stall surface parking associated with principle use.
LEGAL: Polk St. W 55' of Lots 361, W 55' of N 15' Lot 363, S 10' Lot 363, Lots 365 thru 371 (odd), Original Town
USE GROUP CATEGORY: O&I-1
TOTAL STRUCTURES: None
PARCEL SIZE: 18,700 S.F.
PARKING: 33 stall surface parking associated with principle use.
LEGAL: Polk St. Lots 373 thru 377 (odd), Original Town
USE GROUP CATEGORY: O&I-1
TOTAL STRUCTURES: None
PARCEL SIZE: 11,250 S.F.





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): Kansas Medical Mutual Insurance Company (KaMMCO) and
Blue Cross and Blue Shield of Kansas, Inc. (BC&BS)

Street Address: KaMMCO - 623 SW 10th Avenue, Suite 200; BC&BS - 1133 SW Topeka Blvd

City: Topeka **State:** KS **Zip:** 66612 **E-mail:** _____

Business phone: 785-235-2383 KaMMCO **Home phone:** _____ **Fax:** _____
785-291-8634 BC&BS

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, Inc., by Angela Sharp, P.E.

Street Address: 1200 SW Executive Drive

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

Business phone: 785-272-2252 ext 313 **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: Kansas Medical Mutual Insurance Co. by Dr. David K. Ross, M.D.

Owner 1 Signature: *[Signature]* **Date:** 6/4/08

Owner 2: Blue Cross and Blue Shield of Kansas, Inc. by Matthew D. All

Owner 2 Signature: *[Signature]* **Date:** 6-4-08

Requested Action and Site Information

Address of Property to be Re-Zoned (or if vacant, describe general location): between SW Polk Street and SW Tyler Street, located 75' north of SW 11th Street.

Legal Description of Property: lot(s) 350, 352 & 354 block Polk St subdivision Original Town and the adjoining alley
(if unplatted, attach metes and bounds description)

Total Area (acres/square feet): 24,036 sq. ft.

Type of Application:
1. Re-zoning from: M-3 and PUD to: O & I-2

2. Conditional Use Permit proposed use: _____

Existing Use (# of dwelling units, square feet, etc.): Lot 349, 351 & 353 - vacant;

Lots 350, 352 & 354 - surface parking

How long has the existing use been on the property? Parking: unknown; vacant: less than - 1 year

Proposed Use (# of dwelling units, square feet, etc.): surface parking associated with the KaMMCO building expansion.

Was a Pre-Application Meeting or Zoning Inquiry completed with Staff? Yes If Yes, when? 5/29/2008

FOR OFFICE USE ONLY

Date submitted: 6/6/08

Date notice sent: 6/27/08

Application no.: 208116

Date advertised: 6/27/08

Filing fee: 700⁰⁰ - combined with BUD04/6A
Receipt no.: 11787

Date of hearing: 7/21/08

Quarter section map no.: _____

Council district: #1

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 Holiday Park Neighborhood Land Use Plan designates the subject block extending south to 11th Street as a part of the Extended Central Business district, with a recommended zoning district of O&I-2. The plan also indicates that in this area "New commercial retail and multiple family uses should generally not be supported within this designation...". The land is currently utilized as parking or is vacant and available for the recommended zoning use.

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

The proposed zone change would provide the area required to facilitate the parking required for the current office use in accordance with the current neighborhood plan recommendation.

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

It is in accordance with the current 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:

4" main along the east right of way of SW Polk St.

- 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:

12" main within the adjacent alley.

- 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?

Conveyed to the existing storm sewer system with in SW 10th St.

- 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. Tyler and Polk Street are 40' bk-bk.

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

Proposed access onto SW 10th Street, SW Polk Street and SW Tyler Street through the KaMMCO campus.

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

No

DRAFT

**Minutes of the
Topeka Planning Commission
October 20, 2008**

Z08/16 by Blue Cross and Blue Shield of Kansas, Inc. and Kansas Medical Mutual Insurance Company, Inc. requesting to amend the District Zoning Classification from “PUD” Planned Unit Development District and “M-3” Multiple Family Dwelling District **ALL TO** “O&I-2” Office and Institutional District on property located at 1034 SW Polk Street (Lots 350, 352 and 354 only), 1027 SW Tyler Street and the adjoining alley. **(Driver)** Annie Driver summarized the staff report.

Proponents:

Angela Sharp, Bartlett & West Engineers, stated the applicant agrees with the staff report and she is available for questions.

Exparte communications - none

No one spoke in opposition of the proposal. Howard Blackmon moved approval as written by staff, seconded by Jim Brown. **APPROVAL. (6-0-0) Richard Beardmore was out of the room.**

PUD04/6A Blue Cross and Blue Shield PUD by Blue Cross and Blue Shield of Kansas, Inc. and Kansas Medical Mutual Insurance Company, Inc. requesting to amend the Master PUD Plan by removing 1034 SW Polk (Lots 350, 352 and 354 only) and adding 600 SW 11th Street and adjacent alley to the PUD Plan. **(Driver)** Annie Driver summarized the staff report.

Proponents:

Angela Sharp, Bartlett & West Engineers, stated the applicant agrees with the staff report and she is available for questions.

Exparte communications - none

No one spoke in opposition of the proposal. Howard Blackmon moved approval as written by staff, seconded by Jim Brown. **APPROVAL. (6-0-0) Richard Beardmore was out of the room.**



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 12, 2008

+ Back Print

DATE:	November 25, 2008		
CONTACT PERSON:	David Thurbon/Bill Fiander	DOCUMENT #:	Z08/16
SECOND PARTY/SUBJECT:	Kansas Medical Mutual Insurance and Blue Cross and Blue Shield of Kansas	PROJECT #:	N/A
CATEGORY/SUBCATEGORY	014 Ordinances – Non-Codified / 007 Zoning		
CIP PROJECT:	No		
ACTION OF COUNCIL:	11/18/08 First Reading.	JOURNAL #:	08
		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 1034 SW Polk Street (Lots 350, 352, and 354 only), 1027 SW Tyler Street and the adjoining vacated alley from “PUD” Planned Unit Development District and “M-3” Multiple Family Dwelling District ALL TO “O&I-2” Office and Institutional District. Final Reading. (Z08/16) (Council District No. 1)

(Approval would allow for a parking lot associated with the Kansas Medical Mutual Insurance Company's office building.)

POLICY ISSUE:

The request is consistent with the land use policies and principles of the Historic Holliday Park Neighborhood Plan.

STAFF RECOMMENDATION:

The Planning Commission recommended the request be **APPROVED** by a vote of **6-0-0** at their October 20, 2008 meeting as referenced in the 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 of City Council membership; or,
- **Return** such recommendation to the Planning Commission with a statement specifying the basis for City Council failure to approve or disapprove.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[ordinance](#)

[staff report](#)

[zoning map](#)

[aerial map](#)

[application](#)

[PC Minutes](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at 1034 SW Polk Street (Lots 350, 352, and 354 only), 1027 SW Tyler Street and the adjoining alley from "PUD" Planned Unit Development District and "M-3" Multiple Family Dwelling District **ALL TO** "O&I-2" Office and Institutional District. **(Z08/16) (Council District No. 1)**

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 349, 351 and 353, on Tyler Street and lots 350, 352 and 354, on Polk Street and adjoining alleys, all in the Original town, City of Topeka, Shawnee County, Kansas

from "PUD" Planned Unit Development District and "M-3" Multiple Family Dwelling District **ALL TO** "O&I-2" 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, _____, 2008.

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified _____
Not To Be Codified X

July 21, 2008
Agenda Items # G-4 & G-5

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z08/16

by: Kansas Medical Mutual Insurance Company and
Blue Cross & Blue Shield of Kansas

PUD04/6A

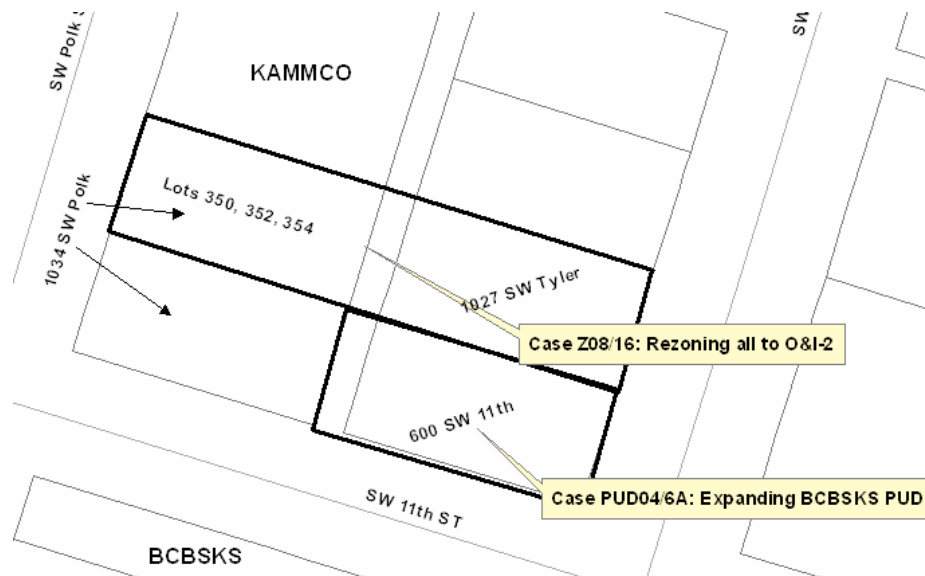
by: Blue Cross & Blue Shield of Kansas and
Kansas Medical Mutual Insurance Company

PROPOSAL: Case Z08/16 amends the zoning classification from “PUD” Planned Unit Development District and “M-3” Multiple-Family Dwelling District **ALL TO** “O&I-2” Office and Institutional District on Lots 350, 352 and 354 of 1034 SW Polk Street and all of 1027 SW Tyler Street to allow additional parking for the Kansas Medical Mutual Insurance Company (KAMMCO).

Case PUD04/6A amends the Master Planned Unit Development Plan for Blue Cross & Blue Shield of Kansas (BCBSKS) to remove Lots 350, 352, and 354 of 1034 SW Polk from the PUD and add the entire property at 600 SW 11th to the PUD in order to relocate the existing BCBSKS parking lot.

PARCEL ID NUMBERS: 1093103014009000, 1093103014008000, and 1093103014007000

LOCATION:



PRESENT USES: 1034 SW Polk Street contains a parking lot associated with Blue Cross and Blue Shield offices; 1027 SW Tyler Street and 600 SW 11th Street are vacant

PROPOSED USE: Lots 350, 352, and 354 of 1034 SW Polk Street and 1027 SW Tyler Street will be used for parking lots associated with the KAMMCO’s offices. The existing BCBSKS parking on Lots 350, 352, and 354 will be moved to 600 SW Tyler. BCBSKS will not be adding any additional parking

July 21, 2008
Agenda Items # G-4 & G-5

spaces, but only relocating 58 of their existing parking spaces. The relocation of parking lots between BCBSKS and KAMMCO will allow for a better arrangement of parking between the two entities by enabling each office to have their parking directly adjacent with their buildings.

CHARACTER OF NEIGHBORHOOD: The surrounding neighborhood is comprised entirely of office uses with associated parking. Commercial uses are located at the intersection of SW Topeka and SW 10th.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	“O&I-2” Office and Institutional District	KS Medical Mutual Insurance Co. offices and future parking lot
South:	“PUD” Planned Unit Development (O&I uses)	Blue Cross & Blue Shield offices and parking lot
East:	“PUD” Planned Unit Development (O&I uses)	Blue Cross & Blue Shield parking lot
West:	“PUD” Planned Unit Development (O&I uses)	Blue Cross & Blue Shield parking lot

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The property at 1034 SW Polk has been zoned for a parking lot since 2002. The properties at 1027 SW Tyler and 600 SW 11th have historically been zoned for multiple-family residential uses and until very recently were used for those purposes.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The subject properties are no longer suitable as zoned for multiple-family residential. This block originally contained apartment buildings and was suitably zoned as “M-3” Multiple-Family Dwelling District. However, overtime the apartment buildings have been demolished and the area has transitioned to office use.

CONFORMANCE TO COMPREHENSIVE PLAN: The subject properties are located in the Office and Professional Services Area of the Historic Holliday Park Neighborhood Plan. The proposed parking lots are in conjunction with the expansions of Kansas Medical Mutual Insurance Company and Blue Cross and Blue Shield. Therefore, the proposals are in conformance with the Comprehensive Plan.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: Reclassification of the properties should have no detrimental effect upon the surrounding area, as the area is predominantly comprised of office uses and parking. These proposals allow the block to be zoned consistently with the surrounding area and uses.

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 allow the properties to develop in manner consistent with the pattern of surrounding land uses.

July 21, 2008
Agenda Items # G-4 & G-5

Therefore, there should be no loss to public health, safety, and welfare by the reclassification of the properties.

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are already available in this area.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

Minimum Lot Area: **Compliant-** >10,000 sq. ft.

Setbacks: **Compliant-** No structures are proposed.

Platting: **Compliant-** Lots 350, 352, and 354, Polk Street, Original Town; Lots 349, 351, and 353, Tyler Street, Original Town; and Lots 355, 357, and 359, Tyler Street, Original Town

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 time of site development. As a part of this development, the applicants have applied to vacate the remainder of the alley lying between the properties. The alley has already been vacated up to the point ending at the north boundary of the subject rezoning area.

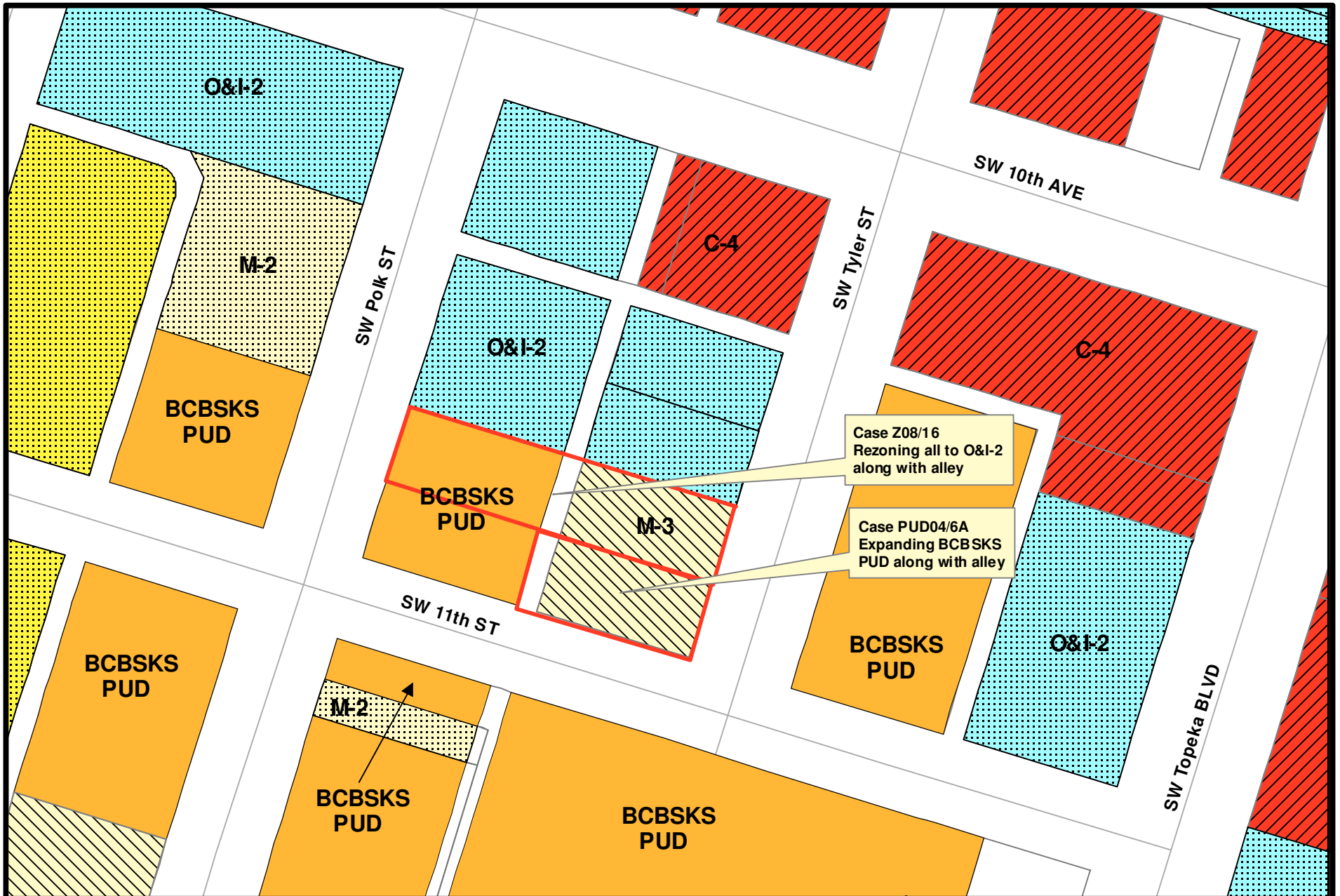
ADDITIONAL FACTORS:

1. Neighborhood Improvement Association: The property is within the Historic Holliday Park NIA and the NIA is supportive of these requests per memo received June 23, 2008.
2. Capitol Area Plaza Authority: The property is within the State zoning control area of the Capital Area Plaza Authority. CAPA has the authority to approve or disapprove the zone change after the City Council acts on the rezoning request. After City Council action, CAPA will be forwarded the zone change for their approval.
3. Historic Properties: The property is within the state historical environs of Topeka High School.

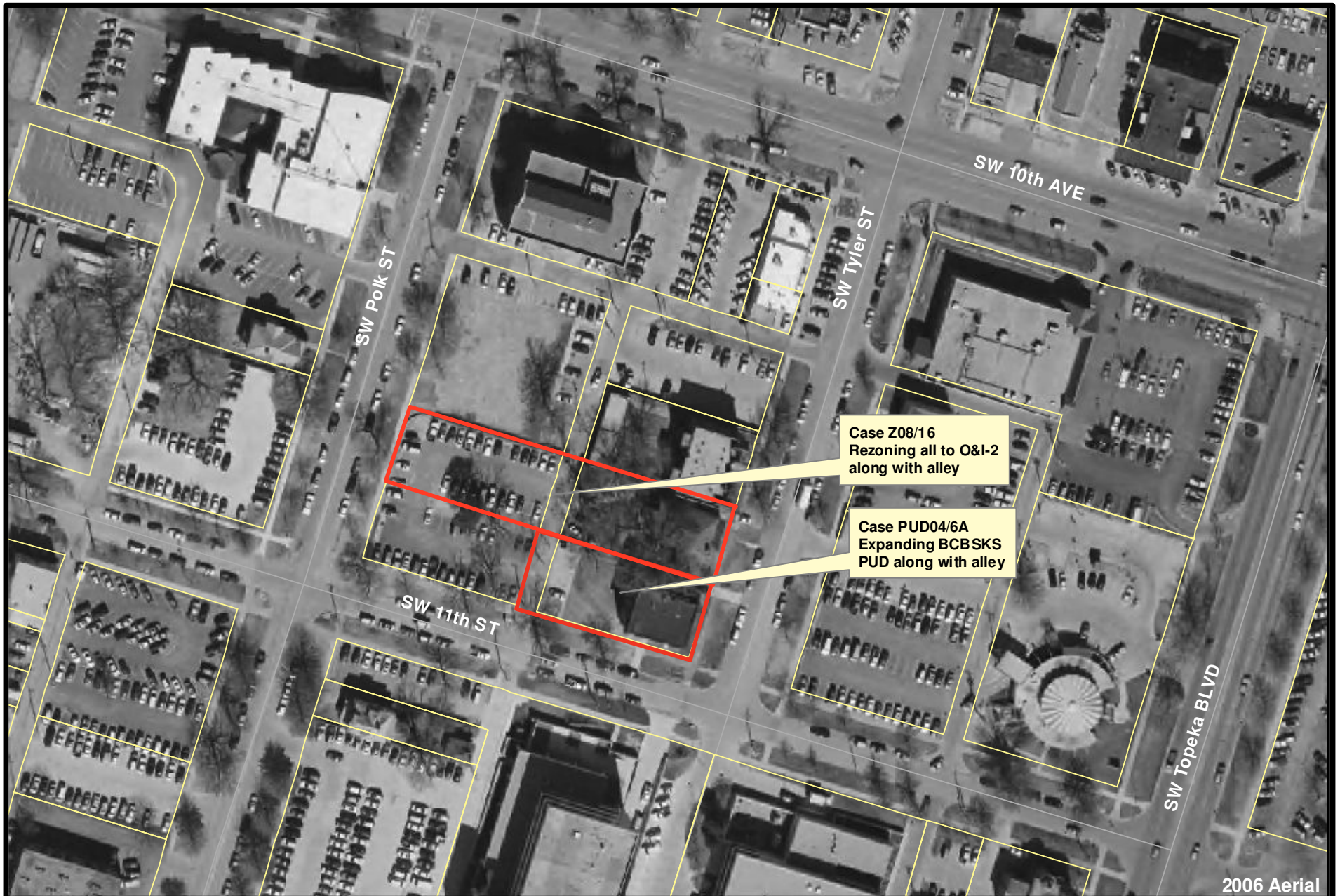
STAFF RECOMMENDATION: Based upon the above findings and analysis, the planning staff recommends **APPROVAL** of both requests. PUD04/6A is subject to:

1. Use and development of the site in accordance with the Master Planned Unit Development Plan for Blue Cross and Blue Shield of Kansas.

Prepared by:
Annie Driver, Planner I



PUD04/6A & Z08/16 by: Kansas Medical Mutual Insurance Company and Blue Cross and Blue Shield of Kansas



PUD04/6A & Z08/16 by: Kansas Medical Mutual Insurance Company and Blue Cross and Blue Shield of Kansas



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): Kansas Medical Mutual Insurance Company (KaMMCO) and
Blue Cross and Blue Shield of Kansas, Inc. (BC&BS)

Street Address: KaMMCO - 623 SW 10th Avenue, Suite 200; BC&BS - 1133 SW Topeka Blvd

City: Topeka **State:** KS **Zip:** 66612 **E-mail:** _____

Business phone: 785-235-2383 KaMMCO **Home phone:** _____ **Fax:** _____
785-291-8634 BC&BS

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, Inc., by Angela Sharp, P.E.

Street Address: 1200 SW Executive Drive

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

Business phone: 785-272-2252 ext 313 **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: Kansas Medical Mutual Insurance Co. by Dr. David K. Ross, M.D.

Owner 1 Signature: *[Signature]* **Date:** 6/4/08

Owner 2: Blue Cross and Blue Shield of Kansas, Inc. by Matthew D. All

Owner 2 Signature: *[Signature]* **Date:** 6-4-08

Requested Action and Site Information

Address of Property to be Re-Zoned (or if vacant, describe general location): between SW Polk Street and SW Tyler Street, located 75' north of SW 11th Street.

Legal Description of Property: lot(s) 350, 352 & 354 block Polk St subdivision Original Town and the adjoining alley
(if unplatted, attach metes and bounds description)

Total Area (acres/square feet): 24,036 sq. ft.

Type of Application:
1. Re-zoning from: M-3 and PUD to: O & I-2

2. Conditional Use Permit proposed use: _____

Existing Use (# of dwelling units, square feet, etc.): Lot 349, 351 & 353 - vacant;
Lots 350, 352 & 354 - surface parking

How long has the existing use been on the property? Parking: unknown; vacant: less than - 1 year

Proposed Use (# of dwelling units, square feet, etc.): surface parking associated with the KaMMCO building expansion.

Was a Pre-Application Meeting or Zoning Inquiry completed with Staff? Yes If Yes, when? 5/29/2008

FOR OFFICE USE ONLY

Date submitted: 6/6/08

Date notice sent: 6/27/08

Application no.: 208116

Date advertised: 6/27/08

Filing fee: 700⁰⁰ - combined with BUD04/08A
Receipt no.: 11787

Date of hearing: 7/21/08

Quarter section map no.: _____

Council district: #1

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 Holiday Park Neighborhood Land Use Plan designates the subject block extending south to 11th Street as a part of the Extended Central Business district, with a recommended zoning district of O&I-2. The plan also indicates that in this area "New commercial retail and multiple family uses should generally not be supported within this designation...". The land is currently utilized as parking or is vacant and available for the recommended zoning use.

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

The proposed zone change would provide the area required to facilitate the parking required for the current office use in accordance with the current neighborhood plan recommendation.

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

It is in accordance with the current 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:

4" main along the east right of way of SW Polk St.

- 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:

12" main within the adjacent alley.

- 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?

Conveyed to the existing storm sewer system with in SW 10th St.

- 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. Tyler and Polk Street are 40' bk-bk.

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

Proposed access onto SW 10th Street, SW Polk Street and SW Tyler Street through the KaMMCO campus.

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

No

DRAFT

Minutes of the
Topeka Planning Commission
October 20, 2008

Z08/16 by Blue Cross and Blue Shield of Kansas, Inc. and Kansas Medical Mutual Insurance Company, Inc. requesting to amend the District Zoning Classification from “PUD” Planned Unit Development District and “M-3” Multiple Family Dwelling District **ALL TO** “O&I-2” Office and Institutional District on property located at 1034 SW Polk Street (Lots 350, 352 and 354 only), 1027 SW Tyler Street and the adjoining alley. **(Driver)** Annie Driver summarized the staff report.

Proponents:

Angela Sharp, Bartlett & West Engineers, stated the applicant agrees with the staff report and she is available for questions.

Exparte communications - none

No one spoke in opposition of the proposal. Howard Blackmon moved approval as written by staff, seconded by Jim Brown. **APPROVAL. (6-0-0) Richard Beardmore was out of the room.**

PUD04/6A Blue Cross and Blue Shield PUD by Blue Cross and Blue Shield of Kansas, Inc. and Kansas Medical Mutual Insurance Company, Inc. requesting to amend the Master PUD Plan by removing 1034 SW Polk (Lots 350, 352 and 354 only) and adding 600 SW 11th Street and adjacent alley to the PUD Plan. **(Driver)** Annie Driver summarized the staff report.

Proponents:

Angela Sharp, Bartlett & West Engineers, stated the applicant agrees with the staff report and she is available for questions.

Exparte communications - none

No one spoke in opposition of the proposal. Howard Blackmon moved approval as written by staff, seconded by Jim Brown. **APPROVAL. (6-0-0) Richard Beardmore was out of the room.**



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 12, 2008

+ Back Print

DATE:	November 25, 2008		
CONTACT PERSON:	David Thurbon / Bill Fiander	DOCUMENT #:	N/A
SECOND PARTY/SUBJECT:	Jacob David Ediger Trust	PROJECT #:	PUD08/3
CATEGORY/SUBCATEGORY	014 Ordinances – Non-Codified / 007 Zoning		
CIP PROJECT:	No		
ACTION OF COUNCIL:	11/18/08 First Reading.	JOURNAL #:	08
		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 southwest corner of SE 13th Street and SE Long Street from “R-1” Single Family Dwelling District TO “PUD” Planned Unit Development District (“M-1” use group). **Final Reading.** (PUD08/3) (Council District No. 3)

(Approval would allow development of ten duplexes for affordable housing on a 2.8 acre parcel.)

POLICY ISSUE:

Considering the amount of time the property has remained vacant, as well as the lack of new housing construction in the area, the proposal may be suitable for the property at a slightly higher density if the units conform to the purpose and character of a low-density, single-family neighborhood. Building garages for each unit will help to sustain homeowner confidence in the neighborhood and will be more attractive to potential homeowners in the future once the tax-credits expire in 15 years.

It should be noted that the applicant has already incorporated design suggestions from staff, such as including roof pitches, offset wall faces, and foundation plantings for each building.

STAFF RECOMMENDATION:

The Planning Commission recommended this proposal be **APPROVED** by a vote of 6-0-0 at their October 20, 2008 meeting as referenced in their attached minutes. The Planning Department recommended that this request be **APPROVED** with conditions as referenced in the attached staff report.

BACKGROUND:

- See attached staff report.
- City Council options include:
 - **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,

Item #21

- **Return** such recommendation to the Planning Commission with a statement specifying the basis for the City Council's failure to approve or disapprove.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Staff Report](#)

[Ordinance](#)

[Aerial Map](#)

[Zoning Map](#)

[PUD Plan Pg. 2](#)

[Application](#)

[PUD Plan Pg. 1](#)

[PC Minutes](#)

October 20, 2008
Agenda Item # G-11

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: PUD 08/3 Cornerstone Duplexes

by: Jacob David Ediger
Trust

PROPOSAL: Zone change from “R-1” Single Family Dwelling District TO “PUD” Planned Unit Development District (M-1 use group).

LOCATION: On property located at the southwest corner of SE 13th Street and SE Long Street. SE Long Street has not yet been constructed.

PARCEL ID NUMBER: 1320403017004000

PRESENT USE: A total of 2.81 acres of vacant property on four separate lots.

PROPOSED USE: Ten duplex housing units using the tax credit program.

CHARACTER OF NEIGHBORHOOD: The subject property is located within a single family residential area just south of Interstate 70 and approximately two blocks east of California Avenue. Much of the area lacks basic infrastructure needs such as sidewalks, curbs and gutters. Despite the modest nature of the neighborhood, housing conditions remain favorable and very few homes are showing any significant signs of deterioration and/or neglect. A limited amount of commercial development, as well as the Topeka Housing Authority, is located just west of the subject property along California Avenue. Several of the surrounding properties, including the subject property itself are currently vacant.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	“R-1” Single-Family Dwelling District	Single-Family Residences
South:	“R-1” Single-Family Dwelling District	Vacant
East:	“R-1” Single-Family Dwelling District	Single-Family Residence
West:	“M-3” Multiple-Family Dwelling District	Single-Family Residence

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The property was zoned for single-family residential in 1960 and has remained vacant for some time under its present classification.

October 20, 2008
Agenda Item # G-11

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: While the site has remained vacant for a number of years, the subject property is still suitable for single-family residential uses, which is the main development pattern of the surrounding area. The existing infrastructure in the neighborhood, furthermore, is very limited and was originally designed to serve low density, single family uses. The subject property itself was only platted for 4 single family residential units and will require significant upgrades to the storm-water drainage system if increased densities are permitted for the site.

CONFORMANCE TO COMPREHENSIVE PLAN: As designated by the *Future Land Use Plan – 2030*, this area is classified for *Urban/Suburban Low Density Residential* land uses. The PUD plan, however, proposes a total of 20 units on less than three (3) acres of land for a density ratio of about seven (7) units / acre. This is medium density development and would not be in conformance with the Comprehensive Plan's future land use map.

However, the Comprehensive Plan also states that medium density residential may be used carefully as in-fill development in older neighborhoods. Considering the amount of time the property has remained vacant, as well as the lack of new housing construction in the area, a planned unit development may be suitable for the subject property at a slightly higher density if the units conform to the purpose and character of a low density, single family neighborhood. This can be achieved by designing and marketing the units for potential homeowners in the future once the tax credits expire in 15 years. Carports in a dense neighborhood setting of subsidized units will not be attractive to potential homeowners in the future and will not sustain homeowner confidence in the rest of the neighborhood either, leading to worsening conditions in nearby properties. Garages should be constructed for each unit in order to mitigate the increased density.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: The surrounding neighborhood of the subject property is classified as an “*Out-Patient*” area by the City of Topeka's 2007 *Neighborhood Health* rating. Concentrating subsidized rental units in an area that is primarily low-income and with a lack of basic infrastructure has the potential to push the neighborhood into more unfavorable conditions. It also has the potential to create instability and cause further re-zonings and conversions of existing single family homes into multi-family units within a neighborhood of generally healthy low density residential development.

However, reclassification of the property to a *Planned Unit Development* with “M-1” use group should have few long-term detrimental effects on nearby properties if the units are designed for eventual homeownership and should even lead to further investment in the surrounding area. This has largely been achieved through the design of the proposed units, including elements such as roof pitches and offset walls at the suggestion of the Planning Department staff, as well as foundation plantings and road design to allow for on-street parking. However, garages are critical to maintaining the single family character of the area, as well as homeowner confidence among nearby properties with the addition of the proposed subsidized rental units on the subject property.

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: As mentioned above, if carports are replaced with garages, there will be no gain to the public by denying the request of the

October 20, 2008
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landowner since reclassification of the property will allow the area to develop and become more utilized. Denial of the request to the property owner, furthermore, will not prohibit development of the site since it is still suitable for single-family residential land uses.

AVAILABILITY OF PUBLIC SERVICES: A sanitary sewer extension project would be required to serve the interior structures beyond 100 feet from the public sanitary sewer lateral located within the SE 13th Street right-of-way. The sewer extension project would need to be reviewed and approved through the City of Topeka Engineering Division.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS: Parking requirements have been accommodated at a ratio of two spaces per unit (34 off-street and 6 visitor). There will also be on-street parking available on one side of the street. The parking provided appears sufficient for this development proposal due to its residents being less car-dependent and proximity to a public transportation route.

Minimum Lot Area:

Not Compliant. The proposed re-zoning and PUD plan does not appear to comply with performance criteria required of planned unit developments less than five acres in area.

- The use group category of the proposal is not comparable to that of the surrounding neighborhood.
- The general layout and traffic circulation pattern is not integrated into the neighborhood. Private streets are proposed for the project.
- The development will have a greater impact upon existing streets and utilities than what is currently restricted to the site. Much of the infrastructure in the neighborhood does not meet current city standards and was primarily designed and built to serve low density residential land uses.

Setbacks: The client has requested a 5' variance from the Topeka Planning Commission for the 30' required perimeter setback along the north, south, east and west boundary lines. The variance would accommodate the reasonable development of the site and should not conflict with the residential character of the area, as the normal setback in the "M-1" District is 25'.

Platting: The property is currently platted into four lots (California Estates Subdivision), but will need to be re-platted into one lot as a condition of development.

CONCERNS OF STAFF AND REVIEWING AGENCIES: The proposed PUD plan does not indicate that garages will be constructed for all of the units, which is one of the most important features that will generate homeownership interest in the duplexes in the future. It will also help to reduce the stigma of subsidized housing and will enable the successful marketing of the duplex units once the tax credits expire. Carports in a dense neighborhood setting of subsidized units will not be attractive to potential homeowners in the future and will not generate homeowner confidence in the rest of the neighborhood either, leading to worsening conditions among nearby properties.

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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.

ADDITIONAL FACTORS:

1. Neighborhood Improvement Association: N/A.
2. Flood Hazard Area: N/A.
3. Airport Hazard Area: N/A.
4. Historic Properties: N/A.

STAFF RECOMMENDATION: Several aspects of the proposal do not meet the city's criteria for locating "M-1" use groups, nor does it meet the performance criteria required for PUD proposals less than five acres in size. The proposed density will have a sizable impact upon not only the character of the neighborhood, but the existing infrastructure in the area as well. While housing conditions in the area are generally favorable, the neighborhood is still listed as "*Out-Patient*" by the City of Topeka's 2007 *Neighborhood Health* rating. Any concentration of subsidized rental units could send the neighborhood into much worse conditions if proper measures are not taken to ensure the long-term health and success of the proposed *Planned Unit Development*.

However, considering the amount of time the subject property has remained vacant, the lack of significant new home construction that has occurred in the neighborhood, as well as the objective of the proposal to provide new and affordable housing to low-income individuals, staff recommends **APPROVAL** of this proposal, subject to the following:

1. *The Topeka Planning Commission granting a variance to the 30 ft. perimeter setback along the north, south, east and west boundary lines.*
2. *Garages built for all units to the minimum lot size.*
3. *Re-locating the proposed sidewalk along SE 13th Street to within the public right-of-way.*
4. *Changing the proposed name of the private drive. Long Circle and Long Drive are too similar to SE Long Street, which is scheduled to be constructed east of the property once future development dictates.*
5. *Changing the Amendments section on sheet 2 of the Plan to read: "The terms and provisions of the plan shall extend to and be binding upon the heir, executors, administrators, trustees, and assignees of the owner. Should more than one entity hold title, then all such affected owners of all such title as determined by the Planning Director shall be required to execute any such amendment."*

Prepared by:
Cylus Scarbrough, Planner I

(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 southwest corner of SE 13th Street and SE Long Street from "R-1 Single Family Dwelling District **TO** "PUD" Planned Unit Development District ("M-1" use group). **(PUD08/3) (Council District No. 3)**

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

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

Lots 1 thru 4, Block A, California Estates Subdivision

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

Subject to:

- 1. Use and compliance of the site in accordance with the recorded Master Planned Unit Development Plan of Cornerstone Duplexes.**

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,
_____, 2008.

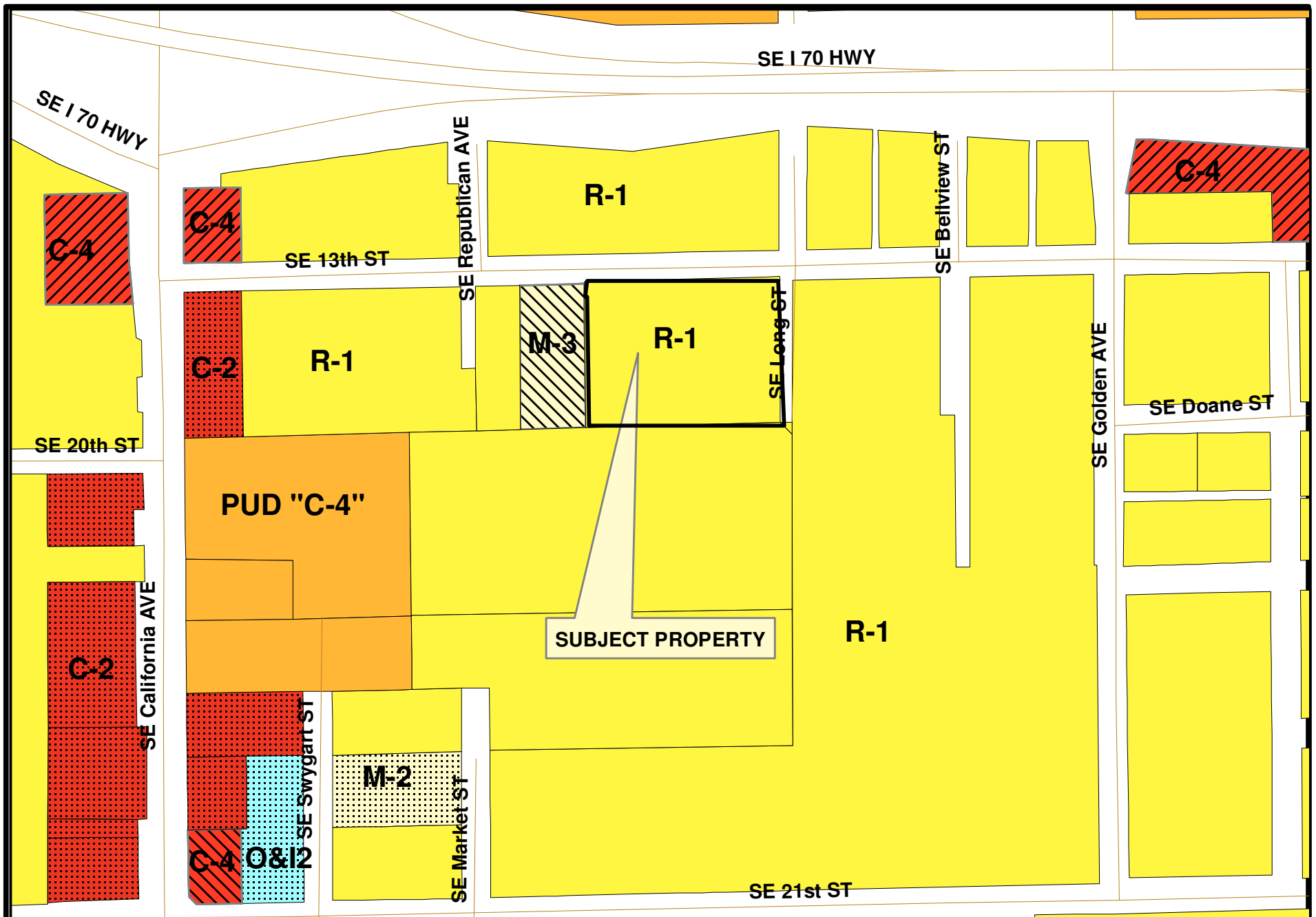
William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified _____

Not To Be Codified X



PUD 08/3 by Ediger Trust



PUD 08/3 by Ediger 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

Applicant Information

Property Owner(s): Jacob David Ediger Trust

Street Address: 6224 SW 34th Terrace

City: Topeka State: KS Zip: 66614 E-mail: _____

Business phone: 785-272-9150 Home phone: 785-272-9150 Fax: _____

Authorized Owner Representative (if any): Michael T. Wilson

Street Address: 3500 S.W. FAIRLAWN Rd. #100

City: TOPEKA State: KS Zip: 66614 E-mail: mtw@architect
onepa.com

Business phone: 271-7010 Home phone: 271-8496 Fax: 271-7020

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

Architect One P.A.

Street Address: 3500 SW Fairlawn Road #100

City: Topeka State: KS Zip: 66614 E-mail: www.architectonepa.com

Business phone: 785-271-7010 Home phone: _____ Fax: 785-271-7020

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: X Jacob David Ediger Trust by Jake D. Ediger Trustee

Owner 1 Signature: Jacob David Ediger Trust Date: 6-26-08

Owner 2: _____

Owner 2 Signature: _____ Date: _____

Requested Action and Site Information

Address of Property to be Re-Zoned (or if vacant, describe general location): _____

S.E. 13TH & LONG ST. - S.W. CORNER

Legal Description of Property: lot(s) 1-4 block A subdivision CALIFORNIA ESTATES SUB.
(if unplatted, attach metes and bounds description)

Total Area (acres/square feet): 121 968

Type of Application:

1. Re-zoning from: R to: M-1 PUD

2. Conditional Use Permit proposed use: _____

Existing Use (# of dwelling units, square feet, etc.): VACANT

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

Proposed Use (# of dwelling units, square feet, etc.): 10 DUPLEX BLDGS,
2-3BR DUPLEXES @ 2,790 S.F.; 8-2BR DUPLEXES @ 1860 S.F.

Was a Pre-Application Meeting or Zoning Inquiry completed with Staff? YES If Yes, when? 6/19/08

FOR OFFICE USE ONLY

Date submitted: 7/3/08

Date notice sent: 7/25/08

Application no.: PUP08/3

Date advertised: 7/25/08

Filing fee: 1100 Receipt no.: 11805

Date of hearing: 8/18/08

Quarter section map no.: _____

Council district: # 3

CHECK YES OR NO

Capital Plaza Area: Yes _____ No _____

Within Historic Site Environs: Yes _____ No _____

If Yes, what is it?: _____

100 yr Floodplain: Yes _____ No _____

National/State Historic Register: Yes _____ No _____

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?

- GROUND HAS BEEN AVAILABLE W/ NO DEVELOPMENT FOR YEARS.
- LOTS ARE LARGE
- NEW HOME CONSTRUCTION IS RARE IN THIS AREA

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

- ALL DUPLEXES ARE PROVIDED WITH GARAGES OR CARPORTS, SINGLE LEVEL W/ HIP & GABLE ROOFS AND ARE DESIGNED TO BE OF SIMILAR SIZE & DESIGN TO OTHER DWELLINGS IN THE AREA.
- ASIDE OF INFILLING A VACANT LOT LIMITED IMPACT ON SURROUNDING PROPERTIES IS ANTICIPATED.

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

THE NEIGHBORHOOD USE PLAN SEEKS TO ENCOURAGE RESIDENTIAL DEVELOPMENT IN THE 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:

6" MAIN ON THE N. SIDE OF 13th ST.

- 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" LINE IN CENTER OF 13th ST.

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

YES

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

3. Storm Drainage

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

THERE IS NO CURRENT CITY STORM SYSTEM.
ON SITE RETENTION SYSTEMS WILL BE
PROVIDED ABOVE GROUND

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

N.A.

4. Traffic Circulation

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

YES, ASPHALT W/O CURBING

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

TWO ACCESS POINTS TO 13th ST. ARE
TO BE PROVIDED

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

NO

DRAFT

**Minutes of the
Topeka Planning Commission
October 20, 2008**

PUD08/3 Cornerstone Duplexes PUD by Jacob David Ediger Trust requesting to amend the District Zoning Classification from “R-1” Single Family Dwelling District **TO** “PUD” Planned Unit Development District (M-1 use group) on property located at the southwest corner of SE 13th Street and SE Long Street. **(Scarborough)** Cylus Scarborough summarized the staff report.

Discussion by members:

Doug Bassett asked how the street benefit district would affect the single family home to the east? Bill Fiander replied they would be part of the district. He added that the applicant would not be required to put in the street, they just have to agree to it in the future if necessary. Mr. Bassett asked where the sidewalk would be located? Mr. Scarborough replied along 13th Street. Mr. Bassett asked if the sidewalk is only for this property? Mr. Fiander replied it will eventually extend to California. He said the majority of the south side of the street is currently vacant. He said when the vacant properties propose development they will be required to put in the sidewalks as well.

John Federico asked for clarification of the requirement of garages? You are requesting approval with the garages be built? In your explanation you said it is option. Mr. Scarborough said staff did put it as a condition but in discussion we want to be flexible to avoid further deterioration of the property. Mr. Federico said he would like to see if this is feasible from the applicant's point of view. Mr. Scarborough said another alternative could be additional landscaping in place of the garages.

Proponents:

Barry McMurphy, Cornerstone of Topeka, spoke in favor of the proposal. He said there are several members of the team in the audience available for questions. He said this development has been awarded tax credits and other local awards to help in construction of this proposal. This will be a 2.9 million dollar project. We have added the garages for all units along with additional landscaping.

Mark Boyd asked the applicant what they thought of the sidewalk requirement? Is it just a waste of concrete or will they be used? Mr. McMurphy said he doesn't think it would be a waste. There will be 20 units and there will be families with children living in them. It will be safer to have the sidewalks there for waiting for the bus. He said he doesn't see it as being detrimental. I think it would be helpful. He said people park on both sides of the narrow street and a sidewalk will create a barrier. Mr. Thurbon added staff would not require the sidewalks if we didn't think there was future connection from the adjacent properties and sometime in the future clear to California.

Mr. McMurphy said the units are being built to energy star requirements and will be very affordable and will be ADA accessible or adaptable. Some ADA features are lower cabinets, lower switches, no step door jams and grab bars to mention a few.

Opponents:

Roberta Flowers, 2112 SE 13th, had some concerns with the proposal. She said her grandmother's concern is the city street. It is a narrow street. There are no sidewalks and most of the lots have ditches. She said her grandmother is opposed to the proposal. She said currently people walk up and down the street. This will cause more traffic. She thinks it will be unsafe.

Michelle Hoferer said she drove this area at lunch. The street is very narrow. Ms. Flowers added there is an 18 wheeler that goes down the street everyday and there is no passing it when it is in the road. Ms. Hoferer asked who is responsible for the extension of SE Long Street when the time comes? Mr. Fiander said they would not be required to put it in with this development. They would have to pay their portion if there was a street benefit district in the future.

Mark Boyd requested staff condition #12 be expanded to say fair and equitable share of the improvements. Mr. Fiander stated staff could have the condition read the same as the note on Wanamaker Northwest PUD regarding participation in the street benefit district. Ms. Hoferer asked Mr. McMurphy if he agrees to the change? Mr. McMurphy replied that sounds fair.

Exparte communications - none

Mark Boyd moved approval as written by staff, except extending staff condition #12 to say fair and equitable share of the improvements for the street benefit district, seconded by Richard Beardmore. **APPROVAL. (6-0-0)**



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 12, 2008

+ Back Print

DATE: November 25, 2008

CONTACT PERSON: David Thurbon/Bill Fiander **DOCUMENT #:** Z76/33A

SECOND PARTY/SUBJECT: Patricia Coughlin Trustee **PROJECT #:**

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

CIP PROJECT: No

ACTION OF COUNCIL: 11/18/08 First Reading. **JOURNAL #:** 08

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the Master PUD Plan of Courtyard Square, to allow for expansion of the parking lot area and adding the property located at 834 SW Lincoln Street on property located at 904 SW Lincoln Street in the City of Topeka, Kansas. Final Reading.
(Z76/33A) (Council District No. 1)

(Approval would allow for expansion of a parking area at 834 SW Lincoln and establishment of a gated access between properties within the PUD. No additional dwelling units are proposed.)

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 **7-0-0** at their October 20, 2008 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.

Item #22

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Ordinance](#)

[Staff Report](#)

[Aerial](#)

[Zoning Map](#)

[Application 4 pages](#)

[PUD Plan](#)

[Planning Minutes](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the Master PUD Plan of Courtyard Square, to allow for expansion of the parking lot area and adding the property located at 834 SW Lincoln Street on property located at 904 SW Lincoln Street in the City of Topeka, Kansas. **(Z76/33A) (Council District No. 1)**

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

Section 1. That the Master PUD Plan of Courtyard Square, is hereby amended in accordance with Section 48-24.06(b) of the Comprehensive Zoning Regulations to allow for expansion of the parking lot area and adding the property located at 834 SW Lincoln Street and described as follows:

Tract 1

Lot 1, Block A, Coughlin Subdivision, in the City of Topeka, Shawnee County, Kansas.

Tract 2

Part of the NE ¼ of Section 36, Township 11 South, Range 15 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas described as follows: Beginning on the east line of Lincoln Street, 490 feet northerly from the NE corner of 10th Avenue west and Lincoln Street; thence northerly 61.25 feet; thence easterly at right angles 140 feet; thence southerly at right angles 61.25 feet; thence westerly at right angles, 140 feet to the point of beginning.

Section 2. That the development of the site to allow expansion of the parking lot area and adding the property located at 834 SW Lincoln Street **subject to:**

- 1. Use and compliance of the site in accordance with the recorded Master Planned Unit Development Plan of Courtyard Square.**

Section 3. That the amended Master PUD Plan of Courtyard Square 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, _____, 2008.

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified _____

Not To Be Codified X

August 18, 2008
Agenda Item #G-9

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z76/33A Courtyard Square PUD Major Amendment by: Patricia Coughlin, Trustee

PROPOSAL: A request initiated by Patricia Coughlin, Trustee, to amend the Master PUD Plan of the Courtyard Square Planned Unit Development Plan to add property located at 834 SW Lincoln Street zoned "R-2" Single Family Dwelling District to the boundaries of the PUD for vehicle parking. Changes also include slight modifications in the parking and drive isle configurations in addition to the installation of a gated access within the PUD.

LOCATION: 834 SW Lincoln Street and 904 SW Lincoln Street.

PARCEL ID NUMBER: 0973601023006000, 0973604004001000.

BACKGROUND/EXISTING CONDITIONS: The Courtyard Square development was established by Ordinance No. 14061 on July 5, 1977, when the property was rezoned from "C" Two-Family to "D" Multiply-Family and Community Unit Plan. When all zoning classifications were converted to the current classification system in 1994 the sites classification was converted to "PUD" Planned Unit Development District becoming the *Courtyard Square Planned Unit Development Plan* with a use group category of ("M-2" Multiple-Family Dwelling District). The applicant has acquired the adjoining property to the north located at 834 SW Lincoln Street and wishes to incorporate this property into the PUD plan. The existing plan consists of 26 dwelling units in four structures. As proposed an additional structure will be added with inclusion of the single-family property at 834 SW Lincoln Street bringing the total to five structures and 27 units. However, as proposed the total number of structures will remain at five but the number of dwelling units within Building "A" will be reduced by four units as a result of remodeling. This will bring the total number of dwelling units within the five structures to 23 units.

CHARACTER OF NEIGHBORHOOD: The area immediately surrounding the subject properties is a mixture of residential uses ranging from "R-2" Single-Family Residential to "M-2" Multiple-Family Residential.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	"R-2" Single-Family Dwelling District "M-2" Multiple-Family Dwelling District	Residential
South:	"R-2" Single-Family Dwelling District	Residential
East:	"R-2" Single-Family Dwelling District	Residential
West:	"R-2" Single-Family Dwelling District	Residential

August 18, 2008
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LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The property which the applicant proposes to include within the PUD is currently occupied by a single family residential dwelling (to remain) constructed circa 1910. This property was re-zoned from "M-1" Two-Family Dwelling District to "R-2" Single-Family Dwelling District in 2003 as part of the neighborhood rezoning to implement the *Old Town Neighborhood Plan*. The current PUD property has been under its current use since 1977 and under its current PUD classification since the zoning district classifications were changed in 1994.

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 therefore viewed as being suitable for uses to which it has been restricted.

CONFORMANCE TO COMPREHENSIVE PLAN: The *Old Town Neighborhood Plan* designates the area which is proposed to be added to the PUD as *Residential-Core*. One of the main goals of the *Old Town Neighborhood Plan* is to see a "Return (of) the "core" area of the neighborhood to owner-occupied single-family dwellings and prevent the expansion of multiple family buildings into the "core" area."

As proposed, the PUD will accommodate a reconfiguring of driveways and parking for the 15-unit apartment building and will not expand multiple-family buildings, but in fact will reduce the number of rental units. The property at 834 SW Lincoln Street which is to be added to the PUD will remain a single family building.

The only portion of the goal of the *Old Town Neighborhood Plan* that remains un-fulfilled by this proposal is that the property that is to be added to the PUD will not be "owner-occupied".

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: Amending the PUD to allow for the inclusion of the adjoining single family property to the north and the changes that are being proposed to the parking, drive isle and access arrangement it is staffs opinion that removal of the current restrictions is not expected to have any detrimental or adverse effect on nearby properties. To the contrary, rearranging of the parking, drive isle, opening of a driveway on SW Lincoln and installation of a gated access should eliminate motorist from cutting through the SW Buchanan portion of the PUD thereby better distributing the amount of traffic through the site and the 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: As no detrimental effects are anticipated, there would appear to be no particular gain to the public health, safety, and welfare by maintaining the present restrictions.

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.

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COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

Application: **Complete.**

Minimum Lot Area: **Compliant** - legal conforming.

Setbacks: **Non-Compliant** – The Planning Commission will need to grant a variance to the PUD setback requirement for building "D" and its accompanying garage.

Platting: **Non-Compliant** – The current PUD is compliant being platted as Lot 1, Block "A" Coughlin Subdivision. The property which is to be added to the PUD is not platted and will require platting at the time of development unless an exception is granted in accordance with Section 48-33.05(F).

CONCERNS OF STAFF AND REVIEWING AGENCIES: This request has been submitted to all applicable reviewing agency staff for consideration and comment. The only additional concerns expressed by reviewing staff relative to code compliance or the provisions of public services not already addressed elsewhere in this staff report is with the "turn-around" that is proposed to be located in the front yard of building C1. Such a "turn-around" would displace the existing front yard landscaping and would not be in keeping with the overall character and appearance of the front yards within the block. Staff would suggest the "turn-around" be located to the area northwest of and behind building C1.

ADDITIONAL FACTORS:

1. Neighborhood Improvement Association: Old Town (No response received as of July 30, 2008).
2. Capitol Plaza Area: Not Applicable.
3. Flood Hazard Area: Not Applicable.
4. Airport Hazard Area: Not Applicable.
5. Historic Properties: Local Historic Overlay District properties located at 817 SW Lincoln Street and 921 SW Buchanan Street. Proposal has no affect on either property.

STAFF RECOMMENDATION:

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

1. Use and development of the site in accordance with the recorded Master Planned Unit Development Plan of Courtyard Square Revision No. 1.
2. Change title of PUD Plan to read: *A Major Amendment to A Master Planned Unit Development Plan for Courtyard Square Revision No. 1.*

3. Relocate the "turn-around" currently shown in front of building C1 to the area northwest of and behind building C1.
4. Add the following heading and notes to the PUD plan:

"VARIANCE NOTE:

Pursuant to Section 48-24.07 of the "PUD" District Regulations, the City of Topeka Planning Commission hereby grants the following variances:

- *Planning Commission grants a variance to Section 48-24.02(b)(2)a regarding the 30' perimeter setback requirements for building "D" and its accompanying garage from 30' to the setback now existing for each structure along that part of the north property line adjacent to each structure.*
- *Planning Commission grants a variance to Section 48-24.03(f) to establish a gated access subject to approval by the City of Topeka Fire Department.*

5. Add as a note to the Master "PUD" Plan:

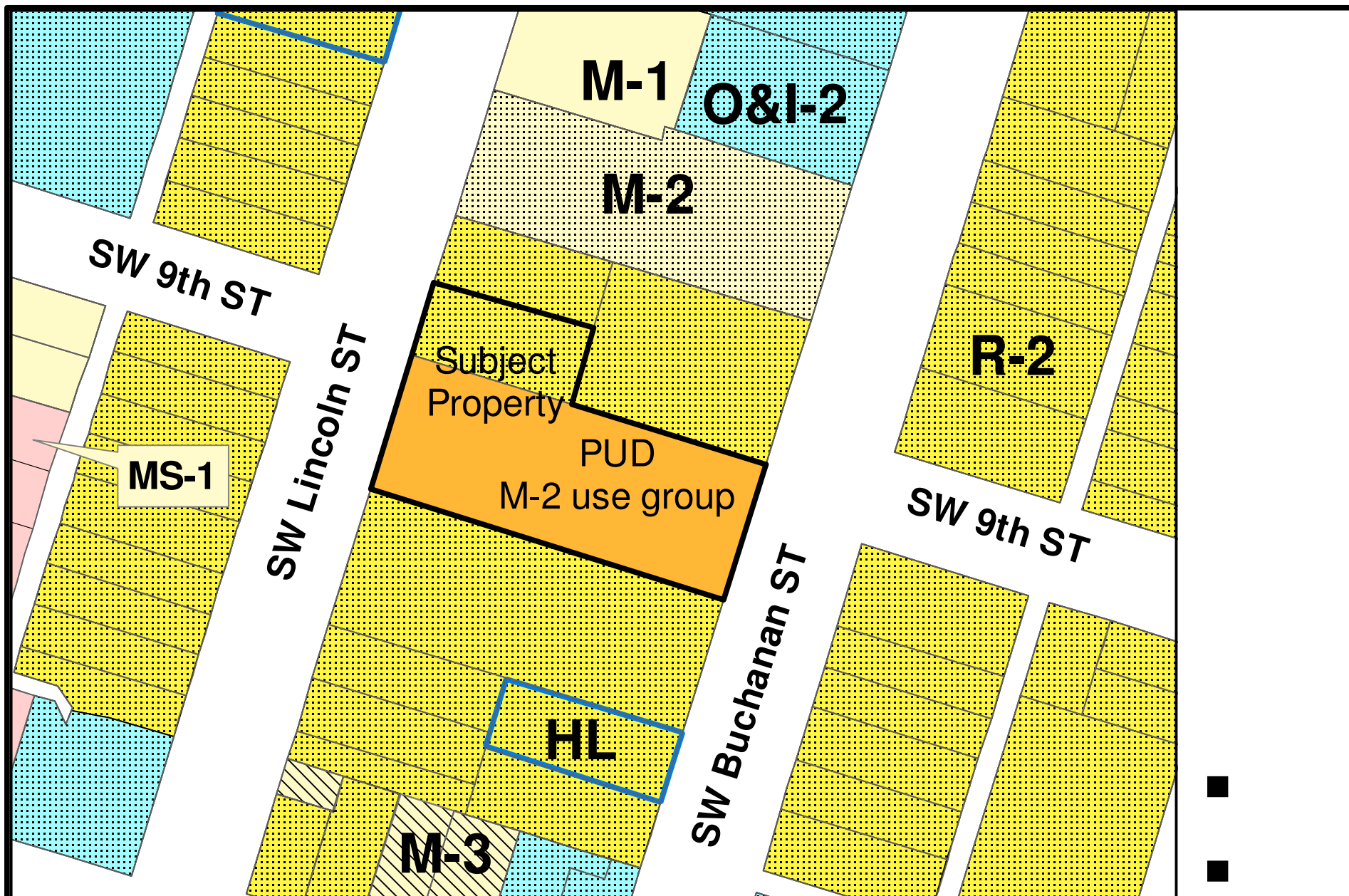
- *"Pursuant to Section 48-24.05 of the Topeka City Code, the applicant must provide the Planning Department a PUD master plan suitable for recording within 30 days upon approval by the governing body and record it with the Shawnee County Register of Deeds within 45 days of approval by the City Council of Topeka or the planned unit development zone change shall be null and void."*

6. Add the following note to the PUD: *"Landscaping and screening as shown is approved as part of the PUD amendment. No further landscaping or screening is required to meet current City regulations."*

Prepared by: Dean W. Diediker
Planner II



Z76/33A Courtyard Square PUD by Patricia Coughlin, Trustee



Z76/33A Courtyard Square PUD by Patricia Coughlin, Trustee



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): Patricia Coughlin Trustee

Street Address: 904 SW Lincoln

City: Topeka KS State: KS Zip: 66606 E-mail: pcoughlin@turnbull@yahoo.com

Business phone: 233-4200 Home phone: 354-5174 Fax: _____

Authorized Owner Representative (if any): Eileen Coughlin Turnbull

Street Address: 811 SW Buchanan

City: Topeka State: KS Zip: 66606 E-mail: ecoughlin@turnbull@yahoo.com

Business phone: 233-4200 Home phone: 785-966-2790 Fax: _____

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

William Sheahan

Street Address: 5301 SW 7th

City: Topeka State: KS Zip: 66606 E-mail: bill@wsheahan.com

Business phone: 785-273-3300 Home phone: _____ Fax: 785-273-1344

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: Patricia Coughlin

Owner 1 Signature: Patricia L. Coughlin Date: 7-2-08

Owner 2: _____

Owner 2 Signature: _____ Date: _____

Requested Action and Site Information

Address of Property to be Re-Zoned (or if vacant, describe general location):

834 SW LINCOLN + 904 SW LINCOLN

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

Total Area (acres/square feet):

Type of Application:

1. Re-zoning from: PUD(M-2 USE) & R-X 2 to: PUD (M-2 USE GROUP)
2. Conditional Use Permit proposed use:

Existing Use (# of dwelling units, square feet, etc.): 27 dwelling units in 5 structures

How long has the existing use been on the property? 30-80 years

Proposed Use (# of dwelling units, square feet, etc.): 23 dwelling units in 5 structures

Was a Pre-Application Meeting or Zoning Inquiry completed with Staff? yes If Yes, when? 5/19/08

FOR OFFICE USE ONLY

Date submitted: 7/3/08

Date notice sent: 7/05/08

Application no.: 276/33A

Date advertised: 7/25/08

Filing fee: 100.00 Receipt no.: 11807

Date of hearing: 8/18/08

Quarter section map no.: E-8

Council district: #1

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.: old town 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?

Wanting to
Too open and accessible for undesirable traffic.
~~make~~ ^{make} properties more isolated and easier to keep
unwanted traffic out.

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

none. no new structures

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

does not change character of development

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?

no difference, slight net change in paved area

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

yes

4. Traffic Circulation

WIDTH OF PROPOSED DRIVEWAY?

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

25'

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

one on Lincoln Buchanan and a one way (now closed) on Lincoln

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

N/A

A Major Amendment to a Master Planned Unit Development Plan for COURTYARD SQUARE REVISION NO. 1

BOOK _____ PAGE _____
DATE _____ TIME _____

RECORDED WITH THE SHAWNEE COUNTY REGISTER OF DEEDS

Marilyn L. Nichols, Register of Deeds

LEGAL DESCRIPTION:

Tract 1

Lot 1, Block A, COUGHLIN SUBDIVISION, in the City of Topeka, Shawnee County, Kansas.

Tract 2

Part of the Northeast Quarter of Section 36, Township 11 South, Range 15 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas described as follows: Beginning on the East line of Lincoln Street, 450 feet Northerly from the Northeast corner of 10th Avenue West and Lincoln Street; thence Northerly 61 1/4 feet; thence Easterly at right angles, 140 feet; thence Southerly at right angles 61 1/4 feet; thence Westerly at right angles, 140 feet to the point of beginning.

OWNER'S CERTIFICATE:

The Patricia L. Coughlin Trust agrees to comply with the conditions and restrictions set forth on the master PUD plan.

In Testimony Whereof:

The owner of the above described property, The Patricia L. Coughlin Trust, has signed these presents this _____ day of July, 2008.

The Patricia L. Coughlin Trust:

Patricia L. Coughlin, Trustee

State of Kansas, County of Shawnee ss.

Be it remembered that on this _____ day of July, 2008, before me a notary public in and for said County and State came, Patricia L. Coughlin, Trustee, Patricia L. Coughlin Revocable Trust, Owner of the above described property.

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

/s/ _____
Notary Public

My commission expires: _____

CERTIFICATION OF MASTER PUD PLAN APPROVAL:

David F. Thurbon, Secretary to the Planning Commission Date _____

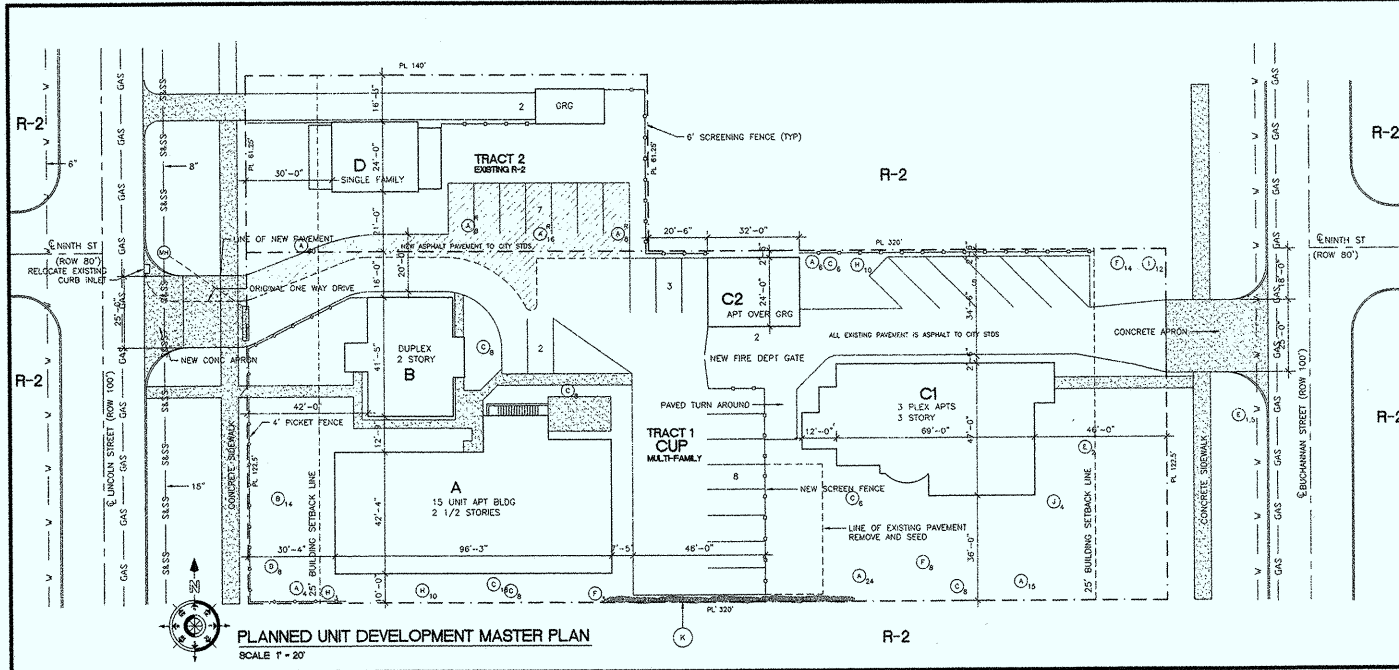
State of Kansas, County of Shawnee ss.

Be it remembered that on this _____ day of July, 2008, before me, the undersigned, a notary public in and for said County and State came, David F. Thurbon who is personally known to me to be the same person who executed the within instrument of writing, and such person duly acknowledged the execution of the same.

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

/s/ _____
Notary Public

My commission expires: _____



EXISTING LANDSCAPE SCHEDULE

KEY	COMMON NAME	BOTANICAL NAME
①	ELM	Ulmus Americano
②	RED MAPLE	Acer Rubrum
③	REDBUD	Cercis canadensis
④	MULBERRY	Morus microphylla
⑤	SILVER MAPLE	Acer saccharinum
⑥	HACKBERRY	Celtis occidentalis
⑦	SYCAMORE	Acer pseudoplatanus
⑧	WALNUT	Juglans nigra
⑨	SCOTCH PINE	Pinus sylvestris
⑩	HOLLY	Ilex glabra
⑪	SPIRAEA HEDGE	Spiraea
⑫	HYDRANGEA HEDGE	Hydrangea paniculata

BUILDING USE	EXISTING	QTY	PROPOSED	QTY	AREA	HEIGHT	SITE AREA REQUIRED
A	MULTIFAMILY EFFICIENCY	10	MULTIFAMILY EFFICIENCY	0	14,500 SF	2 1/2 STORY	14,500
B	MULTIFAMILY TWO BR	2	MULTIFAMILY TWO BR	2	2,800 SF	2 STORY	2,800
C1	MULTIFAMILY TWO BR	1	MULTIFAMILY TWO BR	1	2,800 SF	2 STORY	2,800
C2	MULTIFAMILY TWO BR	1	MULTIFAMILY TWO BR	1	2,800 SF	2 STORY	2,800
D	MULTIFAMILY ONE BR	1	MULTIFAMILY ONE BR	1	1,400 SF	2 STORY	1,400
TOTAL UNITS	21		23				23,000
SITE AREA PROVIDED							22,500
TRACT 2							2,675
TOTAL SITE AREA							27,175
PARKING PROVIDED							20

NOTES

- ALL IMPROVEMENTS SHOWN ARE EXISTING UNLESS NOTED AS NEW.
- WHERE DIMENSIONS ARE NOT PROVIDED IT IS THE INTENT TO SCALE THE DRAWING.
- Pursuant to Section 48-24.05 of the Topeka City Code, the applicant must provide the Planning Department a PUD master plan suitable for recording within 30 days upon approval by the Governing Body and record it with the Shawnee County Register of Deeds within 45 days of approval by the City Council of Topeka or the planned unit development shall be null and void.
- Landscaping and screening as shown is approved as part of the PUD amendment. No further landscaping or screening is required to meet current City regulations.



DRAFT

**Minutes of the
Topeka Planning Commission
October 20, 2008**

Z76/33A Courtyard Square PUD by Patricia Coughlin Trustee requesting to amend the Master PUD Plan by adding the property located at 834 SW Lincoln Street currently zoned "R-2" Single Family Dwelling District and expanding the parking lot area on property located at 904 SW Lincoln Street. **(Diediker)** Dean Diediker summarized the staff report.

Discussion by members:

Richard Beardmore asked why they have gated access? Mr. Diediker replied it is an internal gate to the property to prevent vehicles "cutting through" the property. It is located south of structure C-2 on the site plan.

Proponents:

Bill Sheahan, Sheahan & Associates, spoke in favor of the proposal. He said 9th Street has been a problem for years. The family has been buying up properties in this area. He said in order to gate internally we had to bring one of the properties into the PUD.

Michelle Hoferer stated this has been around for a long time. The people that live there like it and it is very well maintained?

Mark Boyd asked if Old Town NIA is okay with this? Mr. Diediker replied he has not heard anything from them. Ms. Hoferer asked if there have been any comments from the neighbors? Mr. Diediker stated the owner said several members of the neighborhood are happy with it.

Mark Boyd asked if there is an exception to platting a portion of the property? Mr. Sheahan said we believe this is a little unusual. The property we are bringing into the PUD is not platted. Bill Fiander said there is a provision in the code that is a waiver to platting. It has to be approved by Planning and Public Works Directors. Mr. Boyd said during site plan review stage is when they have to comply with platting or get the waiver? Mr. Fiander said that is correct. Mr. Boyd asked why a waiver would be offered with all the surrounding properties being platted? Mr. Fiander said there are several criteria they have to meet before the waiver can be approved. Mr. Boyd asked if it is the applicant's intent to plat? Mr. Sheahan replied we were requested to plat but if we can get the waiver we will try. We thought we were going to have to plat. A plat doesn't do anything to help this property or neighborhood. Mr. Boyd replied platting helps resolve confusion down the road.

Exparte communications - none

No one spoke in opposition to the proposal. Richard Beardmore moved approval as written by staff, seconded by Howard Blackmon. **APPROVAL. (7-0-0)**



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 12, 2008

+ Back Print

DATE:	November 25, 2008		
CONTACT PERSON:	David Thurbon/Bill Fiander	DOCUMENT #:	Z08/17
SECOND PARTY/SUBJECT:	Doug Jones	PROJECT #:	
CATEGORY/SUBCATEGORY	014 Ordinances – Non-Codified / 007 Zoning		
CIP PROJECT:	No		
ACTION OF COUNCIL:	11/18/08 First Reading.	JOURNAL #:	08
		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 825 SW Western Avenue from "R-2" Single-Family Dwelling District TO “M-1” Two-Family Dwelling District. Final Reading. (Z08/17) (Council District No. 1)

(Approval would allow for an historic duplex home to be relocated to the property.)

POLICY ISSUE:

Approval of the request will reinforce the goals and objectives of the Neighborhood Element of the Comprehensive Plan, the Old Town Neighborhood Plan and the Topeka-Shawnee County Historic Preservation Plan.

STAFF RECOMMENDATION:

The Planning Commission recommended this proposal be **APPROVED** by a vote of 7-0-0 at their October 20, 2008 meeting as referenced in the attached minutes.

BACKGROUND:

- See attached 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 vote (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 #23

N/A

ATTACHMENTS:

[Staff Report](#)

[Photographic Rendering of House](#)

[Aerial Photo](#)

[Surrounding Zoning Map](#)

[Application](#)

[Vicinity Map](#)

[SHPO Letter](#)

[Ordinance](#)

[PC Minutes](#)

July 21, 2008
Agenda Item #G.6

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z08/17

by: USD 501

PROPOSAL: Amend the District Zoning Classification from "R-2" Single-Family Dwelling District, TO "M-1" Two-Family Dwelling District.

LOCATION: 825 SW Western Avenue.

PARCEL ID NUMBER: 1093103003003000.

PRESENT USE: The property is approximately ¼ acres in size and is presently developed as a surface vehicle parking lot. The parking lot was originally intended to be used in conjunction with Topeka High School, which lies directly east of the subject property.

PROPOSED USE: The applicant is intending to relocate a duplex home onto the property, thus returning the property's use to residential as it was originally developed. The duplex home currently sits at 915 SW Fillmore Street, one block to the west and south of 825 SW Western Ave. The duplex was recently sold to Mr. Doug Jones by St. John's Lutheran Church for the express purpose of relocating, and thus saving the home from demolition.

CHARACTER OF NEIGHBORHOOD: The surrounding neighborhood is largely a mixed-use neighborhood, consisting of institutional, office, and low to medium-density residential development. The neighborhood is one of the first residential areas developed in the City of Topeka, and therefore is characterized by older residences and institutional structures. The property lies within the 500' environs of Topeka High School and the John E. Frost Residence, both of which are listed on the National Register of Historic Places. Future development within these environs will require design approval by the State of Kansas Historic Preservation Office and the Topeka Landmarks Commission. Recent development activity within the immediate vicinity has been carefully designed to uphold the historic nature and character of the neighborhood. Removal of the parking lot would restore the western frontage of SW Western Ave. to an appearance of residential uses in keeping with the neighborhood's original development.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	"R-2" Single-Family Dwelling District/ Historic Landmark	Low Density Residential
South:	"O&I-2" Office and Institutional District	Office
East:	"M-2" Multi-Family Dwelling District	Institutional
West:	"R-2" Single-Family Dwelling District	Low Density Residential

July 21, 2008
Agenda Item #G.6

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: There is no known record of a permit being issued for the construction of the parking lot that presently occupies the property. However, it is known that the sewer for the house previously occupying the property was capped in 1984, thus indicating that the home was demolished about this time. It is also presumed that the parking lot was constructed about this time, as well.

The property was most recently rezoned for single-family use in conjunction with the implementation of the Old Town Neighborhood Plan in 2003. Prior to this reclassification, the property had been zoned “M-2” Multi-Family Dwelling District since 1992 when the current City-wide zoning regulations were adopted.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The site’s present classification of “R-2” Single-Family Dwelling District was established in 2003 during the implementation of the Old Town Neighborhood Plan. While this block was originally built for single-family uses, some single-family dwelling units have been converted into other viable uses given the size of the structures. Specifically, offices occupy the former residences at the north and south ends of this block, while an additional house has been converted into multiple dwelling units in the middle of the block. While it is admirable and worthwhile to pursue a return of this area to single-family uses, it is doubtful that this goal will be uniformly achieved on this block. Therefore, restricting the use of the property to single-family uses may not be the most immediately practical solution to restore this area according to the goals and recommendations of the Old Town Neighborhood Plan. Indeed, given the opportunity to return a parking lot to “low-density” residential use does, in fact, achieve the underlying goal of the Plan of protecting the single-family core of the neighborhood from non-compatible uses.

CONFORMANCE TO COMPREHENSIVE PLAN: The Old Town Neighborhood Plan designates this lot specifically for low density residential development under the “R-2” Single-Family Dwelling District zoning classification. While diverging from the preferred zoning classification, this proposal is in conformance with the stated goal of returning the frontage of this block to low-density residential uses. This proposal is also supported by the Historic Preservation Plan since it enables the relocation of an historic structure, as opposed to demolition, into an area with similar and compatible architectural styles. It is anticipated that once completed, the newly relocated duplex will blend seamlessly into the existing fabric of this neighborhood, thus fully supporting and complimenting the goals and objectives of both the Old Town Neighborhood Plan, and the Historic Preservation Plan.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: This proposal is not anticipated to have any detrimental affects on any adjacent or neighboring properties provided the [proposed relocation is carried out. Even in the absence of this relocation, a duplex within the historic environs of Topeka High School and the John Frost Residence would be reviewed for design considerations, and would therefore not be out of character for this block. Removal of the existing parking lot would remove a location for loitering, criminal activity, and the accumulation of trash, and would restore the setback line of structures along the block by removing the existing chain link fence.

July 21, 2008
Agenda Item #G.6

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 public will enjoy a significant gain in its overall health, safety and welfare as a result of this proposal, while the owner will not lose any value to the property nor suffer any hardship. The proposal will restore the property to low-density residential uses and remove a blighted and unkempt parking lot that itself destroys the values of neighboring properties.

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are presently available and will not be overburdened by this proposal.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

Application: **Complete.**

Minimum Lot Area: **Compliant** – +10,000 S.F.

Setbacks: **Compliant.**

Platting: **Compliant** – Property is platted as Lots 277, 279, and 281 on the 800 Block of Western Ave. in Young's Addition to the City of Topeka, Kansas.

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

ADDITIONAL FACTORS:

1. Neighborhood Improvement Association: Old Town NIA. (See letter of support, attached)
2. Capitol Plaza Area: Not Applicable.
3. Flood Hazard Area: Not Applicable.
4. Airport Hazard Area: Not Applicable.
5. Historic Properties: The property is located within the 500' environs of Topeka High School and the John E. Frost House. The State of Kansas Historic Preservation Office and the Topeka Landmarks Commission have both reviewed this proposal and have found that the requested action WILL NOT encroach upon, damage or destroy the environs of the listed properties.

STAFF RECOMMENDATION:

Based upon the above findings and analysis Planning Staff recommends **APPROVAL** of this proposal as submitted.

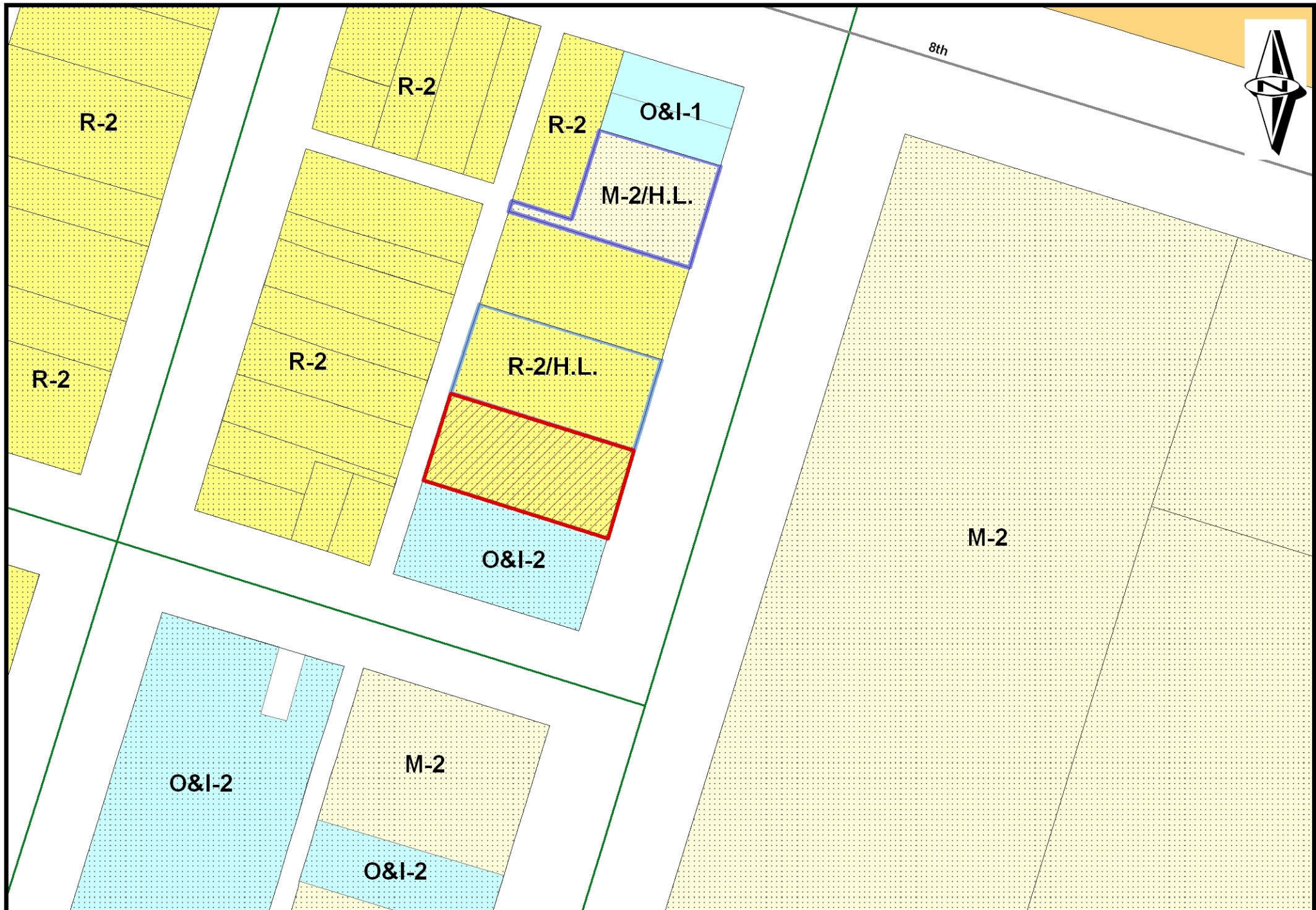
Prepared by: Timothy Paris
Planner II



Z08/17 by USD 501, 825 SW Western Ave



Z08/17 by USD 501, 825 SW Western Ave





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): DOUG JONES / BARB QUANEY

Street Address: 5528 SE 37th

City: TECUMSEH State: KS. Zip: 66542 E-mail: doug.jones@washburn.edu

Business phone: 785-670-2294 Home phone: 785-232-4735 Fax: 785-670-1027

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: Douglas A Jones

Owner 1 Signature: DOUGLAS H. JONES Date: 6/5/08

Owner 2: BARBARA M. QUANEY

Owner 2 Signature: Barbara M. Quaney Date: 6/5/08

Requested Action and Site Information

Address of Property to be Re-Zoned (or if vacant, describe general location): 825 SW WESTERN

Legal Description of Property: lot(s) 277, 279²⁴¹ block 800 subdivision YOUNG'S
(if unplatted, attach metes and bounds description) WESTERN

Total Area (acres/square feet): 11,250

Type of Application:
1. Re-zoning from: R-2 to: M-1

2. Conditional Use Permit proposed use: _____

Existing Use (# of dwelling units, square feet, etc.): ~~UPSTAIRS/DOWNSTAIRS APTS.~~
PARKING LOT

How long has the existing use been on the property? 30 YRS

Proposed Use (# of dwelling units, square feet, etc.): ~~1 DWELLING~~ -
HISTORIC UPDOWN APT.

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

FOR OFFICE USE ONLY

Date submitted: <u>6/6/08</u>	Date notice sent: <u>6/27/08</u>
Application no.: <u>208/17</u>	Date advertised: <u>6/27/08</u>
Filing fee: <u>650⁰⁰</u> Receipt no.: <u>11788</u>	Date of hearing: <u>7/21/08</u>
Quarter section map no.: _____	Council district: <u>#1</u>

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?

825 WESTERN HAS BEEN A PARKING LOT FOR TOPEKA HIGH SCHOOL. THE DISTRICT IS SELLING US THE ~~THAT~~ PROPERTY SO WE CAN MOVE AN HISTORIC HOME FROM 915 FILLMORE TO THE WESTERN PROPERTY

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

THE CHANGE FROM A PARKING LOT TO RESIDENTIAL WOULD BE A SIGNIFICANT IMPROVEMENT FOR OUR NEIGHBORHOOD

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

THIS WOULD FIT INTO THE NEIGHBORHOOD PLAN IN THAT IT WOULD TURN A PARKING LOT INTO A QUALITY RESIDENTIAL HOUSING UNIT

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: 14"
~~on~~ west of west curb of western Ave.
- b. Does the current system have adequate capacity? If not, are improvements anticipated?
yes
- c. If other than City of Topeka, identify water district provider: _____

2. Sanitary Sewer

- a. Location and size of sewer main serving site:
in Alley 8"
- 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?
existing curb & gutter, adequate for residential uses.
- 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 30'
- b. What are the site's existing or proposed access points?
street and alley
- c. Will any street improvements or traffic control improvements be required?
no

Z08/17 By USD #501



Requested Area

Notification Area

Z08/17 by USD #501 requesting to amend the District Zoning Classification from "R-2" Single Family Dwelling District TO "M-1" Two Family Dwelling District on property located at 825 SW Western Avenue.



KANSAS

KSR&C No. 08-02-175

Kansas State Historical Society
Jennie Chinn, *Executive Director*

KATHLEEN SEBELIUS, GOVERNOR

July 22, 2008

Tim Paris
City of Topeka Planning Department
620 SE Madison St. Unit 11
Topeka, KS 66607-1118

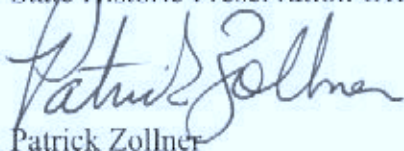
Re: Relocation of House from 915 SW Fillmore to 825 SW Western
Within the Environs of the John Frost House and Holliday Park II Historic District
Shawnee County

Dear Mr. Paris:

We have reviewed the materials received July 22, 2008 regarding the above-referenced project in accordance with the state preservation statute K.S.A. 75-2724. The law requires the State Historic Preservation Officer (SHPO) be given the opportunity to comment on proposed projects affecting historic properties or districts. The SHPO has determined the proposed project will not encroach upon, damage, or destroy any listed historic property or its environs. As far as this office is concerned, the project may proceed.

Please refer to the Kansas State Review & Compliance number (KSR&C#) listed above on any future correspondence. If you have any questions concerning this review, please contact Kim Norton at 785-272-8681, ext 225.

Sincerely,
Jennie Chinn
State Historic Preservation Officer



Patrick Zollner
Director, Cultural Resources Division
Deputy State Historic Preservation Officer

(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 825 SW Western Avenue from "R-2" Single Family Dwelling District **TO** "M-1" Two Family Dwelling District. **(Z08/17) (Council District No. 1)**

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 277, 279 and 281 on Western Avenue in Original Town, City of Topeka, Shawnee County, Kansas.

from "R-2" Single Family Dwelling District **TO** "M-1" Two Family Dwelling 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, _____, 2008.

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified _____
Not To Be Codified X

DRAFT

**Minutes of the
Topeka Planning Commission
October 20, 2008**

Z08/17 by USD #501 requesting to amend the District Zoning Classification from "R-2" Single Family Dwelling District **TO** "M-1" Two Family Dwelling District on property located at 825 SW Western Avenue. **(Paris)** Tim Paris summarized the staff report. He informed the commission that the property has been sold to Doug Jones and Barb Quaney.

Discussion by members:

Mark Boyd said there are a couple of other Landmark designations in this area. Mr. Paris said that is true but they have no impact on this property. The only property that this could possibly impact is Topeka High since it is on the national register.

Proponents:

Doug Jones, owner of the property, spoke in favor of the proposal. He said this is a win-win for the neighborhood. The church was patient with us to get the house moved off of their property.

Michael Bradley, member of the Old Town NIA, spoke in favor of the proposal. He said he lives at 807 SW Western and this is unanimously supported by the neighborhood. He said this is a marvelous development group and have purchased several homes in the area that were gang/drug homes and turned them into upscale rentals. This is another step following the neighborhood plan to renovate rather than demolish the old homes in the area.

Exparte communications - none

No one spoke in opposition to the proposal. Jim Brown moved approval as written by staff, seconded by Richard Beardmore. **APPROVAL. (7-0-0)**



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 12, 2008

+ Back Print

DATE: November 25, 2008

CONTACT PERSON: David Thurbon/Bill Fiander **DOCUMENT #:** Z08/18

SECOND PARTY/SUBJECT: Westport Crossings, LLC **PROJECT #:**

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

CIP PROJECT: No

ACTION OF COUNCIL: 11/18/08 First Reading. **JOURNAL #:** 08

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 1900 SW Westport Drive from "C-2" Commercial District TO "C-4" Commercial District. Final Reading. (Z08/18) (Council District No. 8)

(Approval would allow for the vacant property to be developed for use of boat sales.)

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 **6-0-1** at their October 20, 2008 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 #24

N/A

ATTACHMENTS:

[Ordinance](#)

[Staff Report](#)

[Aerial](#)

[Zoning Map](#)

[Application 4 pages](#)

[PC Minutes](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at 1900 SW Westport Drive from "C-2" Commercial District **TO** "C-4" Commercial District. **(Z08/18) (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:

Lot 1, Block A, Topeka Crossing Subdivision No. 4, in the City of Topeka, Shawnee County, Kansas.

from "C-2" Commercial 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, _____, 2008.

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified _____
Not To Be Codified X

July 21, 2008
Agenda Item #G-7

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z08/18

by: Westport Crossing, LLC

PROPOSAL: Amend the District Zoning Classification from "C-2" Commercial District, **TO** "C-4" Commercial District.

LOCATION: 1900 SW Westport Drive.

PARCEL ID NUMBER: 1420403010001000.

PRESENT USE: The property is an approximate 14,567 square foot vacant tract.

PROPOSED USE: The applicant is seeking rezoning to allow the property to be developed for use of boat sales.

CHARACTER OF NEIGHBORHOOD: The neighborhood is composed predominately of commercial and light industrial uses, the site is bordered on the northeast by interstate highway I-470 to the west is a PUD (light industrial use group) and to the south is commercial.

BACKGROUND: The property was platted in March of 1992 as Lot 1, Block "C" of the Topeka Crossings Subdivision, a note on the plat stated that no building permits were to be issued for the lot. This was due to the lots configuration resulting from the alignment of SW Westport Drive. In 2005 a variance was granted by the Topeka Board of Zoning Appeals [BZA05V/4] to the rear-yard zoning setback which allowed for a 6' rear-yard setback in lieu of the 25' required setback. The subject property was then replatted [P05/10] (to remove the non-buildable designation) and rezoned [Z05/24] from "C-4" Commercial District to its current "C-2" Commercial District classification to better accommodate the property's anticipated commercial uses that would not require "Big Boxes" or outdoor display given the tracts limited size.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

ZONING CLASSIFICATION		PRESENT LAND USE
North:	Right-of-Way	Highway I-470

July 21, 2008
Agenda Item #G-7

South:	"C-4" Commercial District	Commercial center
East:	Right-of-Way	Highway I-470
West:	"PUD" (light industrial use group)	Mini-storage facility

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 original platting in 1992.

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.

CONFORMANCE TO COMPREHENSIVE PLAN: The *Comprehensive Plan* designates this area as *Commercial/Office* land use; the proposal is therefore viewed as being consistent with the plan.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: The proposed reclassification would permit the subject property to develop consistent with the *Comprehensive Plan*'s future land use designation and existing zoning for the area. There is expected to be no detrimental effect upon removal of the present restrictions based upon the surrounding land uses.

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 the *Comprehensive Plan*'s future land use designation for the area. Justification for rezoning of the site from its previous "C-4" Commercial District designation to its current "C-2" Commercial District designation was based on the postulation that "Big Boxes" and outdoor display would not be necessary given the tract's limited size and configuration. However, the lots limited size and configuration has been found to present a challenge in developing the site in either case. It becomes problematic in an economic sense to provide for a building of adequate size in addition to accommodating the required parking without being able to fully utilize the site to facilitate sales. Since the site was previously zoned "C-4" Commercial District either level of commercial intensity could be considered consistent with the established pattern of zoning and land use within this commercial corridor. Therefore, provided a proposed use can meet setback, parking, landscaping and site plan approval there is expected to be no detrimental effect upon removal 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. There are currently no transportation projects in the City's CIP (2006-2011) affecting this area. A full sidewalk will not be required because of the road alignment with I-470 and the existing placement of the sidewalk on the west side of SW Westport Drive.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

Application: **Complete.**

July 21, 2008
Agenda Item #G-7

Minimum Lot Area: **Compliant**.

Setbacks: **Compliant** – A variance [BZA05V-4] to the rear-yard zoning setback was granted by the City of Topeka Board of Zoning Appeals to allow for a 6' rear-yard setback in lieu of the 25' required.

CONCERNS OF STAFF AND REVIEWING AGENCIES: This request has been submitted to all applicable reviewing agency staff for consideration and comment. Due to the limited lot area staff is concerned with the site meeting all site plan and landscaping requirements. An administrative variance to some aspects of the landscaping requirements or parking may need to be considered at time of site plan approval. No other significant issues or concerns were expressed by reviewing staff relative to code compliance or the provisions of public services.

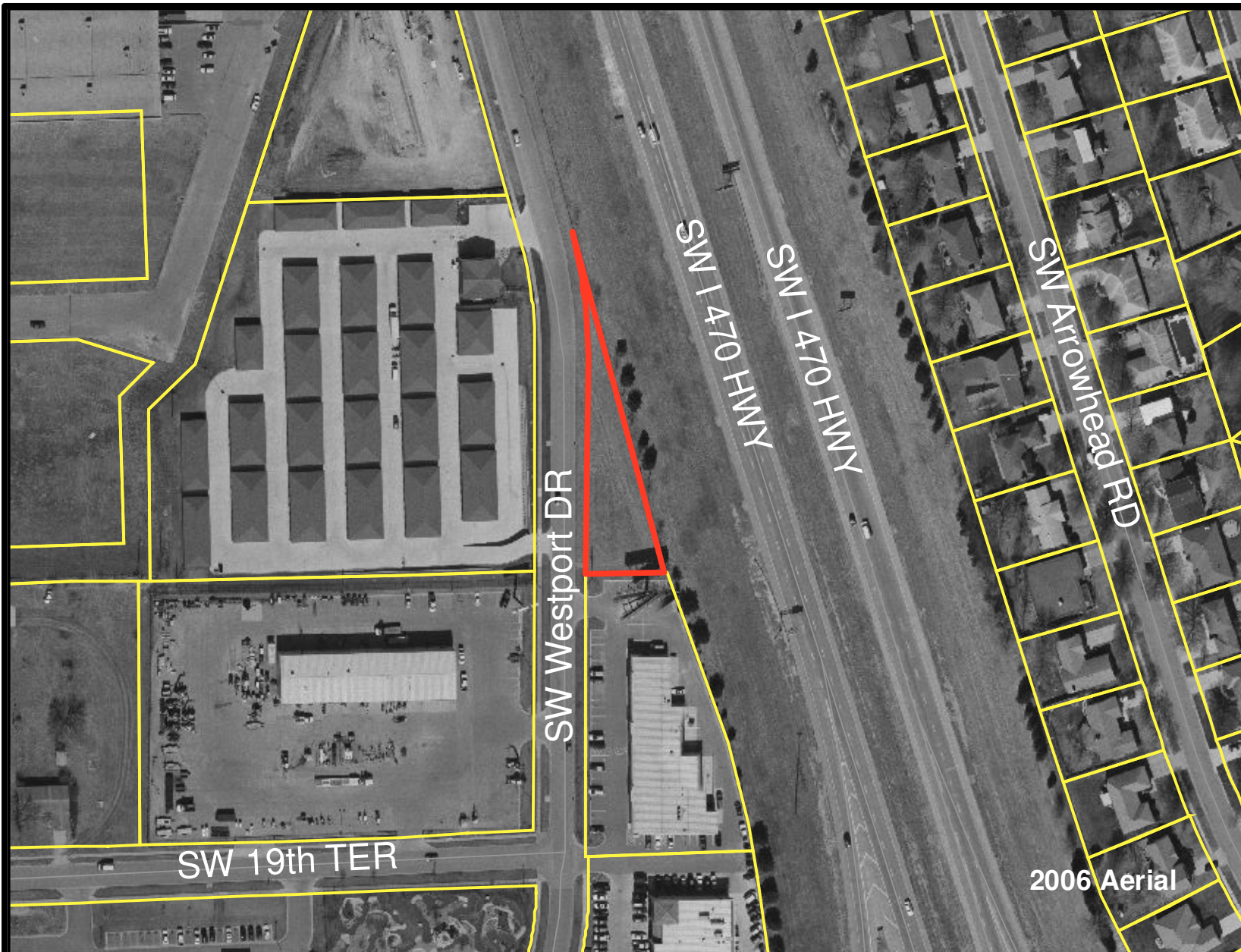
ADDITIONAL FACTORS:

1. Neighborhood Improvement Association: Not Applicable.
2. Capitol Plaza Area: Not Applicable.
3. Flood Hazard Area: Not Applicable.
4. Airport Hazard Area: Not Applicable.
5. Historic Properties: Not Applicable.

STAFF RECOMMENDATION:

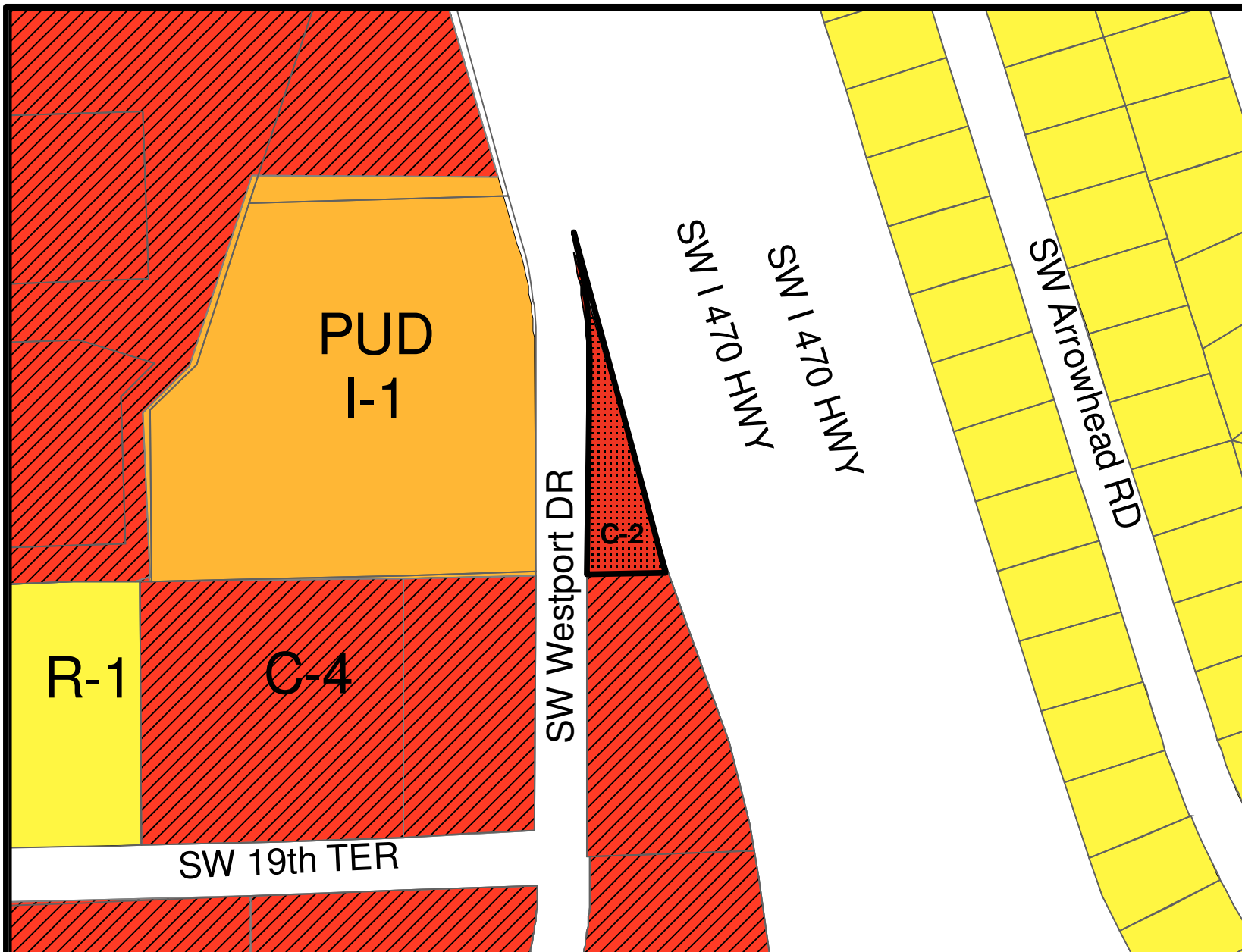
Based upon the above findings and analysis Planning Staff recommends **APPROVAL** of this proposal.

Prepared by: Dean W. Diediker
Planner II



■ ■

Z08/18 by Westport Crossing, LLC



Z08/18 by Westport Crossing, 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): WESTPORT CROSSING, LLC

Street Address: 3256 NE 27th

City: TOPEKA State: KS Zip: 66617 E-mail: Stan@StanMetzger.com

Business phone: 246-2460 Home phone: 246-2460 Fax: —

Authorized Owner Representative (if any): STAN METZGER

Street Address: SAME AS ABOVE

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: Stan R. Metzger

Owner 1 Signature: _____ Date: 6-5-08

Owner 2: _____

Owner 2 Signature: _____ Date: _____

Requested Action and Site Information

Address of Property to be Re-Zoned (or if vacant, describe general location): _____

1900 SW WESTPORT DR, TOPEKA

Legal Description of Property: lot(s) 1 block A subdivision TOPEKA CROSSING #4
(if unplatted, attach metes and bounds description)

Total Area (acres/square feet): 15,350 sq' +/-

Type of Application:

1. Re-zoning from: C-2 to: C-4

2. Conditional Use Permit proposed use: _____

Existing Use (# of dwelling units, square feet, etc.): VACANT

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

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

Was a Pre-Application Meeting or Zoning Inquiry completed with Staff? YES If Yes, when? 5-14?

FOR OFFICE USE ONLY

Date submitted: 6/6/08

Date notice sent: 6/27/08

Application no.: 208/18

Date advertised: 6/27/08

Filing fee: _____ Receipt no.: _____

Date of hearing: 7/21/08

Quarter section map no.: H-1

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?

PURCHASER PLANS TO SELL MARINE PRODUCTS

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?



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?
SAME AS ON PLAT
- ☒ c. Will any street improvements or traffic control improvements be required?

DRAFT

**Minutes of the
Topeka Planning Commission
October 20, 2008**

Z08/18 by Westport Crossing, L.L.C. requesting to amend the District Zoning Classification from "C-2" Commercial District **TO** "C-4" Commercial District on property located at 1900 SW Westport Drive. **(Diediker)** Dean Diediker summarized the staff report.

Discussion by members:

Jim Brown asked if there will be any screening requirements between the property and I-70? Mr. Diediker replied no due to the height we don't feel it is necessary. No other properties in the area are required to have screening. Howard Blackmon asked how the property determined non-buildable? Mr. Diediker said it was originally listed as non-buildable on the plat but they re-platted it to make it buildable. Mr. Blackmon asked who determines a property to be non-buildable? Mr. Diediker replied this property didn't meet the minimum lot size required but it was granted a variance to make it buildable.

Proponents:

Stan Metzger, Manager of Westport Crossing LLC, was present for any questions. Michelle Hoferer asked if the plans for boat sales on the property are definite? Mr. Metzger replied we have a user for the property but he couldn't be here tonight. Doug Bassett said he has been trying to sell this property for a while and it is great they found a user for this lot. He added it is good to get the property on the tax rolls and it brings a new business to Topeka.

Mark Boyd said he was hired as a consultant in 2005 when this property was re-platted and he will abstain due to that.

Exparte communications - none

Richard Beardmore moved approval as written by staff, seconded by Doug Bassett. **APPROVAL. (6-0-1)**
Mark Boyd abstained due to a possible conflict of interest.



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 12, 2008

+ Back Print

DATE:	November 25, 2008		
CONTACT PERSON:	David Thurbon/Bill Fiander	DOCUMENT #:	Z08/19
SECOND PARTY/SUBJECT:	Kent D. and Vikki L. Lindemuth	PROJECT #:	
CATEGORY/SUBCATEGORY	014 Ordinances – Non-Codified / 007 Zoning		
CIP PROJECT:	No		
ACTION OF COUNCIL:	11/18/08 First Reading.	JOURNAL #:	08
		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 2114 SW Seabrook Avenue from "R-1" Single Family Dwelling District TO "O&I-2" Office and Institutional District. Final Reading. (Z08/19) (Council District No. 8)

(Approval would allow the property to be redeveloped for an office and parking lot.)

POLICY ISSUE:

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

STAFF RECOMMENDATION:

The Planning Commission recommended this proposal be **DISAPPROVED** by a vote of **1-5-0** at their October 20, 2008 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.

Item #25

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Ordinance](#)

[Staff Report](#)

[Aerial](#)

[Zoning Map](#)

[Application 4 pages](#)

[PC Minutes](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at 2114 SW Seabrook Avenue from "R-1" Single Family Dwelling District **TO** "O&I-2" Office and Institutional District. **(Z08/19) (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:

Lot 30 on Seabrook Avenue (formerly Ravina Avenue) in Fairlea Gardens Subdivision, City of Topeka, Shawnee County, Kansas.

from "R-1" Single Family Dwelling District **TO** "O&I-2" 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, _____, 2008.

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified _____
Not To Be Codified X

August 18, 2008
Agenda Item #G-12

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z08/19

by: Kent D. and Vikki L. Lindenmuth.

PROPOSAL: Amend the District Zoning Classification from "R-1" Single-Family Dwelling District, TO "O&I-2" Office and Institutional District.

LOCATION: 2114 SW Seabrook Avenue.

PARCEL ID NUMBER: 1421001002007000.

PRESENT USE: The property is a 13,969 S.F. tract occupied by a vacant 675 S.F. garage structure.

PROPOSED USE: The applicant is intending to redevelop the site for an office and parking lot. Staff has indicated to the applicant that ingress/egress to the property at 4009 SW 21st Street would still not be permitted should this proposal be approved.

BACKGROUND: A previous proposal by this applicant to rezone the subject property to "O&I-2" Office and Institutional District was considered by the Planning Commission on January 17, 2007 at which time the Planning Commission voted 8-0-0 to approve an "O&I-1" classification. Staff at the time recommended the rezoning request be disapproved. A protest petition was filed against the proposal. The extent of the protest constituted 52% of the required notification area. The City Council on March 20, 2007 voted to disapprove the proposal. A motion for approval failed by a vote of 1-8-0, the applicant is now requesting that the Planning Commission once again consider rezoning the subject property from "R-1" Single-Family Dwelling District to "O&I-2" Office and Institutional District.

CHARACTER OF NEIGHBORHOOD: The neighborhood immediately south of the subject property is exclusively residential with the area immediately to the north being commercial.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	"C-2" Commercial District	Office
	"O&I-2" Office and Institutional District	Parking Lot
South:	"R-1" Single-Family Dwelling District	Residential

August 18, 2008
Agenda Item #G-12

East: "M-1" Two-Family Dwelling District
West: "R-1" Single-Family Dwelling District

Residential
Residential

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The property was platted in 1927. A residential structure to which the existing garage was accessory was demolished in 2007. The property has remained in its current state since that time.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The site's present classification of "R-1" Single-Family Dwelling District, which is intended for the development of detached single-family dwellings in locations free from the encroachment of incompatible uses, is consistent with the established pattern of zoning and land use in the area. The site does abut properties zoned commercial, office and institutional however, this situation has existed in the area for sometime.

CONFORMANCE TO COMPREHENSIVE PLAN: The Comprehensive Plan designates this area as *Commercial/Office* land use. However, the area so designated is on the extreme southern edge of the future land use designation for commercial in the area. Accepted planning principles dictate that established patterns of land use must be recognized as a basic factor which strongly influences rezoning decision. In this case, in keeping with the established zoning pattern in the area it would be more suitable to consider rezoning to a residential classification such as "M-1" Two-Family Dwelling District which is intended to serve as a transitional use between single-family dwelling districts and other districts that are more intense. The proposal for this reason is viewed by staff as being inconsistent with the plan and contrary to accepted planning principles.

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. Based upon the established patterns of land use within the area it is most appropriate that any rezoning serve to preserve the character of the immediate neighborhood and those established residential neighborhoods to the south, west and east of the subject area. To this end, rezoning the property from its current "R-1" Single-Family Dwelling District classification to the proposed "O&I-2" Office and Institutional District classification is viewed as being incompatible with the established pattern of zoning within the area. Therefore, as the subject property is currently zoned "R-1" Single-Family Dwelling District and has acted as a "buffer" between the commercial and office areas to the north and the established residential neighborhoods to the south, west and east any change in the intensity of use of the site beyond "M-1" Two-Family Dwelling District would be viewed as having a detrimental affect on these properties.

THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE OWNER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER: The site's present classification is consistent with the established pattern of zoning and land use in the area as the property is currently zoned "R-1" Single-Family Dwelling District. The property is located in a well established and maintained neighborhood. Allowing a more intense use threatens the integrity of this established residential neighborhood and would only promote to undermine the existing character of the area. The

August 18, 2008
Agenda Item #G-12

subject property is quite suitable as currently zoned and there would appear to be no particular gain to the public health, safety, and welfare in removing the present restrictions. On the contrary, if the present restrictions were removed the property would be developed inconsistent with the surrounding uses, and could violate the access standards as set forth in the zoning regulations if access from SW Seabrook Avenue to the property at 4009 SW 21st Street became possible.

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are presently available and will not be overburdened by this proposal. However, an increase in commercial traffic into and through the area resulting from what could become a secondary access linking SW 21st Street and SW Seabrook Avenue could adversely affect the general welfare of the neighborhood on SW Seabrook Avenue. There are currently no transportation projects in the City's CIP (2007-2011) affecting this area.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

Application: **Complete.**

Minimum Lot Area: **Compliant** – +10,000 S.F.

Setbacks: **Compliant.**

Platting: **Compliant** – Property is platted as Lots 30, Fairlea Gardens Subdivision.

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 and traffic movements. What could result if rezoning the subject site to "O&I-2" is approved is an access linking the "C-4" commercial property on SW 21st Street with SW Seabrook Avenue through the area currently zoned "O&I-2" Office and Institutional District which adjoins the subject property to the north. Access of this type is not permitted by zoning regulation 48-27.05 which states: *"The use regulations of a district shall also include and apply to the access to be provided in conjunction with such uses. No part of any lot located in a more restrictive district shall be used for vehicular access to a more intensive use."* Therefore, all property related to this use for which access is taken must be "C-4".

The applicant sought a variance from the Board of Zoning Appeals (*please refer to attached copy of case BZA06V/15*) to allow access to be taken from the subject lot located in a more restrictive district "R-1" to a lot of a more intense use "C-4". The Board of Zoning Appeals denied the request (*please refer to attached Board of Zoning Appeals Action Form*).

ADDITIONAL FACTORS:

1. Neighborhood Improvement Association: Not Applicable.
2. Capitol Plaza Area: Not Applicable.

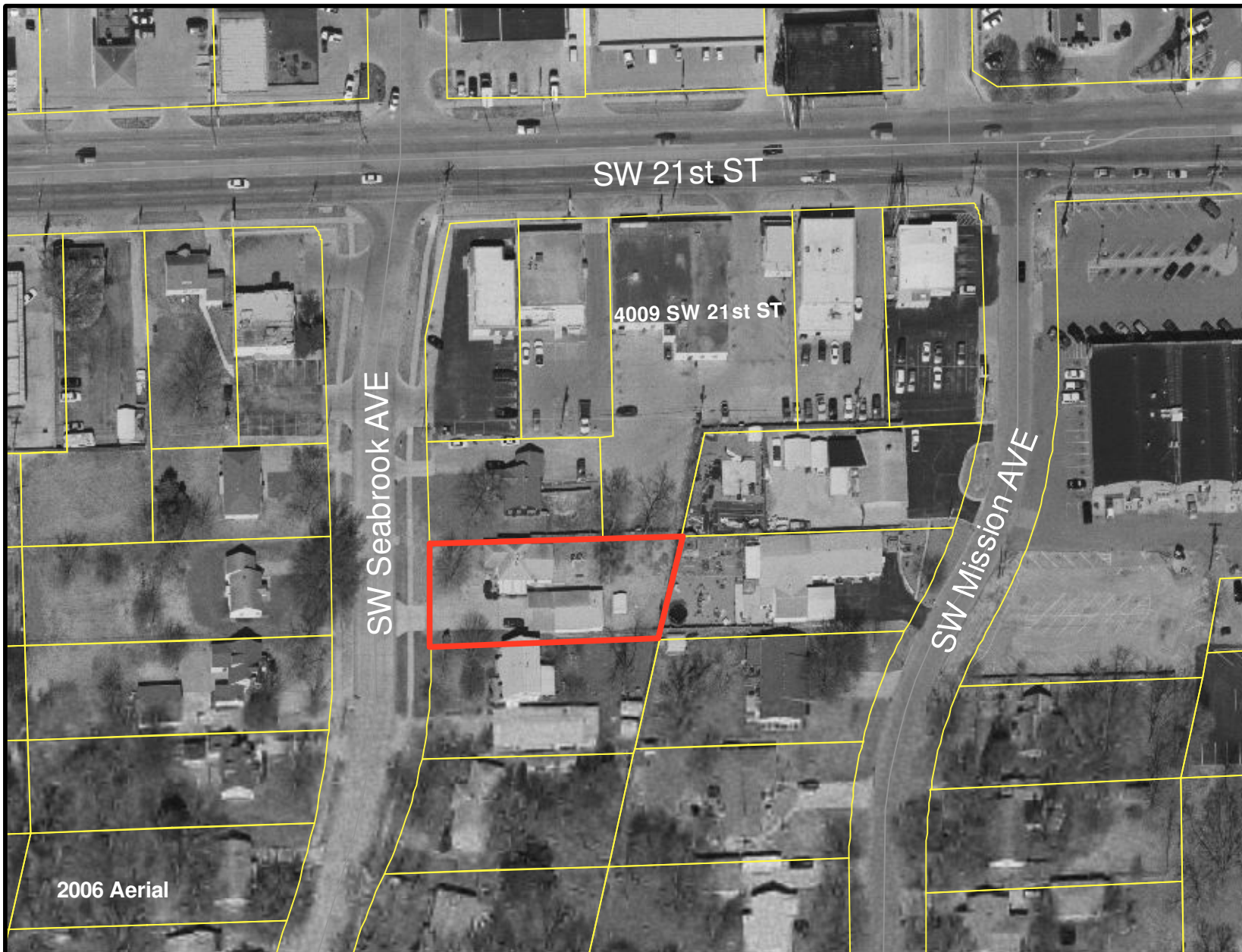
August 18, 2008
Agenda Item #G-12

3. Flood Hazard Area: Not Applicable.
4. Airport Hazard Area: Not Applicable.
5. Historic Properties: Not Applicable.

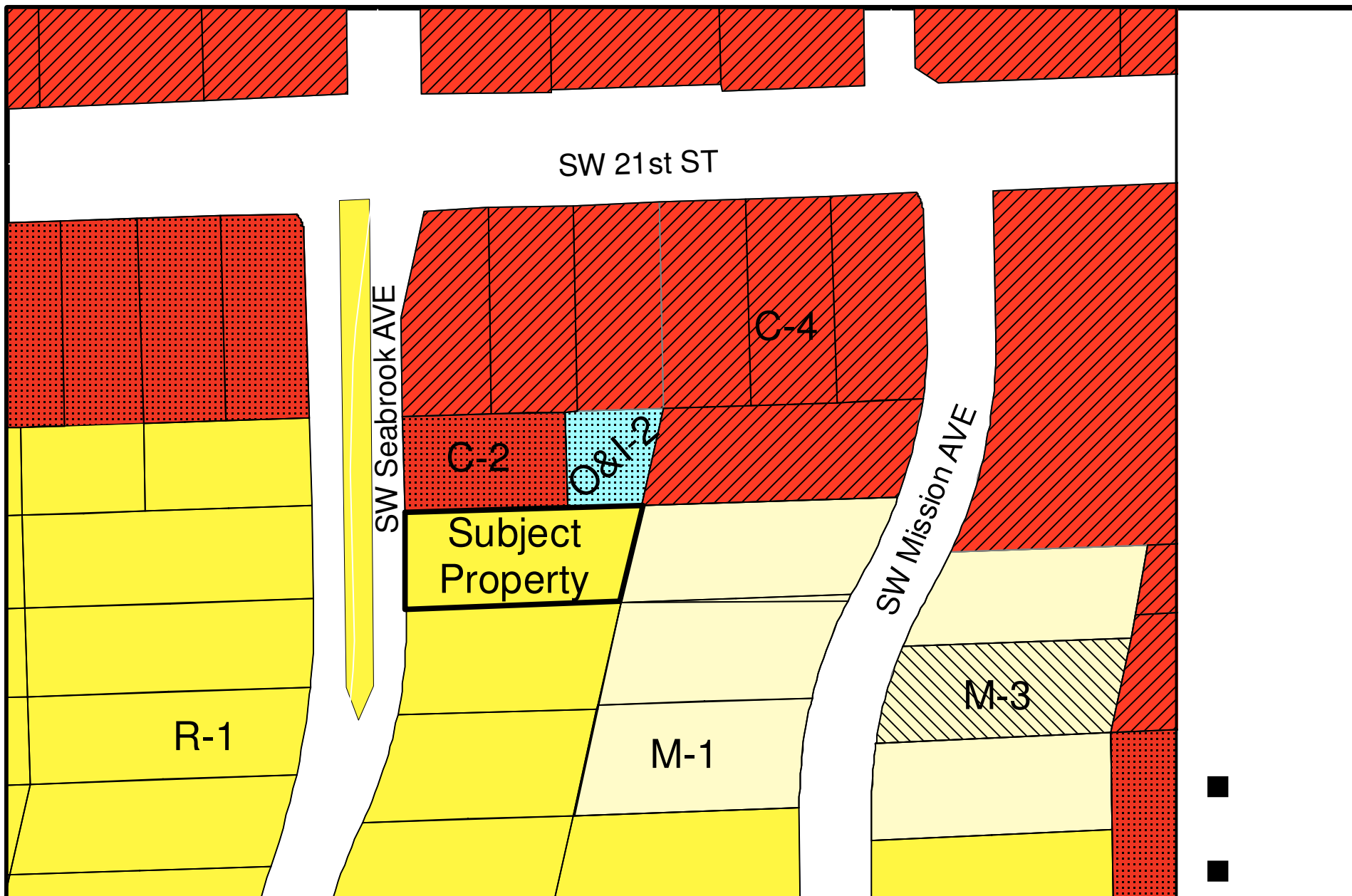
STAFF RECOMMENDATION:

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

Prepared by: Dean W. Diediker
Planner II



Z08/19 by Kent D. & Vikki L. Lindenmuth



Z08/19 by Kent D. & Vikki L. Lindenmuth



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): Kent D. and Vikki L. Lindemuth

Street Address: 125 SW Gage Boulevard

City: Topeka **State:** KS **Zip:** 66606 **E-mail:** _____

Business phone: (785) 235-6446 **Home phone:** _____ **Fax:** (785) 272-6566

Authorized Owner Representative (if any): Ben Swinnen

Street Address: 2913 SW Maupin Lane

City: Topeka **State:** KS **Zip:** 66614 **E-mail:** _____

Business phone: (785) 273-8002 **Home phone:** _____ **Fax:** (785) 273-0744

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

Rick Schmidt/Schmidt Engineering & Surveying, L.L.C.

Street Address: 3420 SW Urish Road

City: Topeka **State:** KS **Zip:** 66614 **E-mail:** rschmidt@kans.com

Business phone: (785) 478-4420 **Home phone:** _____ **Fax:** (785) 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: Kent D. Lindemuth

Owner 1 Signature: Kent D. Lindemuth **Date:** July 2/2008

Owner 2: Vikki L. Lindemuth

Owner 2 Signature: Vikki L. Lindemuth **Date:** _____

Requested Action and Site Information

Address of Property to be Re-Zoned (or if vacant, describe general location): 2114 SW Seabrook Avenue

Legal Description of Property: lot(s) 30 block _____ subdivision Fairlea Gardens Subdivision
(if unplatted, attach metes and bounds description)

Total Area (acres/square feet): 0.32 acres - 13,969 s.f.

Type of Application:

1. Re-zoning from: R-1 to: O & I-2

2. Conditional Use Permit proposed use: _____

Existing Use (# of dwelling units, square feet, etc.): Detached garage

(House has been removed from site)

How long has the existing use been on the property? 1945 (according to Shawnee County Appraiser)

Proposed Use (# of dwelling units, square feet, etc.): Office and Parking Lot

Was a Pre-Application Meeting or Zoning Inquiry completed with Staff? No If Yes, when? _____

FOR OFFICE USE ONLY

Date submitted: 7/3/08

Date notice sent: 7/25/08

Application no.: 208/19

Date advertised: 7/25/08

Filing fee: 650⁰⁰ Receipt no.: 11804

Date of hearing: 8/18/08

1100⁰⁰ due i pd + refund from 208/15
Quarter section map no.: I-4

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?

The property that is currently zoned R-1 has had the residence removed. Given the surrounding uses and the close proximity to SW 21st Street the marketability of a new residence on this property is not favorable.

The applicant intends to construct a paved parking lot and convert the existing garage to office space.

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

Very little effect:

There is residential zoning to the South of this tract and Multi-Family zoning to the East. There is presently a board fence along the East line of the subject tract which serves as a screen to the East properties. This will remain. Screening will be provided along the South property line as required by the City of Topeka landscape ordinance.

Properties to the North are zoned C-2 and O & I-2.

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

The 2030 Regional Land Use Plan reflects this area to be planned for Urban/Suburban Low Density Residential.

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:
2" water main along East side of Scabrook Avenue.
- 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:
10" sanitary sewer main along East line of property.
- 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?
Storm water flows will be directed toward the existing storm sewer system along SW Scabrook Avenue.
- b. Does the current storm sewer system have adequate capacity for proposed use?
This analysis will be done during the Site Development stage and the design will be reviewed by the City of Topeka Engineering Department.

4. Traffic Circulation

- a. Does the site have public street frontage access? What is the pavement width of any adjoining public streets?
Yes.
- b. What are the site's existing or proposed access points?
The existing access point is along the South side of Lot 30. The location of the proposed access has not yet been determined.
- c. Will any street improvements or traffic control improvements be required?
No.

DRAFT

**Minutes of the
Topeka Planning Commission
October 20, 2008**

Z08/19 by Kent D. and Vikki L. Lindemuth requesting to amend the District Zoning Classification from "R-1" Single Family Dwelling District **TO** "O&I-2" Office and Institutional District on property located at 2114 SW Seabrook Avenue. **(Diediker)** Dean Diediker summarized the staff report.

Discussion by members:

John Federico stated the history of this property is helpful. He asked if any issues were raised by the neighbors? Mr. Diediker replied protest petitions aren't filed until after the public hearing by the Planning Commission.

Proponents:

Ben Swinnen, representative for the property owner, spoke in favor of the proposal. He said he would like to make two clarifications. He said the latest report from staff has a few inaccuracies. He said the first being the zoning change requested only affects this lot, we do not want access to 21st Street from this lot. The proposed use is simple. On the property there is an existing garage. We will use it to store items to help maintain some of the properties that surround it. There are two C-4 properties Mr. Lindemuth owns on the south side of 21st Street, one on the north side and the Seabrook Shopping Center. This proposal is to simply use this property for maintenance for his properties in this area. Our request only relates to that one lot with access onto Seabrook. We are creating a transition from the C-4 into the R-1 neighborhood with this proposal. He said the initial plan was to connect to 21st Street. I don't understand the opposition by staff for this proposal. This fits perfectly as a reasonable transition. This staff report doesn't show the difference from our initial plan.

Mark Boyd said the last request had more parcels involved. At the time there was a lot of discussion about connectivity within this development. What is the condition of the O&I-1 property? Mr. Swinnen replied it is additional parking with access to 21st Street. Mr. Thurbon stated the curbing has been removed and our zoning inspector has a current case on it because it is required to be there. Mr. Boyd said the removal of that curb implies other things. Is it for drainage? Why would it be removed? Mr. Swinnen said the curb was removed in the initial application. Mr. Boyd said he was supportive of the O&I-1 request in the first application. He asked why they are requesting O&I-2? Mr. Swinnen replied Mr. Lindemuth wants to use garage as maintenance facility and possibly convert it to a small office. He said in the future it could be converted into an insurance building. Mr. Swinnen said we are just asking for the zoning, we have no definite plans. Mr. Boyd asked how big the structure can be in the O&I-1 District? Mr. Thurbon replied 7500 square feet. Mr. Swinnen stated the lot isn't big enough to build that big. Mr. Thurbon added 15,000 square feet total with a two story building. Mr. Boyd asked if this property was zoned O&I-1 could the parking lot to the north be used for this property? Mr. Thurbon replied it could be. Mr. Boyd asked why O&I-2, it doesn't seem to fit the size of this lot. Mr. Swinnen stated the initial idea, when purchased, was C-4 but it was denied. The house was removed. We are trying to find a use that goes with planning standards, the neighborhood and owner. We just want to use this empty lot. Mr. Boyd asked whether there was a house on this property? Mr. Swinnen replied yes. He added the house was gone before the first requested re-zoning.

Opponents:

Walter McDaniels, 2118 SW Seabrook, spoke in opposition to the proposal. He stated he has lived here since 1968. He said he has the same opposition as a year ago. This is a nice neighborhood and we don't have any problems. If commercial is allowed we will have problems. Last time this got passed by you, we had to have a petition filed and it was honored at City Council.

Mr. Boyd asked what the property to the north of the proposal property is being used for, is it an office? Mr. McDaniels replied no, it is a residential rental property. He said many years ago it was used for an office, then it was vacant for many years. He said there is no purpose for an office at this location. Mr. Boyd asked how long ago it was an office? Mr. McDaniels replied in 1968. He said he hopes the Commission works with the neighborhood and leaves this residential. Doug Bassett asked if the main issue is crime? He said he doesn't see how an office use will bring in crime or even more traffic. Is there other reasons? Mr. McDaniels replied congregations of people late at night. Don't want to see that. Afraid that will be happening if this zoning goes through. I also have trouble with drainage off of this site. There was curbing there to deter drainage and now my property gets flooded due to that. Jim Brown asked if Mr. McDaniels is still having water problems? Mr.

McDaniels replied yes.

Gerald Henry, 2136 SW Seabrook, spoke in opposition to the proposal. He stated water is a major issue to the south of this property. We have a sewer drain in front of our house. We flooded 4 times in 6 years. There is a large amount of drainage from this property. It will be worse if there is more asphalt put in. We have contacted the city about the sewer drain several times.

Mr. Federico asked did you experience any flooding before the curb was removed. Mr. Henry replied it has gotten worse. This spring we flooded and it traumatized our family. Mr. Bassett said this sounds like an issue that needs to be addressed outside this proposal. Mr. Henry stated his property is the low point of the neighborhood. The drain is right out in front of our house.

David Crow, lives across the street from the proposal property, spoke in opposition to the proposal. He said we are at the high point in the neighborhood and the water was 8 feet up into my yard this spring. I don't understand why we should make this residential street shorter than it is. Traffic is a big issue for me. This was a house, why would you put in a business into this area? The businesses belong along 21st Street. I don't want to see commercial move more and more into the neighborhood.

Proponent:

Kent Lindemuth, owner of the proposal property, spoke in favor of the proposal. He said he simply wants office zoning to be continued onto this lot. He said he wants to use the existing garage on the property. He said he is willing to design and work with the neighborhood to help control the water that comes down into the residential area. The previous owner had an RV and a garage door business. He removed the curb to fit the RV on the property. He said he will try to limit the drainage from his property to eliminate it.

Opponent:

Delmar Tucking Jr., owns commercial property on 21st Street and the property to the north of the proposal property. He said it has been a running battle regarding access onto 21st Street. He said Mr. Lindemuth wants to open a drive way to block off other drives in this area. He has barricades on his property right now. I have had a fire recently in our building and had a hard time getting the fire trucks in. He said he would like to remind the Commission there was a protest petition on the previous proposal and there will be more this time. This property should have a residential home on it. I am right next door to Seabrook Tavern.

Mr. Bassett asked where are the barricades located? Mr. Tucking replied right in front of the property. There isn't much cooperation between him and the neighbors. If he is allowed to do this he will block off my drive. He will have access in and out of his property and I won't have any access.

Proponent

Mr. Lindemuth stated we made a temporary place for him in Gage Shopping Center since his fire. He said he has asked Mr. Tucking to control his people's parking and cars. I am trying to eliminate that problem.

Opponent

Mr. Tucking said we have clients and they are told not to park on Mr. Lindemuth's property. He said in the past Mr. Lindemuth has in the salon while we have clients telling us not to drive through his drive way. He runs people off that park on his property.

Mr. Boyd asked what was the use of the property to the north and what is it now? Mr. Diediker replied it is my understanding it is a residential rental. Mr. Bassett said but the zoning is C-2. Mr. Diediker replied it is a grandfathered use situation. Mr. Boyd stated it is probably better as a residence rather than commercial since it has been that for years and it has been continually rented.

Mr. Bassett said this is a difficult case with the surrounding zoning. I have taken in the flooding issues and barriers but I can see this use for this property. It won't create more traffic and it will be used to maintain surrounding properties.

Mr. Diediker stated Mr. Lindemuth purchased the property with a house on it. He demolished the house. Any hardship on this property was made by him. The Board of Zoning Appeals denied his request as well. Staff is looking at it with the question, is this an appropriate use for this area? This is a viable neighborhood, one of the most established in Topeka. The O&I-2 that is there should not be there. The only reason it exists when the zoning was converted and it could be multiple family or office. It was being used as a parking lot so it was assigned the O&I-2. This doesn't allow for expansion of office in this area.

Mr. Bassett stated the detriment to the neighbors seems to be more emotional than practical. I am trying to see why there is such opposition. We have put in more intense uses than this back to back. I don't see a lot of crime around offices. I am not trying to guess what he is going to do. I will support this proposal.

Mr. Boyd stated it just doesn't feel right.

Jim Brown said he has known Mr. Lindemuth and his father-in-law for years. I contacted the legal department to inform them of this and I was told it is not a conflict and I can vote on his cases.

Exparte communications - none

Mark Boyd moved approval as requested by the applicant, seconded by Doug Bassett. **DISAPPROVAL. (1-5-0) Commissioners Beardmore, Boyd, Brown, Federico and Hoferer voted no.**



A Capital City Government Working For You...

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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 6, 2008

+ Back Print

DATE: November 25, 2008

CONTACT PERSON: Bernie Cosby **DOCUMENT #:**

SECOND PARTY/SUBJECT: Handicapped Accessible Curb Cuts and Sidewalk Ramps **PROJECT #:** T-841004-00 (HTE 843540)

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

CIP PROJECT: Yes

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-841004.00 (HTE 843540), which provides for the construction of handicapped accessible curb cuts and sidewalk ramps at selected intersections throughout the City, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka. **First Reading.** *(All Council Districts)*

(Authorizing \$500,000 to provide for the construction of handicapped accessible curb cuts and sidewalk ramps at selected intersections throughout the City.)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

Approve the Project Budget and Ordinance as presented.

BACKGROUND:

This project will provide the construction of handicapped accessible curb cuts and sidewalk ramps at selected intersections in the area bounded by Washburn Avenue, Topeka Boulevard, Huntoon Street and 17th Street and at selected intersections throughout the City, to meet requirements of the American with Disabilities Act in accordance with the City's sidewalk ramp transition plan.

BUDGETARY IMPACT:

Project Budget: \$500,000.00

SOURCE OF FUNDING:

General Obligation Bonds or any other lawfully available funds. Annual debt service is estimated at \$40,337 for 20 years, to be paid from Bond and Interest Fund.

ATTACHMENTS:

[Project Budget](#)

[Vicinity Map](#)

[Debt Service](#)

[Ordinance](#)

PROJECT BUDGET

STREET REPAIR PROJECT NO. T-841004.00 (HTE 843540)

HANDICAPPED ACCESSIBLE SIDEWALK RAMP PROJECT

LOCATION:

City Wide

SOURCE OF FUNDS:

2008 Capital Budget – 100% General Obligation Bonds

DESCRIPTION:

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

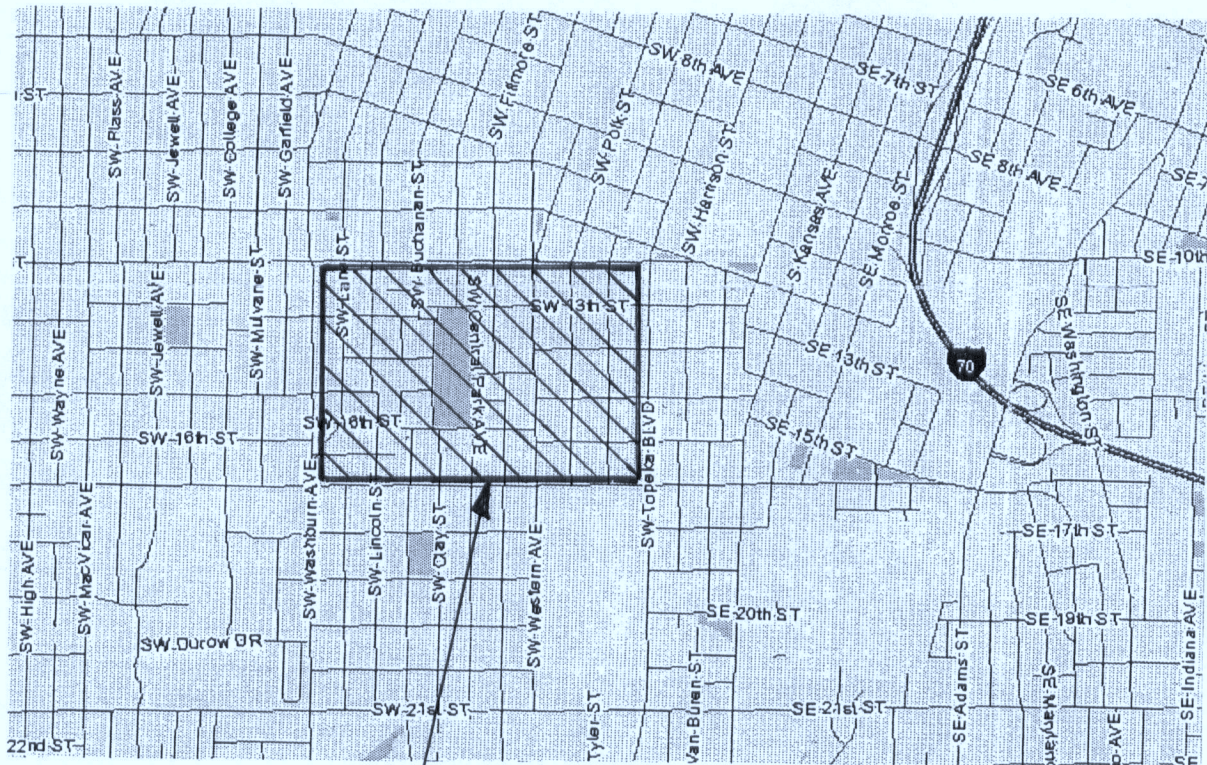
COST ESTIMATE:

Construction	\$ 375,000.00
Design	\$ 30,000.00
Engineering Fee	\$ -
Proj. Serv. Fee	
Proj. Engr.	\$ 10,000.00
CIP Coordinator	\$ -
Proj. Admin.	\$ 8,000.00
Contingencies	\$ 37,000.00
Right-of-Way	\$ -
Interin Interest	\$ <u>40,000.00</u>
Total	\$ 500,000.00

CONTACT PERSON:

Bernie Cosby, City Engineering

LOCATION MAP
PROJECT NO. T-841004.00 (HTE 843540)



PROJECT LOCATION

GO Bond Cost of Project

PROJECT: T-841004.00 (HTE 843540)

Interest rate	5.25%
Number of Years	20

Cost of Issuance	2.00%
Temp Note interest	5.000%

Principal	\$460,000
Plus Temp Note Interest	\$23,000
Plus Cost of Issuance	<u>\$9,200</u>
Total Project Budget	\$492,200

Annual Debt Service	\$40,337
Annual Debt Service as Percent of Total	8.2%

Total Debt Service (principal and interest)	\$806,738
---	-----------

Difference Project Cost and Total Debt Service	\$346,738
--	-----------

GO Bonded Indebtedness as of December 2007	\$153,840,000
Heartland Park STAR Bonds	\$10,405,000
College Hill TIF	\$5,840,000
2007 Temporary Notes that Finance Future GO Bond projects	\$9,200,000
Approved, not Included in GO Bond Issue or Temporary Notes--City Projects	\$6,163,840
Approved, not Included in GO Bond Issue or Temporary Notes--Special Assessment Projects	<u>3,944,245</u>
Total Indebtedness	<u><u>\$189,393,085</u></u>
Plus Project	\$189,885,285

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. T-841004.00 (HTE #843540), which provides for the construction of handicapped accessible curb cuts and sidewalk ramps at selected intersections throughout the City, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka.

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

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

A. GENERAL NATURE OF IMPROVEMENT:

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

B. TOTAL PROJECT BUDGET COST:

\$500,000.00

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.

35 PASSED and APPROVED by the City Council_____.

36 CITY OF TOPEKA, KANSAS

37

38

39

William W. Bunten, Mayor

40 ATTEST:

41

42

43

44 _____
Brenda Younger, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 7, 2008

+ Back Print

DATE: November 25, 2008

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 7, 2008

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

DATE: November 25, 2008

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

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BACKGROUND:

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ATTACHMENTS:

No Attachments Available



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214 SE 8th Street
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October 7, 2008

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PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

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STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available