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## City Council Agenda

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

December 9, 2008  
6:00 PM

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**City Manager: Norton N. Bonaparte, Jr.**

**Mayor: William W. Bunten**

### **Councilmembers**

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

**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: "Human Rights Day"

### 2. PRESENTATIONS: "None scheduled at this time."

### 3. ROLL CALL:

### 4. CONSENT AGENDA:

#### A. Board Appointment - City of Topeka ADA Advisory Council



[ATTACHMENTS](#)

**BOARD APPOINTMENT** recommending the appointment of Josh Lyman to the City of Topeka ADA Advisory Council for a term that would end December 31, 2010. *(Council District No. 8)*

#### B. Board Appointment - Topeka Landmarks Commission



[ATTACHMENTS](#)

**BOARD APPOINTMENT** recommending Robert Banks to the Topeka Landmarks Commission for a term that would end December 31, 2011. *(Council District No. 6)*

#### C. Board Appointment - Topeka Landmarks Commission

**BOARD APPOINTMENT** recommending Sandra Lassiter to the Topeka Landmarks Commission for a term that would end December 31, 2011. *(Council District No. 7)*

#### D. Board Appointment - Topeka Landmarks Commission

**BOARD APPOINTMENT** recommending Rowena Horr to the Topeka Landmarks Commission for a term that would end December 31, 2011. *(Council District No. 2)*

#### E. MINUTES of the regular meeting of December 2, 2008

#### F. APPLICATIONS:

### 5. PUBLIC HEARINGS:

#### A. Public Hearing and Ordinance - 2008 Operating Budget Amendments



[ATTACHMENTS](#)

**A PUBLIC HEARING** for the purpose of hearing and answering objections of taxpayers relating to the proposed amended use of 2008 Operating Budget funds.

**AN APPROPRIATION ORDINANCE** introduced by City Manager Norton N. Bonaparte, Jr., amending the adopted operating budget for the City of Topeka, for the year 2008, and appropriating the amounts for the purpose as set forth therein. **First and Final Reading.**

*(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.)*

### 6. UNFINISHED BUSINESS:

#### A. Ordinance - Softball/Sports Facilities Reserve Fund



[ATTACHMENTS](#)

**AN ORDINANCE** introduced by Deputy Mayor Jeff Preisner concerning the Softball/Sports Facilities Reserve Fund amending the procedures established by Ordinance No. 16269 and repealing said ordinance. **Final Reading.**

*(Approval would authorize the City Manager to grant approval of expenditures recommended by the Topeka Softball Association.)*

### 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 one-time grant awards in 2009 from the Special Alcohol Program Fund.

*(Outlines the recommendations of the Advisory Council and requests City Council approval of the grant awards.)*

**B. Resolution - Consolidated Rural Water District No. 1**

 [ATTACHMENTS](#)

**A RESOLUTION** introduced by City Manager Norton N. Bonaparte, Jr., authorizing the City Attorney's office to take all appropriate legal action necessary to collect monies owed by Consolidated Rural Water District No. 1 to the City of Topeka.

*(Approval would direct and authorize the City's Legal Department to take all appropriate legal action to collect the \$400,000 owed by CRWD No. 1.)*

**C. Ordinance - Weekly Expenditures - November 17-23, 2008**

 [ATTACHMENTS](#)

**AN ORDINANCE** introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of November 17, 2008, through November 23, 2008, and enumerating said expenditures therein. First and Final Reading.

**8. FIRST READINGS:**

**A. Ordinance - Street Improvement Project No. 60626-00**

 [ATTACHMENTS](#)

**AN ORDINANCE** introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Wanamaker West Subdivisions No. 2 and No. 3, with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60626 as defined and described in Resolution No. 7943, adopted and approved May 1, 2007. First Reading. *(Council District No. 8)*

*(Approval would apportion and levy a special assessment for the street improvement and will be paid 100% by the Improvement District. The final project cost is \$291,323.61)*

**B. Ordinance - Planned Unit Development District Amendments (ACZR08/1)**

 [ATTACHMENTS](#)

**AN ORDINANCE** introduced by City Manager Norton N. Bonaparte, Jr. amending City of Topeka Code Section 48-24.01 through 48-24.07 concerning planned unit development districts and specifically repealing said original sections. First Reading. *(ACZR08/1)*

*(Approval would amend the zoning regulations by making properties less than 1 acre eligible to be zoned PUD as "transition areas" and providing flexibility in amending and recording PUDs.)*

**C. Ordinance - Curtis Cemetery (HL08/04)**

 [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 "OS-1" Open Space District and located at 1638 NW Harrison Street in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4. First Reading. *(HL08/04) (Council District No. 2)*

*(Approval would add historic landmark overlay zoning to the Curtis Cemetery.)*

**D. Ordinance - Wanamaker Northwest (PUD08/2)**

 [ATTACHMENTS](#)

**AN ORDINANCE** introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made part of the Zoning Ordinances by Section 48-1.03 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at 6209, 6211, 6213 SW 10th Avenue in the City of Topeka, Kansas from "R-1" Single-Family Dwelling District and "C-2" Commercial District ALL TO "PUD" Planned Unit Development District ("C-2" use group). First Reading. *(PUD08/2)(Council District No. 9)*

*(Approval would allow for hotel/retail uses and a pole sign height of 69 feet.)*

**E. Ordinance - Pioneer Adams II, L.C. (PUD08/5)**

**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 southeast corner of SE Adams and SE 21st Street from “R-1 Single Family Dwelling District and “C-2” Commercial District ALL TO “PUD” Planned Unit Development District (“M-2” use group).**

**First Reading.** *(PUD08/5) (Council District No. 4)*

*(Approval would allow development of 49 dwelling units for affordable housing on a 3.98 acre property.)*

**9. MISCELLANEOUS:**

-

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

-

**11. PUBLIC COMMENT:**

-

**12. ADJOURNMENT:**

-





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## Council Action Form

Council Chambers  
214 SE 8th Street  
Topeka, Kansas 66603

November 6, 2008

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**DATE:** December 9, 2008

**CONTACT PERSON:**

**DOCUMENT #:**

**SECOND PARTY/SUBJECT:**

**PROJECT #:**

**CATEGORY/SUBCATEGORY**

**CIP PROJECT:** No

**ACTION OF COUNCIL:**

**JOURNAL #:**

**PAGE #:**

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**DOCUMENT DESCRIPTION:**

**POLICY ISSUE:**

**STAFF RECOMMENDATION:**

**BACKGROUND:**

**BUDGETARY IMPACT:**

**SOURCE OF FUNDING:**

**ATTACHMENTS:**

No Attachments Available



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**BUDGETARY IMPACT:**

**SOURCE OF FUNDING:**

**ATTACHMENTS:**

No Attachments Available



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**CIP PROJECT:** No

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**JOURNAL #:**

**PAGE #:**

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**DOCUMENT DESCRIPTION:**

"Human Rights Day"

**POLICY ISSUE:**

**STAFF RECOMMENDATION:**

**BACKGROUND:**

**BUDGETARY IMPACT:**

**SOURCE OF FUNDING:**

**ATTACHMENTS:**

No Attachments Available



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**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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**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 20, 2008

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|                       |                                        |             |
|-----------------------|----------------------------------------|-------------|
| DATE:                 | December 9, 2008                       |             |
| CONTACT PERSON:       | Celeste Benton                         | DOCUMENT #: |
| SECOND PARTY/SUBJECT: | City of Topeka ADA<br>Advisory Council | PROJECT #:  |
| CATEGORY/SUBCATEGORY  | 006 Communication / 003 Requests       |             |
| CIP PROJECT:          | No                                     |             |
| ACTION OF COUNCIL:    |                                        | JOURNAL #:  |
|                       |                                        | PAGE #:     |

### DOCUMENT DESCRIPTION:

**BOARD APPOINTMENT** recommending the appointment of Josh Lyman to the City of Topeka ADA Advisory Council for a term that would end December 31, 2010. *(Council District No. 8)*

### POLICY ISSUE:

N/A

### STAFF RECOMMENDATION:

The Mayor is recommending the appointment of Josh Lyman to the City of Topeka ADA Advisory Council for a two year term that will end December 31, 2010. Mr. Lyman is an at-large appointment and was nominated by Councilman Preisner. A copy of his bio is attached for review.

### BACKGROUND:

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

From and after July 2, 2008, any appointment to any board, commission, advisory group or other body made by the mayor of any city which is subject to approval of the governing body of the city must be acted upon by the governing body within 45 days of the appointment by the mayor or the appointment shall be deemed approved. The governing body of the city shall approve such appointment unless the governing body makes a specific finding by the passage of a resolution that the person is either unqualified to hold the office or is not fit to hold the office or the position.

### BUDGETARY IMPACT:

N/A

### SOURCE OF FUNDING:

Item #6

N/A

**ATTACHMENTS:**

[Lyman Bio](#)



## JOSH LYMAN

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**Objective:** To continue a career in helping seniors through the use of volunteers and access to community programs.

**Education:** BA Degree, Major in Psychology. Wichita State University. Graduated 1994.

**Career Development:**

*Association of Volunteer Administrators (A.V.A.).* A member 1998-2005, Treasurer, 2003 - 2005. Member of the Nominating Committee summer 2001. Finance Committee Chair and Executive Committee member. Oversight of all financial obligations and program budgets. Nurtured members to take an active role in group and learning volunteerism.

*East Wichita Business Association.* Member 2002 - 2003. Developed contacts with business leaders and entrepreneurs involved in the association. Assisted development of recruitment materials to attract membership.

*Commission for Accreditation of Rehabilitation Facilities (C.A.R.F.).* Compeer Program and M.H.A. has been accredited since 2000. Co-developed Mental Health Association and Compeer Program policies to meet standards of accreditation for both first-time accreditation and then re-accreditation as necessary. Compeer Program successfully accredited with honorable mention.

*Computer experience.* Highly developed skills in Word, Access, Excel and Power Point. Familiar with Computer programs such as WordPerfect, Publisher. Created and updated databases in Access and Excel on regular basis. Highly proficient with public federal websites including cncs.org, egrants online applications, resourcecenter.org and My Americorps Portal.org.

**Work History:**

*State Program Specialist- Corporation for National and Community Service, 2007.* Award and manage grants for a federal agency. Familiar with Section 504 of the CFR; how it relates to the Americans with Disabilities Act and accessibility for all citizens as it relates to federally funded non-profit agencies. Assess viability of current National Service Volunteer projects that utilize federal assistance across Kansas and Missouri. Conduct on and off-site monitoring of 23 projects. Develop new projects for Americorps and Senior Corps grants. Assist projects with technical issues in partnership with CNCS HQ in Washington. Frequent problem-solving with non-profit CEO's, Project Directors, Project Accountants. Partnered with other National Service projects for best utilization of federal funds. This position includes managing programs to which I was assigned previously; the Senior Companion Program and Americorps VISTA. This position is held in satellite office with minimal supervision; requiring self-initiation, excellent partnership, research abilities and problem solving skills. I regularly plan and implement conference logistics both quarterly and annually. I am currently in-line to be promoted to the next band width; NY-3.

*Director Senior Companion Program- Mental Health Association, 2005 – 2007.* Recruit seniors 60+ to be a companion to disabled or isolated seniors. Conducted payroll for seniors. Responsible for the management of Federal SCP grant, Mill Levy, and Ross grants. Supervised over 50 volunteers and SCP Case Coordinator position. Conducted SCP Advisory Committee, Caregiver Support Group for Senior Companion volunteers, monthly in-service trainings, SCP pre-service orientation, in-service training with community resources and professional speakers; as well as direct contact with senior clients at initial match meetings to complete Letters of Agreement. Developed a unique program to Kansas; focusing seniors on their mental health and elder abuse awareness. Turned failed program under previous administration into a highly successful program accomplishing its previously unattainable goals easily. Few program deficiencies reported in audit, all easily correctable.

*Compeer Volunteer Coordinator- Mental Health Association, 1998 - 2005.* Recruit, interview train and maintain matches between adults and children that have a mental illness and volunteers from the community. Over 200 individuals served in 2004. Highly developed interview skills used to assess volunteer. Conducted consumer assessment of mental health needs. Recruited volunteers from diverse groups including colleges, senior centers, churches, clubs. Tailored mental health presentations to public, mental health professionals and volunteers included the dissemination of mental health information. Spoke at International Compeer Conference on Risk Management and Programs the past two years. Created all recruitment materials. Wrote articles for local newspapers including the Wichita Eagle and the Wichita Compeer newsletter, published monthly. Developed the current Compeer Volunteer Training Manual including additions for new programs. Assisted writing the Compeer Policies. Tracked and reported program goals on a quarterly, six-month and yearly basis. Worked with Americorps Program. Trained new employees and Americorps Vista Volunteers. Assisted in grant development, grant implementation and fund raising duties. Fund raising duties \$20,000. Facilitated and implemented additional new programs for Compeer annually. Compeer Programs responsible for include 1:1 program, Skillbuilders, Psychosocial, Schizophrenic's Anonymous, and Workplace Mentoring. Corroborated with team members to implement incentive programs for consumers and volunteers. Contact with psychiatrists, psychologists as part of the treatment team on a regular basis. Implemented Recovery-based model for successful self-help group I facilitated in association with PHD Intern.

*Supported Employment Coordinator- Area Mental Health Center, 1997-1998.* Assessed consumer job skills and job site preparedness for employment of individuals with a disabilities. Prepared individuals for employment. Presented Job-Club course, offered weekly. Provided additional case management services. Recruited area employers to employ individuals with mental health disabilities. Completed reports for funding sources. Implemented Strengths-Based model and applied to all consumers of the agency. Managed Children's Respite-Care program, including 2 employees. Provided billing and documentation information.



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## Council Action Form

Council Chambers  
214 SE 8th Street  
Topeka, Kansas 66603

November 17, 2008

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**DATE:** December 9, 2008  
**CONTACT PERSON:** Celeste Benton  
**SECOND PARTY/SUBJECT:** Topeka Landmarks Commission  
**CATEGORY/SUBCATEGORY** 006 Communication / 003 Requests  
**CIP PROJECT:** No  
**ACTION OF COUNCIL:**  
**DOCUMENT #:**  
**PROJECT #:**  
**JOURNAL #:**  
**PAGE #:**

### DOCUMENT DESCRIPTION:

**BOARD APPOINTMENT** recommending Robert Banks to the Topeka Landmarks Commission for a term that would end December 31, 2011. (Council District No. 6)

### POLICY ISSUE:

N/A

### STAFF RECOMMENDATION:

The Mayor is recommending the appointment of Robert Banks to a three year term on the Topeka Landmarks Commission. Mr. Banks was nominated by Councilwoman Swank. His bio is attached for review.

### BACKGROUND:

Ordinance 18420 created the Topeka Landmarks Commission to advise the City Council on historic assets and to safeguard the architectural and cultural heritage of the community through the preservation of historic resources, landmarks and districts. Mr. Banks is an at-large appointment.

From and after July 2, 2008, any appointment to any board, commission, advisory group or other body made by the mayor of any city which is subject to approval of the governing body of the city must be acted upon by the governing body within 45 days of the appointment by the mayor or the appointment shall be deemed approved. The governing body of the city shall approve such appointment unless the governing body makes a specific finding by the passage of a resolution that the person is either unqualified to hold the office or is not fit to hold the office or the position.

### BUDGETARY IMPACT:

N/A

### SOURCE OF FUNDING:

N/A

### ATTACHMENTS:

Item #7





## Celeste Benton

**From:** Deborah Swank [djswank@cox.net]  
**Sent:** Friday, November 14, 2008 2:44 PM  
**To:** Celeste Benton; Bill Bunten  
**Cc:** Ginny Burghart  
**Subject:** FW: Landmarks Commission

Mayor Bunten,

I would like to nominate Robert Banks to fill the open position on the Landmark's Commission. Please find his bio below. Let me know if you have any questions.

Deborah

**Deborah Swank**  
**Topeka City Council Representative**  
**District 6**  
**(785) 233-1037**

[djswank@cox.net](mailto:djswank@cox.net)

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**From:** Rob Banks  
**Sent:** Friday, November 14, 2008 2:24 PM  
**To:** Deborah Swank  
**Subject:** RE: Landmarks Commission

Deborah,

Thank you for asking. I am interested in being nominated for an open position on the Landmarks Commission.

My name is Robert Banks.

I have a Bachelor's in Music Education from the University of Kansas and a Master's in Library Science from Emporia State University. I am a member of the Leadership Greater Topeka Class of 2005 and was a member of the Topeka TurnAround Team, Inc. from 2004-2008; serving as Vice-Chair and Chair during that time. Currently, I am serving as President of the Mountain Plains Library Association and have held several positions at the state, local and national level in library organizations, as well as serving on boards and committees within the Topeka Community. As the Deputy Director of the Topeka and Shawnee County Public Library, I bring a trained background in research which may be beneficial to both the Landmarks Commission and to those who seek assistance from the Commission.

Robert Banks

11/17/2008



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November 14, 2008

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**DATE:** December 9, 2008  
**CONTACT PERSON:** Celeste Benton  
**SECOND PARTY/SUBJECT:** Topeka Landmarks Commission  
**CATEGORY/SUBCATEGORY** 006 Communication / 003 Requests  
**CIP PROJECT:** No  
**ACTION OF COUNCIL:**  
**DOCUMENT #:**  
**PROJECT #:**  
**JOURNAL #:**  
**PAGE #:**

### DOCUMENT DESCRIPTION:

**BOARD APPOINTMENT** recommending Sandra Lassiter to the Topeka Landmarks Commission for a term that would end December 31, 2011. *(Council District No. 7)*

### POLICY ISSUE:

N/A

### STAFF RECOMMENDATION:

The Mayor is recommending the re-appointment of Sandra Lassiter to a three year term on the Topeka Landmarks Commission. There is an attendance policy. There have been 30 meetings, Ms. Lassiter has missed 8 meetings, she does not have 3 consecutive absences, nor does she have 4 absences in any 12 month period. Ms. Lassiter was nominated by Councilman Blackburn.

### BACKGROUND:

Ordinance 18420 created the Topeka Landmarks Commission to advise the City Council on historic assets and to safeguard the architectural and cultural heritage of the community through the preservation of historic resources, landmarks and districts. Ms. Lassiter is an at-large re-appointment. From and after July 2, 2008, any appointment to any board, commission, advisory group or other body made by the mayor of any city which is subject to approval of the governing body of the city must be acted upon by the governing body within 45 days of the appointment by the mayor or the appointment shall be deemed approved. The governing body of the city shall approve such appointment unless the governing body makes a specific finding by the passage of a resolution that the person is either unqualified to hold the office or is not fit to hold the office or the position.

### BUDGETARY IMPACT:

N/A

### SOURCE OF FUNDING:

N/A

Item #8

**ATTACHMENTS:**

No Attachments Available



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**SECOND PARTY/SUBJECT:** Topeka Landmarks Commission  
**CATEGORY/SUBCATEGORY** 006 Communication / 003 Requests  
**CIP PROJECT:** No  
**ACTION OF COUNCIL:**  
**DOCUMENT #:**  
**PROJECT #:**  
**JOURNAL #:**  
**PAGE #:**

### DOCUMENT DESCRIPTION:

**BOARD APPOINTMENT** recommending Rowena Horr to the Topeka Landmarks Commission for a term that would end December 31, 2011. *(Council District No. 2)*

### POLICY ISSUE:

N/A

### STAFF RECOMMENDATION:

The Mayor is recommending the re-appointment of Rowena Horr to a three year term on the Topeka Landmarks Commission. There is an attendance policy. There have been 30 meetings, Ms. Horr has missed one meeting. Ms. Horr was nominated by Councilman Alcalá.

### BACKGROUND:

Ordinance 18420 created the Topeka Landmarks Commission to advise the City Council on historic assets and to safeguard the architectural and cultural heritage of the community through the preservation of historic resources, landmarks and districts. Ms. Horr is an at-large re-appointment.

From and after July 2, 2008, any appointment to any board, commission, advisory group or other body made by the mayor of any city which is subject to approval of the governing body of the city must be acted upon by the governing body within 45 days of the appointment by the mayor or the appointment shall be deemed approved. The governing body of the city shall approve such appointment unless the governing body makes a specific finding by the passage of a resolution that the person is either unqualified to hold the office or is not fit to hold the office or the position.

### BUDGETARY IMPACT:

N/A

### SOURCE OF FUNDING:

N/A

Item #9



**ATTACHMENTS:**

No Attachments Available



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**DOCUMENT DESCRIPTION:**

**POLICY ISSUE:**

**STAFF RECOMMENDATION:**

**BACKGROUND:**

**BUDGETARY IMPACT:**

**SOURCE OF FUNDING:**

**ATTACHMENTS:**

No Attachments Available



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**SECOND PARTY/SUBJECT:**

**PROJECT #:**

**CATEGORY/SUBCATEGORY**

**CIP PROJECT:** No

**ACTION OF COUNCIL:**

**JOURNAL #:**

**PAGE #:**

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**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 21, 2008

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

**DATE:** December 9, 2008  
**CONTACT PERSON:** Jim Langford **DOCUMENT #:**  
**SECOND PARTY/SUBJECT:** Parks and Recreation **PROJECT #:**  
**CATEGORY/SUBCATEGORY** 018 Public Hearings / 006 Budget  
**CIP PROJECT:** No  
**ACTION OF COUNCIL:** **JOURNAL #:**  
**PAGE #:**

### DOCUMENT DESCRIPTION:

**A PUBLIC HEARING** for the purpose of hearing and answering objections of taxpayers relating to the proposed amended use of 2008 Operating Budget funds.

**AN APPROPRIATION ORDINANCE** introduced by City Manager Norton N. Bonaparte, Jr., amending the adopted operating budget for the City of Topeka, for the year 2008, and appropriating the amounts for the purpose as set forth therein. First and Final Reading.

*(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.)*

### 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 increase expenditures from the Parks and Recreation Fund.

### STAFF RECOMMENDATION:

Amend the budget.

### 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 total increase is \$296,372, which is the amount of federal and state reimbursement.

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

Item #12

this funding.

**BUDGETARY IMPACT:**

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

**SOURCE OF FUNDING:**

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

**ATTACHMENTS:**

[Parks & Recreation Fund Summary](#)

[Amended Transfers](#)

[Budget Amendment Ordinance](#)

[Public Hearing Notice](#)

(Published in the Topeka Metro News \_\_\_\_\_)

ORDINANCE NO. \_\_\_\_\_

AN APPROPRIATION ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. , amending the adopted operating budget for the City of Topeka, for the year 2008, and appropriating the amounts for the purpose as set forth therein.

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

Section 1. *Budget incorporated by reference as a part of this ordinance.* The amended operating budget for the City of Topeka, Kansas, for the year 2008 as set forth in a \_\_\_\_\_ page document in the format prescribed by the Director of Accounts and Reports of the Kansas Department of Administration, as required by law, which has been published in a summary format together with a notice of public hearing, is hereby incorporated by reference as a part of this ordinance with the same force and effect as if it were set forth herein in its entirety.

Section 2. *Budget approved and adopted.* The amended operating budget, as described and incorporated by reference in Section 1 above, is hereby approved and adopted as the amended operating budget for the year 2008.

Section 3. *Funds appropriated by budget.* The amended budget, as approved and adopted herein, shall constitute and shall be declared to be appropriations for the Funds and Departments as set forth therein, and the appropriations thus made shall not be used for any other purpose. No money in any fund shall be used to pay for any indebtedness created in excess of the amount appropriated for such fund or for the departments of such fund as referred to in the operating budget. The appropriations made herein are for the year 2008 and no expenditures shall be incurred as being authorized by such appropriations prior to January 1, 2008 or subsequent to December 31, 2008.

Section 4. *Budget amendments.* Any amendment to the operating budget must be approved by the City Council and enhanced in accordance with the provisions of K.S.A. Section 79-2929a.

Section 5. *As used in this ordinance "fund" is defined as follows:*

Fund. A fiscal and accounting entity with a self balancing set of accounts in which cash and other financial resources, all related liabilities and residual equities, or balances, and changes therein are recorded and segregated to carry on specific activities or attain certain objectives in accordance with special regulations, restrictions, or limitations.

Section 6. *The following fund types are authorized:*

Governmental (or statutory) Fund Type: including General Fund, Special Revenue Funds, Debt Service Funds, and Capital Projects Funds; Proprietary Fund Type: including Enterprise Funds and Internal Service Funds (fixed or flexible); and, Fiduciary Fund Type: including Trust and Agency Funds. This Ordinance applies to all funds as listed on the budget certificate and fund summary adopted and submitted to the county and state.

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

PASSED and APPROVED by the City Council \_\_\_\_\_.

CITY OF TOPEKA, KANSAS

\_\_\_\_\_  
William W. Bunten, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Younger, City Clerk



City of Topeka, Kansas Operating Budget for Fiscal Year 2008*Summary of Resources and Appropriations**General Operating Fund*

| Resources and Appropriations           | 2008<br>Adopted | 2008<br>Amended | Difference |
|----------------------------------------|-----------------|-----------------|------------|
| <u>FUND: PARK &amp; RECREATION 265</u> |                 |                 |            |
| FUND BALANCE, BEGINNING                | \$ 458,578      | \$ 473,313      | \$ 14,735  |
| Equity Transfer out                    |                 |                 |            |
| REVENUE:                               |                 |                 |            |
| General Property Tax-Current           | 5,422,233       | 5,422,233       | -          |
| General Property Tax-Delinq            | 45,000          | 45,000          | -          |
| NRA Rebate                             | (100,570)       | (100,570)       | -          |
| Machinery & Equipment Reimbursement    | 55,698          | 55,698          | -          |
| Motor Vehicle/RV Tax                   | 572,021         | 572,021         | -          |
| IRB Distribution                       | 37,524          | 37,524          | -          |
| Licenses and permits                   | -               | -               | -          |
| Liquor Gross                           | 520,800         | 520,800         | -          |
| Fees for Service                       | 1,957,925       | 1,957,925       | -          |
| Rent of Property                       | 118,000         | 118,000         | -          |
| Transfer from Transient Guest Tax Fund | 145,000         | 145,000         | -          |
| Reimbursement from FEMA                | -               | 296,372         | 296,372    |
| Other Revenues                         | 33,000          | 33,000          | -          |
| Subtotal Revenue                       | 8,806,631       | 9,103,003       | 296,372    |
| TOTAL BALANCE AND REVENUE              | 9,265,209       | 9,576,316       | 311,107    |
| EXPENDITURES:                          |                 |                 |            |
| PERSONNEL SERVICES                     | 6,043,573       | 6,043,573       | -          |
| CONTRACTUAL SERVICES                   | 1,876,300       | 2,172,672       | 296,372    |
| OTHER PAYMENTS AND COSTS               | 25,800          | 25,800          | -          |
| NRA Rebate                             | -               | -               | -          |
| COMMODITIES                            | 774,411         | 774,411         | -          |
| CAPITAL OUTLAY                         | 103,928         | 103,928         | -          |
| MISCELLANEOUS (Contingency)            | -               | -               | -          |
| Net Prior/Current Year Encumbrances    |                 |                 |            |
| TOTAL EXPENDITURES                     | 8,824,012       | 9,120,384       | 296,372    |
| OPERATING TRANSFERS (OUT)              |                 |                 |            |
| UNAPPROPRIATED FUND BALANCE, ENDI      | \$ 441,197      | \$ 455,932      | \$ 14,735  |

STATE OF KANSAS  
City of Topeka/Shawnee County  
2008

*Amended*  
**SCHEDULE OF 2008 BUDGETED TRANSFERS**

| Fund Trans From:                                 | Fund Trans To:                        | Actual       |            | 2008      | Statute                         |
|--------------------------------------------------|---------------------------------------|--------------|------------|-----------|---------------------------------|
|                                                  |                                       | 2006         | 2007       |           |                                 |
| 101 GENERAL                                      | CAPITAL PROJECTS                      | \$ 2,066,811 | \$ 800,000 |           | Administrative; KSA 12-         |
| 101 GENERAL                                      | 285 UNSAFE STRUCTURES                 | 200,000      | 200,000    | 200,000   | Administrative; KSA 12-         |
| 101 GENERAL                                      | 265 PARKS AND                         | -            | 467,032    |           | Administrative; KSA 12-         |
| 101 GENERAL                                      | 268 ZOO                               | -            | 111,936    |           | Administrative; KSA 12-         |
| 230 GENERAL                                      | HOME Federal Grant                    | 200,000      | -          |           | KSA 79-2934                     |
| 230 GENERAL                                      | 101 GENERAL                           | 54,598       | 13,827     |           | KSA 79-2934                     |
| 230 GENERAL                                      | CAPITAL PROJECTS                      | 99,899       | 400,000    | 825,000   | KSA 79-2934                     |
| 271 TRANSIENT GUEST TAX                          | 265 PARKS AND RECREATION              | 115,000      | 115,000    | 145,000   | KSA 12-1697; Charter Ord. #69   |
| 271 TRANSIENT GUEST TAX                          | 101 GENERAL                           | 60,000       | 60,000     | 60,000    | KSA 12-1697; Charter Ord. #69   |
| 271 TRANSIENT GUEST TAX                          | CAPITAL PROJECTS (Overland Station)   | 205,213      | 200,000    | 200,000   | KSA 12-1697; Charter Ord. #69   |
| 271 TRANSIENT GUEST TAX                          | 268 ZOO                               | -            | 87,000     | 55,000    | KSA 12-1697; Charter Ord. #69   |
| 271 TRANSIENT GUEST TAX                          | 289 HISTORIC PRESERVATION             | 57,947       | 82,662     | 106,159   | KSA 12-1697; Charter Ord. #69   |
| 282 CAPITAL PROJECTS PLANNING                    | 301 BOND AND INTEREST                 | -            | 172,813    | -         | KSA 12-1, 118; Ordinance #15687 |
| 290 HALF-CENT SALES TAX                          | 301 BOND AND INTEREST                 | -            | 4,389,518  | 3,405,799 | KSA 79-2934                     |
| 290 HALF-CENT SALES TAX                          | CAPITAL PROJECTS (Trafficway Project) | 398,700      | -          | 2,643,140 | KSA 12-1, 118; Ordinance 18786  |
| 290 HALF-CENT SALES TAX                          | CAPITAL PROJECTS (Bridge Improvement) | 933,688      | -          | -         | KSA 79-2934                     |
| 291 SPECIAL STREET                               | CAPITAL PROJECTS (Street Improvement) |              |            | 5,119     | KSA 12-1, 118 Ordinance 19158   |
| 429 PLANNING                                     | 101 GENERAL                           | -            | 153,080    | -         | KSA 79-2934                     |
| 640 WORKERS COMPENSATION                         | 268 ZOO                               | -            | 14,032     | -         | KSA 12-2615                     |
| 640 WORKERS COMPENSATION                         | 265 PARKS AND RECREATION              | -            | 50,466     | -         | KSA 12-2615                     |
| 640 WORKERS COMPENSATION                         | 101 GENERAL                           | -            | 435,502    | -         | KSA 12-2615                     |
| COMBINED UTILITIES (623 Stormwater)              | 291 SPECIAL STREET                    | 200,000      | -          | -         | KSA 79-2934                     |
| COMBINED UTILITIES (686 Water Pollution Control) | 265 PARKS AND RECREATION              | 125,000      | -          | -         | KSA 12-631 /                    |

## 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<br>2008 |                             |              | Proposed Amendment<br>2008 |
|----------------------|------------------------|-----------------------------|--------------|----------------------------|
|                      | Actual Tax Rate        | Amount of Ad<br>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 24, 2008

+ Back Print

**DATE:** December 9, 2008  
**CONTACT PERSON:** Terry Bertels **DOCUMENT #:**  
**SECOND PARTY/SUBJECT:** Softball/Sports Facilities Reserve Fund **PROJECT #:**  
**CATEGORY/SUBCATEGORY** 013 Ordinances - Codified / 102 Parks and Recreation  
**CIP PROJECT:** No  
**ACTION OF COUNCIL:** **JOURNAL #:**  
**PAGE #:**

### DOCUMENT DESCRIPTION:

**AN ORDINANCE** introduced by Deputy Mayor Jeff Preisner concerning the Softball/Sports Facilities Reserve Fund amending the procedures established by Ordinance No. 16269 and repealing said ordinance. Final Reading.

*(Approval would authorize the City Manager to grant approval of expenditures recommended by the Topeka Softball Association.)*

### POLICY ISSUE:

This is a clean up Ordinance that will more closely adhere to the City Manager/Council form of government giving the City Manager authorization to approve expenditures from the Softball/Sports Facilities Reserve Fund.

### STAFF RECOMMENDATION:

Approve the Ordinance.

### BACKGROUND:

The Softball/Sports Facilities Reserve Fund was initiated under the Mayor/Council form of government and does not conform to the City Manager/Council form of government.

### BUDGETARY IMPACT:

The Softball/Sports Facilities Reserve Fund generates on average \$14,000 per year.

### SOURCE OF FUNDING:

\$40 surcharge per softball team that is placed into the Softball/Sports Facilities Reserve Fund.

### ATTACHMENTS:

[Ordinance](#)

Item #13

(Published in the Topeka Metro News \_\_\_\_\_)

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE introduced by Deputy Mayor Jeff Preisner concerning the Softball/Sports Facilities Reserve Fund amending the procedures established by Ordinance No. 16269 and repealing said ordinance.

WHEREAS, on January 22, 1991, the City Council passed and approved City of Topeka Ordinance No. 16269 established a Softball/Sports Facilities Reserve Fund; and

WHEREAS, that ordinance required that a resolution be approved by the Council for expenditures from the fund to be granted; and

WHEREAS, it is desirable for the City Manager to have the authority to grant approval of expenditures.

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

Section 1. That there is hereby created a Softball/Sports Facilities Reserve Fund.

Section 2. The purpose of the Softball/Sports Facilities Reserve fund shall be to act as a depository for monies to be used for the repair, acquisition of land, design, renovation, replacement, construction or addition to softball/sports facilities.

Section 3. The Softball/Sports Facilities Reserve Fund may receive fees collected by the Parks and Recreation Department, as well as budgeted transfers from the Parks and Recreation Fund, or any other fund having available resources and the legal authority to be so transferred. All such transfers shall be subject to budget appropriations approved by the City Council.

Brenda Younger, City Clerk



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## Council Action Form

Council Chambers  
214 SE 8th Street  
Topeka, Kansas 66603

November 21, 2008

+ Back Print

**DATE:** December 9, 2008  
**CONTACT PERSON:** Jim Langford  
**SECOND PARTY/SUBJECT:**  
**CATEGORY/SUBCATEGORY** 006 Communication / 003 Requests  
**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 one-time grant awards in 2009 from the Special Alcohol Program Fund.**

*(Outlines the 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. 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:

Approval would authorize an additional \$150,000 in expenditures from the Special Alcohol Program Fund in 2009. The City Council has already approved expenditures of \$445,299. The 2009 expenditure limit is \$620,000. The fund would not exceed its expenditure limit with the approval of the additional \$150,000.

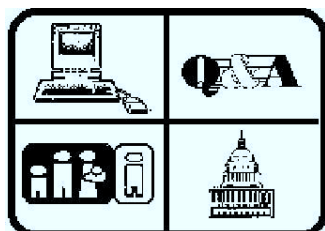
### SOURCE OF FUNDING:

Special Alcohol Program Fund.

### ATTACHMENTS:

[Advisory Committee Recommendation](#)

Item #14



## Community Resources Council

501 SE Jefferson Street, Suite 30

Topeka, KS 66607

785-233-1365 ♦ Fax 785-233-1905

[www.crcnet.org](http://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 for One-Time Funding**

### **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

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 attend the orientation meeting as required; and, 3. Failure to use proper grant funding forms.

The City of Topeka budgeted \$150,000 for 2009 alcohol and drug contracts one-time funding. This funding is to be expended only for the purchase, establishment, maintenance or expansion of services or programs whose principal purpose is alcoholism and drug abuse prevention and education, alcohol and drug detoxification, intervention in alcohol and drug abuse or treatment of persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers. We appreciate the City of Topeka decision to provide funds for the alcohol and drug programs in Topeka.

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*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.*



| <b>City of Topeka 2009<br/>Alcohol &amp; Drug –<br/>One-Time Funding<br/>– Applicant Agency</b> | <b>Program Name</b>                                                | <b>2009 Request</b> | <b>2009<br/>Recom<br/>mended</b> |
|-------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|---------------------|----------------------------------|
| Topeka Youth Project                                                                            | Jobs for Young Adults                                              | \$35,488            | 0                                |
| Topeka Youth Project                                                                            | Youth Drug Court                                                   | \$46,000            | 0                                |
| Valeo Behavioral Health Center                                                                  | Supportive Living Services for Women                               | \$100,000           | \$100,000                        |
| Third Judicial District Court Drug Court Program                                                | Drug Court Program                                                 | \$30,000            | 0                                |
| Shawnee Regional Prevention and Recovery Services                                               | Capital Improvements                                               | \$40,894            | \$30,000                         |
| Shawnee Regional Prevention and Recovery Services                                               | Town Meeting and Media Support                                     | \$5,000             | \$0                              |
| Kansas Legal Services                                                                           | Addition & Recovery Counseling for the Topeka Moving Ahead Program | \$49,408            | 0                                |
|                                                                                                 |                                                                    |                     |                                  |
|                                                                                                 |                                                                    |                     |                                  |
|                                                                                                 |                                                                    |                     |                                  |
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|                                                                                                 |                                                                    |                     |                                  |
| <b>TOTAL</b>                                                                                    |                                                                    | <b>\$306,790</b>    | <b>\$130,000</b>                 |

**Topeka Youth Project**  
**Jobs for Young Adults**

**Recommended 2009**  
\$ 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. (Funded with Drug & Alcohol money from Shawnee County)

**Topeka Youth Project**  
**Youth Drug Court**

**Recommended 2009**  
\$ 0

Drug and alcohol abuse court-sanctioned treatment program. Drug Court participants are volunteer youth proffered from the ranks of juvenile probation. Through successful enrollment and completion of the program, clients are afforded an opportunity to have all prior juvenile charges expunged. The mission of the program is to promote drug/free living through intense supervision, accountability, family involvement and effective treatment to improve the quality of life for juveniles, their families and the community. The program focuses on high-risk teen-ages 13-27, first time offenders. (No substance funding planned.)

**VALEO Behavioral Health Care**  
**Supportive Living Services for Woman**

**Recommended 2009**  
\$100,000

As Proposed, Supportive Living Services for women 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-entry into the community, gainful employment and sustained recovery following discharge. VALEO proposes to operate a 10 to 15 bed unit with the flexibility to provide services at level 3. Reintegration, Level 2 with transitional living, and level 1 Continuing Care and Relapse Prevention. These funds will cover start up cost of the program.

**Third Judicial District Court Drug Court Program**  
**Drug Court Program**

**Recommended 2009**  
\$ 0

Continuous operation since May of 2002, this program is an intense, court-supervised diversion program. It is a voluntary program, requiring participation of a minimum of 12 months and a maximum of 36 months. Participants must be a permanent resident of the US and Shawnee County and may not have any violent criminal history or outstanding holds in any other jurisdiction. Participants will be required to stipulate to the facts against them in pending Drug Court Case as outlined in the DGCT contract. (No substance funding planned.)

**Shawnee Regional Prevention & Recovery Services**  
**Capital Improvements**

**Recommended 2009**  
\$ 25,000

Purchase of a Savin C6045 Black and White and Full Color Digital Imaging System, an HP ProLiant File Server Computer, and an Office Right Folder all of which will enhance PARS' ability to continue to provide community prevention capacity building, training and outreach. PARS' current file server is in need of replacement and also has limited capacity to serve current agency needs; the current

copier also in need of replacement due to the heavy use over the years in producing more than a million copies in support of PARS programs and trainings; and PARS current paper folder is no longer repairable and needs to be replaced.

**Shawnee Regional Prevention & Recovery Services**

**Recommended 2009**

***Town Meeting and Media Support***

**\$ 5,000**

The requested funding for Town meeting – Faces and Voices of Recovery-will help defray the cost of room rental, lighting, stage risers, sound and lighting projection in addition to providing some paid media coverage for the Town Meeting and other PARS's supported workshops.

**Kansas Legal Services**

**Recommended 2009**

***Addiction & Recovery Counseling for the Topeka Moving Ahead Program***

**\$ 0**

When combined with supportive services, meaningful daily activity in the community (including work) and access to addiction and recovery services, the Topeka Moving Ahead Program provides the framework necessary to end homelessness for many individuals. Demonstration programs indicate that homeless people – even those thought to be unreachable-can gain sobriety, get jobs and learn to live independently. (No substance funding planned.)



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## Council Action Form

Council Chambers  
214 SE 8th Street  
Topeka, Kansas 66603

November 24, 2008

+ Back Print

**DATE:** December 9, 2008

**CONTACT PERSON:** Braxton B. Copley, **DOCUMENT #:**  
Deputy City Attorney

**SECOND PARTY/SUBJECT:** Consolidated Rural Water **PROJECT #:**  
District No. 1

**CATEGORY/SUBCATEGORY** 020 Resolutions / 005 Miscellaneous

**CIP PROJECT:** No

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

### DOCUMENT DESCRIPTION:

**A RESOLUTION** introduced by City Manager Norton N. Bonaparte, Jr., authorizing the City Attorney's office to take all appropriate legal action necessary to collect monies owed by Consolidated Rural Water District No. 1 to the City of Topeka.

*(Approval would direct and authorize the City's Legal Department to take all appropriate legal action to collect the \$400,000 owed by CRWD No. 1.)*

### POLICY ISSUE:

Whether or not Council should adopt resolution.

### STAFF RECOMMENDATION:

Adopt the resolution.

### BACKGROUND:

The City of Topeka combined water, wastewater, and stormwater utility incorrectly underbilled the CRWD #1 by more than \$400,000.00 from January 2005 to January 2008. Formal demand for payment was made but CRWD #1 has failed to pay the full amount or make satisfactory payments arrangements.

### BUDGETARY IMPACT:

City will incur the costs and attorneys' fees estimated to be \$20,000

### SOURCE OF FUNDING:

Legal Department's Budget

### ATTACHMENTS:

[Resolution](#)

Item #15

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., authorizing the City Attorney's office to take all appropriate legal action necessary to collect monies owed by Consolidated Rural Water District No. 1 to the City of Topeka.

WHEREAS, the City of Topeka has established water rates for its customers by ordinances passed and approved by the City Council; and

WHEREAS, the City of Topeka combined water, wastewater, and stormwater utility ( the "Utility") relies on the full payment by its customers to be able to provide services at reasonable rates; and

WHEREAS, the Utility incorrectly billed Consolidated Rural Water District No .1 (the "District") over the three year period from January 2005 to January 2008; and

WHEREAS, the error by the Utility resulted in the District's underpayment of four hundred one thousand nine hundred fifty-nine dollars and eighty-six cents (\$401,959.86); and

WHEREAS, the Utility has made formal demand on District for payment of the full amount of four hundred one thousand nine hundred fifty-nine dollars and eighty-six cents (\$401,959.86) owed to the Utility; and

WHEREAS, the District has failed to pay said full amount or make satisfactory arrangements to do so; and

WHEREAS, K.S.A. 13-2412 prohibits discrimination among water users of like classes as to rates.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS, that the City Attorney's office is hereby directed and authorized to

take all appropriate legal action, including filing suit, seeking injunctive or declaratory relief, seeking judgment, and appeal therefrom necessary to collect the amount due and owing to the Utility from the District and to protect the Utility's ability to bill and collect from other users in the same class of rate payers.

ADOPTED 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 25, 2008

+ Back Print

**DATE:** December 9, 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 17, 2008, through November 23, 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 17, 2008, through November 23, 2008, in the amount of \$6,588,691.77.

### 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 17, 2008, through November 23, 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 1586 vendor checks written in this period    | \$3,650,355.86        |
|                   | Total vendor checks voided in this period (net)        | (000.00)              |
|                   | Total electronic transfers to vendors in this period   | 336,967.41            |
|                   | Total net payroll to employees this period             | 1,653,299.98          |
|                   | Total payroll related electronic transfers this period | <u>948,068.52</u>     |
|                   | Total for expenditures in this period                  | <u>\$6,588,691.77</u> |

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

PASSED and APPROVED by the City Council \_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
William W. Bunten, Mayor

\_\_\_\_\_  
Brenda Younger, City Clerk





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## Council Action Form

Council Chambers  
214 SE 8th Street  
Topeka, Kansas 66603

October 27, 2008

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

**DATE:** December 9, 2008  
**CONTACT PERSON:** Mark Schreiner **DOCUMENT #:**  
**SECOND PARTY/SUBJECT:** Street Improvement **PROJECT #:** 60626-00  
**CATEGORY/SUBCATEGORY** 014 Ordinances – Non-Codified / 008 Special Assessments  
**CIP PROJECT:** No  
**ACTION OF COUNCIL:** **JOURNAL #:**  
**PAGE #:**

### DOCUMENT DESCRIPTION:

**AN ORDINANCE** introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Wanamaker West Subdivisions No. 2 and No. 3, with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60626 as defined and described in Resolution No. 7943, adopted and approved May 1, 2007. First Reading. *(Council District No. 8)*

*(Approval would apportion and levy a special assessment for the street improvement and will be paid 100% by the Improvement District. The final project cost is \$291,323.61)*

### POLICY ISSUE:

N/A

### STAFF RECOMMENDATION:

Approve the Ordinance for Special Assessments as presented.

### BACKGROUND:

The project provides street improvements on SW 30th Terrace from SW Wanamaker Road west approximately 772 feet with asphaltic concrete pavement, curb and gutter, storm sewer, sidewalks, and all other contingencies needed for a complete project.

### BUDGETARY IMPACT:

FINAL PROJECT COST = \$291,323.61

Improvement district will pay 100% of the costs.

Total Front Footage = 1,543.25 feet. Cost Per Front Footage = \$188.773

Assessment is on a linear foot of frontage basis for all lots abutting the street which are included in the described improvement district.

Improvement District consist of the following:

Lots 1 and 3, Block "A", Wanamaker West Subdivision No. 3

Item #17

Lots 1 through 4, Block "B", Wanamaker West Subdivison No. 2

**SOURCE OF FUNDING:**

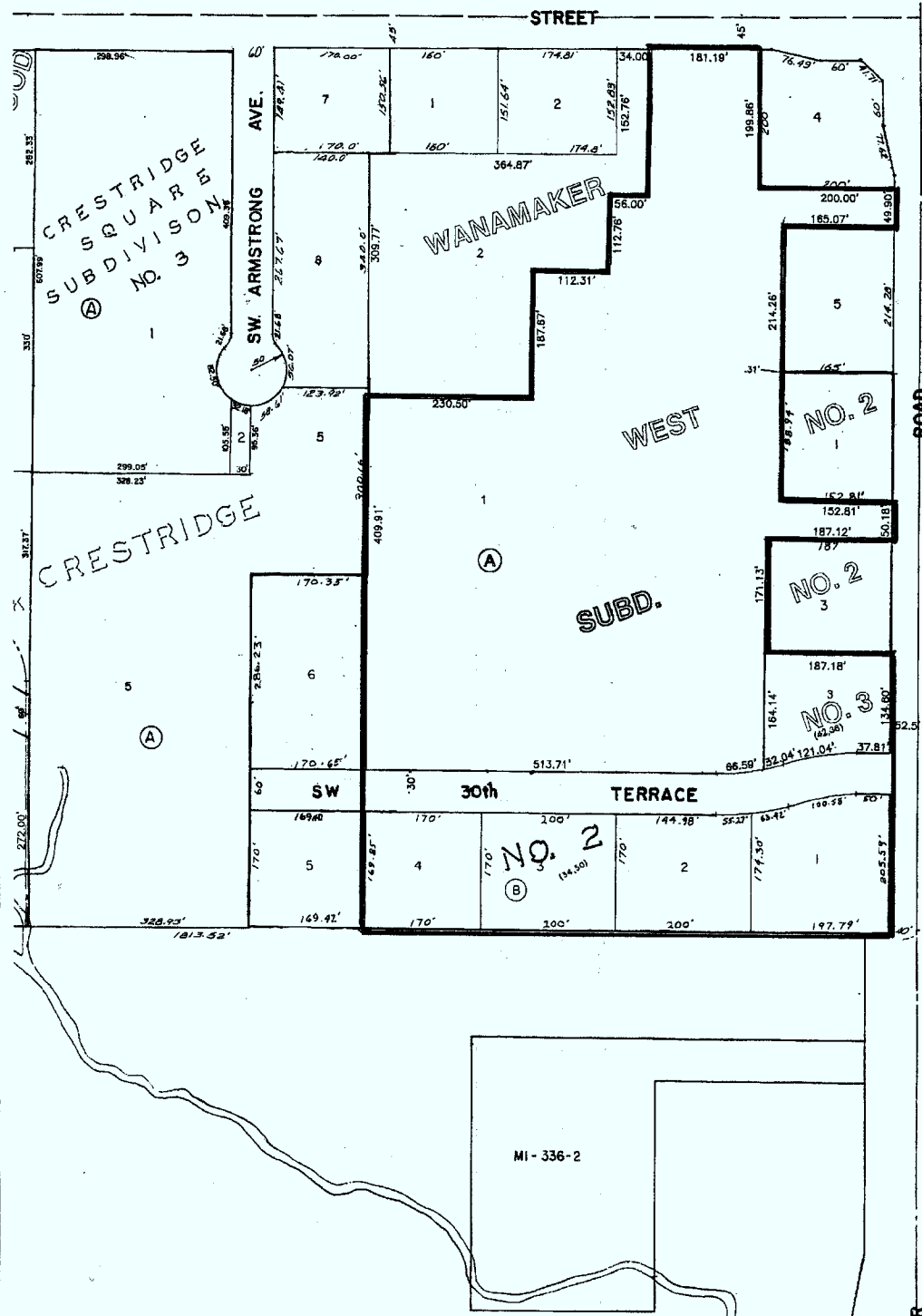
100% paid by the Improvement District either by direct payment of assessment or through annual assessments to cover debt service on general obligation bonds.

**ATTACHMENTS:**

[Vicinity Map](#)

[Assessment Ordinance](#)

[Public Hearing Notice](#)



SEE PLAT K-1

**CITY OF TOPEKA, KS**

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**Label**



1 inch equals 2 feet

(Published in the Topeka Metro News \_\_\_\_\_)

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for the improvement of Wanamaker West Subdivisions No. 2 and No. 3, with pavement, curb and gutter and all other contingencies needed to complete Street Improvement Project No. 60626 as defined and described in Resolution No. 7943, adopted and approved May 1, 2007.

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

Section 1. For the purpose of paying the cost of pavement, curb and gutter and all other contingencies needed to complete the project, same being Street Improvement Project No. 60626-00, in the City of Topeka, Shawnee County, Kansas, there is hereby levied and assessed a special assessment on all lots and pieces of ground liable therefore.

Said assessments are computed as follows:

A. GENERAL NATURE OF IMPROVEMENT:

To pave 29 feet in width from SW Wanamaker Road west approximately 772 feet known as SW 30<sup>th</sup> Terrace with asphaltic concrete pavement curb and gutter, storm sewer and sidewalks. Included with the project is engineering and all other contingencies needed for a complete project.

B. IMPROVEMENT DISTRICT:

WANAMAKER WEST SUBDIVISION NO. 2

Lots 1 through 4, Block B

WANAMAKER WEST SUBDIVISION NO. 3

Lots 1 and 3, Block A

C. METHOD OF ASSESSMENT:

On a linear foot of frontage basis for all lots abutting the street which are included in the improvement district.

D. TOTAL COST & APPORTIONMENT OF COSTS:

FINAL PROJECT COST = \$291,323.61

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

STREET IMPROVEMENT PROJECT NO. 60626-00

| Parcel<br>Identification<br>Number | Description | Assessment |
|------------------------------------|-------------|------------|
|------------------------------------|-------------|------------|

WANAMAKER WEST SUBDIVISION NO. 3

BLOCK A

|                  |       |              |
|------------------|-------|--------------|
| 1441701001008000 | Lot 1 | \$109,544.85 |
| 1441701001008030 | Lot 3 | \$36,034.84  |

WANAMAKER WEST SUBDIVISION NO. 2

BLOCK B

|                  |       |             |
|------------------|-------|-------------|
| 1441701001009000 | Lot 1 | \$38,096.24 |
| 1441701001009000 | Lot 2 | \$37,801.75 |
| 1441701001009000 | Lot 3 | \$37,754.56 |
| 1441701001009000 | Lot 4 | \$32,091.37 |

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

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

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

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

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

PASSED and APPROVED by the City Council

CITY OF TOPEKA, KANSAS

William W. Buntin, Mayor

ATTEST:

Brenda Younger, City Clerk

(Published in The Topeka Metro News November 28, 2008)

NOTICE OF PUBLIC HEARING

STREET IMPROVEMENT PROJECT NO. 60626

Notice is hereby given that there will be a special meeting of the City Council of the City of Topeka, Shawnee County, Kansas, held on December 16, 2008, at 6:00 P.M., in the Council Chamber 214 E. 8th, for the purpose of hearing any and all complaints that may be made as to the validity and fairness of the assessments on file in the office of the Clerk, on all lots, parcels and pieces of ground liable for the cost of improvement, same being Street Improvement Project No. 60626, authorized by Resolution No. 7943, adopted and approved May 1, 2007.

GENERAL NATURE OF IMPROVEMENT:

To pave 29 feet in width from SW Wanamaker Road west approximately 772 feet known as SW 30<sup>th</sup> Terrace with asphaltic concrete pavement, curb and gutter, storm sewer and sidewalks. Included with the project is engineering and all other contingencies needed to complete the project.

IMPROVEMENT DISTRICT:

Wanamaker West Subdivision No. 2  
Lots 1 through 4, Block B

Wanamaker West Subdivision No. 3  
Lots 1 and 3, Block A

METHOD OF ASSESSMENT:

On a linear foot of frontage basis for all lots abutting the street which are included in the described improvement district.

TOTAL COST & APPORTIONMENT OF COSTS:

Final Costs = \$291,323.61  
1,543.25 Front Footage = \$188.773 Cost Per Front Footage  
100% paid by the Improvement District

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

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City for Topeka to be affixed on November 21, 2008.



*Brenda Younger*  
Brenda Younger  
City Clerk



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## Council Action Form

Council Chambers  
214 SE 8th Street  
Topeka, Kansas 66603

November 19, 2008

+ Back Print

**DATE:** December 9, 2008

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

**SECOND PARTY/SUBJECT:** City of Topeka Planning Commission **PROJECT #:** ACZR08/1

**CATEGORY/SUBCATEGORY** 013 Ordinances - Codified / 110 Planning

**CIP PROJECT:** No

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

**PAGE #:**

### DOCUMENT DESCRIPTION:

**AN ORDINANCE** introduced by City Manager Norton N. Bonaparte, Jr. amending City of Topeka Code Section 48-24.01 through 48-24.07 concerning planned unit development districts and specifically repealing said original sections. First Reading. (ACZR08/1)

*(Approval would amend the zoning regulations by making properties less than 1 acre eligible to be zoned PUD as "transition areas" and providing flexibility in amending and recording PUDs.)*

### POLICY ISSUE:

Changes to the zoning regulations promote more compatible infill development by allowing development within a PUD if they are in a "transition area". This would be consistent with the Comprehensive Plan.

### STAFF RECOMMENDATION:

The Topeka Planning Commission recommended **APPROVAL** by a vote of 7-0-0 at their October 27, 2008 meeting as reflected in their attached minutes. The Planning Department recommended **APPROVAL**.

### BACKGROUND:

Current zoning regulations do not allow for properties less than 1 acre to apply for a Planned Unit Development (PUD). The intent of the PUD district is to plan for larger scale development that has a mix of uses and/or owners without some of the design restrictions imposed by a typical zoning district. Likewise, PUDs can ensure that only uses and character that are compatible to the surrounding neighborhood will be allowed.

This amendment allows smaller properties less than 1 acre to become a PUD if they are a transition between more intensive development and less intensive development. This will give owners, neighbors, planners, and decision-makers one more tool to promote compatible development in those more difficult to develop transition areas.

Other amendments made within ordinance reflect current procedural practices, and provide additional flexibility to amend and record PUDs.



**BUDGETARY IMPACT:**

n/a

**SOURCE OF FUNDING:**

n/a

**ATTACHMENTS:**

[Ordinance](#)

[Planning Commission Minutes](#)

(Published in the Topeka Metro News \_\_\_\_\_)

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending City of Topeka Code § 48-24.01 through § 48-24.07 concerning planned unit development districts and specifically repealing said original sections.

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

Section 1. That section 48-24.01, Regulations generally, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Regulations generally.**

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

One or more use groups, referring to one or more of the zoning districts, shall be established on the master plan. The use regulations, dimensional requirements, off-street parking regulations and sign regulations for each of the use groups shall be as set forth in each of the corresponding zoning districts contained in this code, unless other requirements are specifically set forth on the master plan or the site plan.

Section 2. That section 48-24.02, Use regulations, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Use regulations.**

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

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

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

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

(b) ~~*Dimensional requirements:*~~ *Setback and Height regulations.*

~~(1) *Intensity of use:*~~

~~a. *Residential:* The average land area shall not be less than the following standards which shall be exclusive of public street right of way:~~

TABLE INSET:

|               |                    |
|---------------|--------------------|
| Single family | 6,000 sq. ft./unit |
|---------------|--------------------|

|                 |                     |
|-----------------|---------------------|
| Two family-     | 2,500 sq. ft./unit— |
| Multiple family | 1,000 sq. ft./unit— |

~~b. Office and institutional: The minimum land area for any individual principal use or structure shall be 7,500 square feet.~~

~~c. Commercial/industrial: The minimum land area for any individual principal use or structure shall be 10,000 square feet.~~

~~(2) Area and height regulations:~~

~~a. All structures shall set back from all street right-of-way and perimeter boundary lines a distance of not less than 30 feet.~~

~~b. The height and front, side and rear yard setbacks for individual structures within the planned unit development and which are not applicable to paragraph "a" above, shall be determined in conjunction with the final approval of the planned unit development plan.~~

~~c. The height of structures shall be determined in conjunction with the review and approval of the master plan of the planned unit development.~~

(3c) *Off-street parking regulations.* The provisions of article XXX, Off-Street Parking Requirements shall apply to the planned unit development district in all respects except for the specified standards establishing the required number of spaces. Off-street parking regulations shall be based on the applicable requirements for each proposed use as set forth in this code. The planning director can vary from this requirement based on factors provided by the applicant, including but not limited to, the

use of shared parking, near by public parking or other factors that justify a lesser parking requirement. ~~The required on-site parking for each geographically designated use group within the district shall individually average and conform to the following minimum standards:~~

~~a. Residential use groups: two spaces/unit.~~

~~b. Office and institutional use groups: Four spaces/1,000 sq. ft. of floor area for professional offices; community facilities and institutional uses shall be subject to the provisions set forth in article XXX, Required Number of Off-Street Parking Spaces.~~

~~c. Commercial use groups: five spaces/1,000 sq. ft. of floor area.~~

~~d. Industrial use groups: one space/600 sq. ft. of floor area.~~

~~e. In those instances in which more than one use group category is proposed to be assigned the same geographic area, the parking standards of the use group providing for the more liberal number of spaces shall prevail.~~

~~f. In those instances, when in the opinion of the planning director, a proposed use is not clearly and generally recognized and identified as being subject to one of the aforementioned provisions, then the provisions of article XXX, Required Number of Off-Street Parking Spaces shall prevail as the standard, all as determined by the planning director.~~

(4d) *Signs*: The number, location, size, area, height and type of signs shall be determined in conjunction with the approval process.

Section 3. That section 48-24.03, Requirements and development standards for the planned unit development district, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

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

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

(a) ~~Applicability~~Size of Parcel:

(1) In order to encourage the efficient use of land and resources; promote greater efficiency in public and utility services; and, encourage innovation in the planning, design and building of all types of development, the minimum site size requested for a planned unit development district shall be ~~five~~one (51) acres.

(2) ~~Parcels containing less than fiveone (51) acres, but more than one (1) acre may be sought for reclassification to the planned unit development district where because of environmentally sensitive areas, existing natural features, the land is completely surrounded by development, the age of existing development or scenic assets, it can be demonstrated that such development is more appropriate and efficient than could be achieved through conventional development.~~ the planning director determines the proposed PUD to be a "transition area," defined as an area that separates a non-residential use group

classification("O&I", "C", or "I" districts alone or within a PUD) from another non-residential use group classification or a residential use group classification ("R" or "m" districts alone or within a PUD).

(b) Additional standards and requirements for projects on less than ~~five~~one (51) acres.

(1) The use group category assignment of the planned unit development will be comparable to that of surrounding properties in the neighborhood.

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

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

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

(5) ~~In addition to the requirements of Section 48-24.04(a), t~~The master planned unit development plan shall also include building elevations for all structures and details of materials to be used for external construction, when determined necessary by the planning director.

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

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

(e) Access.

(1) All drives, lanes, streets, culs-de-sac, and other accessways within the planned unit development shall be owned and maintained by the property owners' association or owners within the planned unit development unless it is determined by the planning commission that there is a public need for local



streets and/or major trafficways to transverse the district. In such instances, the transversing streets and/or trafficway right-of-way shall be dedicated by the developer in accordance with the plat subdivision regulations.

(f2) All drives, lanes, streets, culs-de-sac and other privately owned accessways providing accessibility to individual structures, buildings, and uses within the planned unit development shall, by the nature and intent of the district, be considered and serve as mutual rights of access for owners, tenants, invited guests, clients, customers, support and utility service personnel and emergency service providers, including law enforcement, fire protection and ambulance services. No gates, structures or other barriers shall be constructed across said accessways which may impede, limit, or restrict the above rights of access.

(g3) The site will be accessible from public streets which are adequate to carry the traffic that will be imposed upon them by the proposed development, streets, and driveways on the site of the proposed development will be adequate to serve the residents, occupants, or users of the proposed development. Traffic control signals will be provided without expense to the city when the governing body determines that such signals are required to prevent traffic hazards or congestion in adjacent streets.

(h4) All drives, lanes, streets, culs-de-sac, accessways, and parking lots shall comply with all applicable provisions of article XXX in respect to surfacing, design, screening, lighting, and drainage.

(if) Other standards. Other developmental standards, requirements, and provisions of applicable jurisdictional units including but not limited to those of public

works, fire and water district, law enforcement, utilities, and parks and recreation, and which may not be specifically set forth in this article, shall apply and the master and final planned unit development plans should account for such and reflect a development design accordingly provided that variances and waivers are not granted by the appropriate authority.

Section 4. That section 48-24.04, Procedure for securing approval of a planned development and the establishment of a planned development district, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

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

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

(a) Application to amend to the district. Except as set forth by this article, a petition to reclassify property to the planned unit development district shall be as established in article XXXIII, Amendments, and include like contents. Additionally, the application shall include ~~twelve~~fifteen (12~~5~~) copies of the planned unit development master plan which shall consist of the following documents, information and graphics unless determined to be unnecessary by the planning director:

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

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

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

(4) The site plan of the development shall be at a minimum scale of one (1) inch equals fifty (50) feet, composed of one (1) or more sheets with an outer dimension of twenty-four (24) inches by thirty-six (36) inches. A single-line border shall be provided around all plan sheets measuring exactly one (1) inch from the edge of the sheet except along the left side of the sheet which line shall measure exactly two (2) inches from the edge. The scale, north point and most recent date of preparation shall be so indicated on the plan.

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

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

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

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

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

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

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

a. Land uses, location of principal structures, and major existing landscape features.

b. Traffic circulation system.

c. General topographical mapping at same scale as master plan.

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

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

(14) One (1) ~~eight and one-half (8 1/2) by eleven (11)~~ by seventeen (17) inch ~~film positive reduction~~ reproducible electronic and paper copy of master plan.

(15) Indicate BOOK PAGE DATE TIME in upper right-hand corner of all plan sheets.

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

Recorded With The Shawnee County Register of Deeds:

(Registrars Name) - Register of Deeds

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

This Planned Unit Development (PUD) Master Plan has been reviewed and approved in accordance with the provisions of article 24 of the Comprehensive Zoning Regulations of the City of Topeka and Shawnee County, Kansas, and may be amended only as prescribed in Section 48-24.05 of said article and as set forth on this document or as may subsequently be approved and recorded.

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

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

In Testimony Whereof:

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

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

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

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

\_\_\_\_\_  
Notary Public  
My Commission Expires:\_\_\_\_\_

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

Certification of Master PUD Plan Approval:

(Planning Director's Name) (Date)

Secretary to Planning Commission

Be it remembered that on this \_\_\_\_\_ date of \_\_\_\_\_, A.D. \_\_\_\_\_, (Year) before me, the undersigned, a notary public in and for said County and State came (Planning Director's Name) who is personally known to me to be the same person who

executed the within instrument of writing, and such person duly acknowledged the execution of the same.

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

\_\_\_\_\_  
Notary Public

My Commission Expires:\_\_\_\_\_

(b) Action on the petition and master plan of the planned unit development plan by the planning commission and governing body. Upon filing of a petition to amend a district to the planned unit development district as set forth in article XXXIII, Amendments, and as further provided by this article, the planning commission shall review, consider, and act on the petition in a like manner and procedure as provided in said article XXXIII. The appropriate governing body shall consider such proposal upon report and recommendation by the planning commission also in a like procedure as provided in said article XXXIII.

Section 5. That section 48-24.05, Status of the planned unit development upon approval by the governing body, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**~~Status of the p~~Planned unit development upon approval by the governing body.**

~~For those proposals which are approved to be reclassified to the planned unit development district, the master plan as approved by the governing body with all conditions, revisions, and restrictions as set forth or imposed by said action of the governing body shall be recorded within forty five (45) days of the action date of the~~

governing body by the metropolitan planning agency with the register of deeds. Upon recordation, any changes, revisions, or modifications to the plan shall be in accordance with this article and again recorded in a similar manner. Failure by the applicant to provide the planning agency the approved plan on a permanent-type drafting film material on sheets twenty four (24) inches by thirty six (36) inches suitable for recording within thirty (30) days of the action by the governing body shall deem the petition as null and void. Following the recordation of the master plan, an ordinance or resolution shall be adopted by the governing body to officially amend the district zone as set forth below:

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

(b) ~~A planned unit development plan which has been approved and recorded as provided above shall not be modified, revoked, or otherwise impaired by action of the governing body without the consent of the developer for a minimum period of three years.~~ Recording. For those proposals which are approved to be reclassified to the



347 planned unit development district, the master plan, and site plan (if concurrent approval  
348 is requested by the applicant) as approved by the governing body with all conditions,  
349 revisions, and restrictions as set forth or imposed by said action of the governing body  
350 shall be recorded within sixty (60) days of the action date of the city council by the  
351 applicant with the register of deeds. Failure by the applicant to record the plan within  
352 the prescribed time period or provide the planning department fifteen (15) copies of the  
353 recorded plan within ninety (90) days of the action by the governing body shall deem the  
354 zoning petition as null and void. The planning director upon written request of the  
355 applicant and for good cause may extend this time period an additional thirty (30) days.  
356 Upon recordation, any changes, revisions, or modifications to the plan shall be in  
357 accordance with this article and again recorded in a similar manner.

358 (c) Site development plan review. If the site plan was not submitted and  
359 approved concurrently with the master plan, the following procedure shall apply:  
360 Following the recording of the master planned ~~urban~~ unit development plan and prior to  
361 application for any building development on the site, the applicant shall be required to  
362 submit a site development plan in accordance with the procedures set forth as follows:

363 (1) Submission of Site Development Plan. A site development plan  
364 shall be submitted for the entire area as per the approved master planned unit  
365 development plan or for a subarea (single use group area) within the planned  
366 development provided: 1) The plan of the subarea meets all the requirements of  
367 the master planned unit development plan; 2) The dwelling unit density for  
368 residential development or total floor area for non-residential development does  
369 not exceed the dimensional standards established by the master plan unit

development plan; 3) The subarea can function as an independent development unit with adequate access, services, utilities, open space; etc.; and, 4) The subarea is more than two (2) acres in size. The applicant shall submit ~~twelve~~fifteen (12~~5~~5) copies of the site development plan which shall contain the following information:

(a) The title of the project, centered across the top of the plan sheet, and the names of the engineer or surveyor and names of the developer; and, a signature panel for the Planning Director's approval.

(b) A north point, scale, date and vicinity map.

(c) Existing zoning and improvement of immediately adjacent properties.

(d) The boundaries of the entire planned unit development or the specific land use area for which development is sought; all existing property lines; setback lines; the right-of-way and pavement dimension of existing streets; the location, dimension, height and square feet of all existing buildings and identification of those to be retained or removed; location, alignment and area of water courses, waterways or lakes; and other physical features in or adjoining the proposed development.

(e) The right-of-way and pavement dimension of all proposed streets, loading and parking areas; location, height, type of fixture, and intensity of illumination of all exterior lighting; location and dimension of storm drainage facilities and all curb cuts and access points.

(f) The location, dimension, height, and square footage of all proposed buildings, main and accessory, including dwelling type and number of dwelling units per building.

(g) The location of trash receptacles including the type and height of trash enclosures.

(h) The location and dimension of proposed recreation areas, open spaces, and other amenities and improvements.

(i) The location, character, size, height, and orientation of existing and proposed signs.

(j) The location, type, height, and materials of all fences and walls.

(k) The location and type of all existing trees with a caliper of eight (8) inches or greater. The plan shall indicate which of the trees are to be retained and which are to be removed.

(l) A landscape plan showing the location, description, size, height, and spacing of all new plant material.

(m) A tabulation of the total number of acres in the project, total number of acres in the land use area for which site plan approval is sought, the percentage and acreage thereof proposed to be allocated to residential use, non-residential uses, off-street parking, common open space, parks, schools, and other reservations.

(n) A tabulation of the total number of dwelling units in a residential area and the overall project density in dwelling units per gross acre. Tabulation of floor area by use in a non-residential area.

(o) The type, location, and size of all existing and proposed utilities and utility easements extending through or adjacent to the site.

(p) A topographic survey showing the elevation of streets, buildings, structures, water courses, and their names. The topography shall be shown by adequate spot elevations. The finished grade for the entire site shall be shown and the proposed first floor elevation of all buildings (except for garages and storage areas which shall be located at or above the one-hundred (100) year flood elevation) shall be at or above the elevation of (1) the flood water of record; or (2) the intermediate flood level as determined by the U.S. Army Corps of Engineers; or (3) the flood level as determined by the Department of Public Works, whichever is greater. All horizontal dimensions shown on the site development plan shall be in feet and decimals of a foot, all bearings in degrees, minutes and seconds.

(2) Review and approval of site development plan. Site plans shall be approved administratively by the Planning Director after first circulating the plan and all attachments to all applicable reviewing departments and agencies for written comment. This provision however shall not prohibit the Planning Director from requesting a recommendation from the ~~Zoning and Platting Committee~~planning commission. The site development plan shall be reviewed for

conformity with the provisions of the master planning unit plan and other applicable codes and regulations of the appropriate jurisdiction. The Planning Director may approve the site development plan as submitted, approve with modifications, remand back to the applicant for modifications, or deny. If the plan is approved, the Director shall certify thereon his approval and state the conditions of approval, if any. If the plan is disapproved, he shall indicate his disapproval and the reasons therefore in writing to the applicant. Appeals of any decision of the Planning Director shall be submitted to the ~~Zoning and Platting Committee~~planning commission for review and determination. Appeals of any decision of the ~~Zoning and Platting Committee~~planning commission shall be submitted to the ~~governing body~~city council for final action.

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

(4) A stop work order shall be put on a project if any improvements required on the approved site development plan are not adhered to during the development of the site.

Section 6. That section 48-24.06, Amendments to planned unit development plans, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Amendments to planned unit development plans.**

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

(a) *Minor amendments to master plan:* Minor changes to a planned unit development master plan may be approved administratively, if at all, by the planning director. Such changes may be authorized without additional public hearings, at the discretion of the planning director. This provision shall not prohibit the planning director

481 from requesting a recommendation from the planning commission.

482 (1) *Minor amendment criteria:* Amendments shall ~~not~~ be deemed as  
483 minor if the cumulative revisions to the most recent approved master plan of  
484 record which was considered at a public hearing do not include:

485 a. A change to the use and character of the development.

486 b. The possible creation of obstacles, barriers and service  
487 problems to traffic circulation, fire protection, public safety, and public  
488 utility services due to the revision(s).

489 c. A reduction by greater than five percent (5%) of the  
490 designated open space.

491 ~~ed.~~ An increase by greater than five percent (5%) in the  
492 approved number of residential dwelling units.

493 ~~de.~~ Increase the floor area proposed for nonresidential use by  
494 more than five percent (5%).

495 f. Increase by greater than ten percent (10%) the approved  
496 signage including, but not limited to, height or sign face area.

497 (2) *Submittal of revised master plan with minor amendments.* The  
498 proposed revised master plan shall be submitted to the planning director for  
499 consideration of approval. Said plan shall be presented on reproducible tracing  
500 material in like manner, and substance as reflected on the most recent approved  
501 plan. All other data, conditions, and information other than that proposed for  
502 amendment shall be identical to the most recently approved plan. Space for  
503 acknowledgement of approval by the planning director with date space shall be

reflected on said plan. A letter of transmittal from the designated applicant setting forth in detail all proposed amendments shall accompany the submittal. Upon approval of any revised plan, the applicant shall furnish 16 copies of such plan with the planning agency for distribution to public agencies and utilities. The original tracing will remain on file in the planning agency and the revised master plan shall be rerecorded with the register of deeds in like manner as established with the original filing.

(b) *Major amendments to master plan:* Major changes shall include all any modifications ~~and quantities in conflict with the limitations and provisions as reflected in that do not meet all~~ the minor amendment criteria set forth above. ~~Upon initiation of the amendment as established by the original petition, all major amendments to the master plan shall be submitted to the planning commission for public hearing and recommendation to the governing body as required for the original application and approval. Provided further, that those proposed amendments reflecting the addition of a permitted use group and/or the change in location of a use group by legal description, all property owners within the prescribed notification area as set forth in section 48-33.04 shall have the same rights of protest as provided by said section 48-33.04 and further the proposed amended plan shall only be approved by the governing body in a like manner as prescribed by section 48-33.04.~~ A major amendment is processed and approved in the same manner as the original application. Amendments that add a permitted use group and/or change the location of a use group by legal description are subject to protest as provided for under state law for any other rezoning.

Section 7. That section 48-24.07, Planned unit development plan variance



procedures, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Planned unit development plan variance procedures.**

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

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

(b) The strict application of any provision would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property, provided that the variance may be granted without substantial detriment to the public good and without substantially impairing the purpose of this article.

Section 8. That sections § 48-24.01 through § 48-24.07 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 9. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

PASSED AND APPROVED by the City Council \_\_\_\_\_.

CITY OF TOPEKA, KANSAS

\_\_\_\_\_  
William W. Bunten, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Younger, City Clerk

**MINUTES OF THE TOPEKA PLANNING COMMISSION  
Monday, October 27, 2008  
620 SE MADISON STREET, HOLLIDAY CONFERENCE ROOM  
TOPEKA, KANSAS**

**Amendment to the PUD District regulations (ACZR08/1)**

Mr. Thurbon stated he wanted to propose an amendment to a PUD ordinance to lower the minimum required acreage zero acres instead of the one acre minimum requirement before the applicant can qualify for a PUD. Mr. Thurbon is also proposing an amendment to the Zoning Code's PUD District to allow the Planning Director to extend the 30 days required to record a PUD to avoid its expiration.

Mark Boyd asked Mr. Thurbon if a PUD is revised is it recorded. Mr. Thurbon answered yes it is recorded.

Howard Blackmon stated he commends Mr. Thurbon on implementing this proposal, this is long overdue.

**Motion by Howard Blackmon, seconded by Mark Boyd. Approval 7-0-0.**



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## Council Action Form

Council Chambers  
214 SE 8th Street  
Topeka, Kansas 66603

November 18, 2008

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**DATE:** December 9, 2008  
**CONTACT PERSON:** David Thurbon, AICP **DOCUMENT #:**  
**SECOND PARTY/SUBJECT:** Curtis Cemetery **PROJECT #:** HL08/04  
**CATEGORY/SUBCATEGORY** 014 Ordinances – Non-Codified / 007 Zoning  
**CIP PROJECT:** No  
**ACTION OF COUNCIL:** **JOURNAL #:**  
**PAGE #:**

### DOCUMENT DESCRIPTION:

**AN ORDINANCE** introduced by City Manager Norton N. Bonaparte, Jr., designating real property more specifically described herein as an historic landmark and presently zoned “OS-1” Open Space District and located at 1638 NW Harrison Street in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4. **First Reading.** (HL08/04) (Council District No. 2)

(Approval would add historic landmark overlay zoning to the Curtis Cemetery.)

### POLICY ISSUE:

Approval of the request will reinforce the goals and objectives of the Comprehensive Plan including the Neighborhood Element, Topeka-Shawnee County Historic Preservation Plan, and the Historic North Topeka Revitalization Plan.

### STAFF RECOMMENDATION:

The Planning Commission recommended this proposal be **APPROVED** by a vote of 7-0-0 at their November 17, 2008 meeting as referenced in the attached minutes. The Topeka Landmarks Commission considered this request on October 16, 2008, and recommended that it be **APPROVED** by a vote of 7-0-0. 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 #19

**SOURCE OF FUNDING:**

N/A

**ATTACHMENTS:**

[Staff Report](#)

[Aerial Photo](#)

[Zoning Map](#)

[Photos](#)

[Ordinance](#)

[Application](#)

[Planning Commission Minutes](#)

November 17, 2008  
Agenda Item F.1

Presented to the Topeka Landmarks Commission: October 16, 2008

## HISTORIC LANDMARKS REPORT

### TOPEKA PLANNING DEPARTMENT

CASE NO: HL08/04

by: Curtis Cemetery/ NOTOMA

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**PROPOSAL:** Requesting to amend the District Zoning Classification by granting the “HL” Historic Landmark Overlay District to property currently zoned “OS-1” Open Space District and located at 1638 NW Harrison Street in the City of Topeka, Kansas.

**HISTORICAL SIGNIFICANCE:** The subject property is located at the northern terminus of NW Harrison Street and is the cemetery containing the graves of several family members of Charles Curtis. Born in Topeka on January 25, 1860, Charles Curtis was a great-grandson of a Kanza Indian Chief. His mother, Ellen Pappan was the daughter of one of the Pappan Brothers who established the earliest ferry crossing across the Kansas River at Topeka. She died when Charles was three years of age. Following his mother’s death, Charles was raised by his maternal grandparents on the Kaw Indian Reservation near Council Grove, Kansas.

Charles Curtis served in the U. S. House of Representatives from 1893 to 1907. He was elected Senator in 1906 and served from 1907-1913, and again from 1915 to 1929. In 1928, Charles Curtis was selected by Herbert Hoover to serve as his Vice Presidential running mate, and in 1929, became the first Native American to hold the office, the first Vice President from west of the Mississippi River, and the first Vice President from the state of Kansas. He served one term as Vice President, from 1929 until 1933. Charles Curtis died, February 8, 1936 in Washington D.C. and was buried in the Topeka Cemetery.

While Charles Curtis is not buried in this family cemetery in North Topeka, several of his family members are, the earliest being William Curtis and his son, Ira dating to 1873. Recent damage to the grave markers and headstones has rendered most of the family names unreadable.

**ANALYSIS:** This subject property qualifies for Landmark designation by virtue of the following factors:

- 1) The property is more than 50 years old;
- 2) The property is associated with a significant person or group of persons who have made a significant contribution to the history and development of Topeka, Shawnee County, the State of Kansas, and the Nation;
- 3) The property is associated with events that have made a significant contribution to the broad pattern of history within the City of Topeka; and

- 4) The property is likely to yield information important in the history or prehistory of the City of Topeka, Shawnee County, and the State of Kansas.

**STAFF SUMMARY:** The applicant seeks authorization to designate the property 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 local landmark designation process as set out by Shawnee County Resolution No. 98-206 and City of Topeka Ordinance No. 17292.

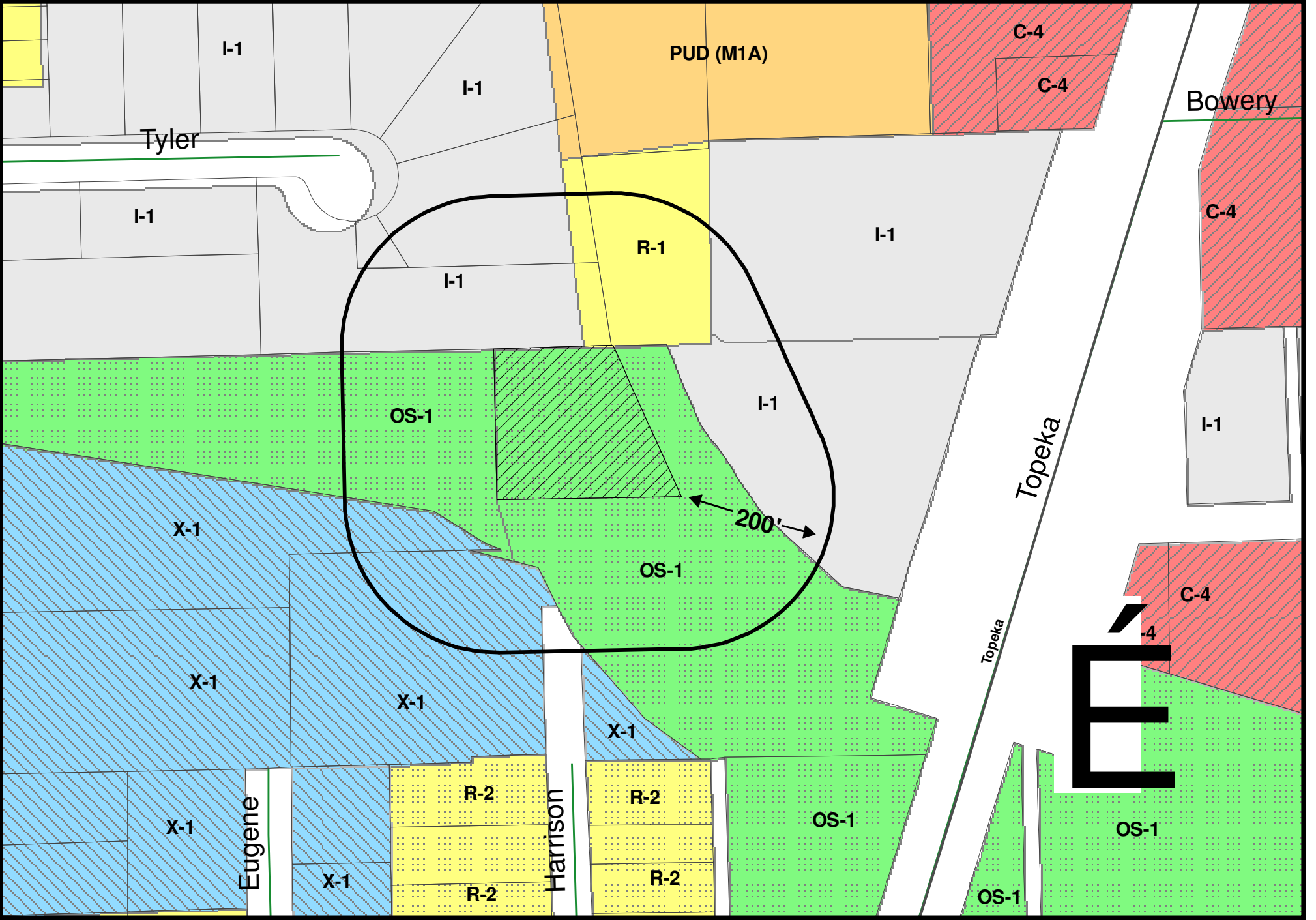
**RECOMENDATION:** The Topeka Landmarks Commission considered this proposal at their October 16, 2008 meeting. At that time, the Commission recommended **APPROVAL** of the proposal by a vote of 7-0-0.

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

Prepared by: Timothy Paris  
Planner II



**HL08/04 Curtis Family Cemetery/NOTOMA**







**Curtis Family Cemetery**

(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 "OS-1" Open Space District and located at 1638 NW Harrison Street (Curtis Cemetery) in the City of Topeka, Kansas, pursuant to City of Topeka Code Section 80-4. **(HL08/4)**  
**(Council District No. 2)**

**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 "OS-1" Open Space District and described as follows:

**Commencing at a point on the North line of Reserve No. 4, Kaw Half Breed Lands in the City of Topeka, Shawnee County, Kansas, that is 21.60 chains east of the Northwest corner of said Reserve; thence south 3.00 chains; thence east 2.45 chins to top of West bank of Soldier Creek and continuing east to the Center of said creek; thence up the Center line of said Soldier Creek to a point where the North line of Reserve No. 4 intersects said last line; thence west along the said North line to the place of beginning. Containing 9/10 of an acre, more or less.**

**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



Topeka Landmarks Commission  
620 SE Madison Street, 3<sup>rd</sup> 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: 000 NW Tyler St
2. Owner(s): Caretakers: Notama: "North Topeka on The Move"
3. Address of Owner (if different): Po Box 8264  
Topeka KS 66608
4. Telephone number for Owner: \_\_\_\_\_  
Daytime \_\_\_\_\_ Evening \_\_\_\_\_
5. Real Estate Tax Identification Number: 1041904006001000
6. a. Approximate date of (original) construction: pre 1873  
b. Approximate date(s) of major alterations, if known: \_\_\_\_\_
7. Builder and/or architect, if known: 0
8. Architectural Style: Native Indians
9. Primary building materials: Some stones made of cement  
after 1903 Flood-
10. Comments: This Cemetery part of Indian 1/2 Breed lands  
Est 1825 by US Congress: William Curtis was owner  
of property - Jan 1873 when his son died &  
buried there.

Topeka Landmarks Commission  
620 SE Madison Street, 3<sup>rd</sup> 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).

*this tax notice is the only interestment to the property to date.*

*KSHS - Research into AR 3893 - Numerical Index - Indian Reserve Lands Vol 1860-1910 No Deed for Cemetery. Est before Deeds office*

Topeka Landmarks Commission  
620 SE Madison Street, 3<sup>rd</sup> 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:

*Gary L. Slomson*

Print Name:

*Gary L. Slomson*

Date:

*9-2-08*

OWNER

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

RETURN THIS FORM AND REQUESTED SUPPORTIVE DOCUMENTATION TO:

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

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



DRAFT

**Minutes of the  
Topeka Planning Commission  
November 17, 2008**

**HL08/4 by Curtis Cemetery and NOTOMA** requesting Historic Landmark zoning overlay for property currently zoned "OS-1" Open Space District and located at 1638 NW Harrison Street. **(Paris)** Tim Paris summarized the staff report.

**Discussion by members:**

Mark Boyd asked how is it determined whether or not the cemetery is deteriorating? Mr. Paris said there has been some vandalism on the property. The stones are very old and the writing has started to erode. Mr. Boyd asked if the cemetery has to meet historical standards? Mr. Paris said he is not sure if there is a standard in place for cemeteries like there are for buildings. He added with the cemetery becoming a landmark it will help to get funding for maintenance, which is the whole reason for this application.

Michelle Hoferer asked if there are any other cemeteries in town with landmark designation? Mr. Paris replied no, this is the first.

**Proponents:**

Rowena Horr, Representative for NOTOMA, spoke in favor of the proposal. She said the goal is to keep the cemetery looking very nice. There are two civil war soldiers buried in this cemetery. Because of the vandalism we would like to put a fence around it to make it beautiful like the Curtis Greenway.

No one spoke in opposition to the proposal.

Exparte communications - none

Mark Boyd moved approval as written by staff, seconded by Jim Brown. **APPROVAL. (7-0-0)**



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## Council Action Form

Council Chambers  
214 SE 8th Street  
Topeka, Kansas 66603

October 20, 2008

+ Back Print

**DATE:** December 9, 2008  
**CONTACT PERSON:** David Thurbon/Bill Fiander  
**DOCUMENT #:** PUD08/2  
**SECOND PARTY/SUBJECT:** Wanamaker North L.L.C. **PROJECT #:**  
**CATEGORY/SUBCATEGORY** 014 Ordinances – Non-Codified / 007 Zoning  
**CIP PROJECT:** No  
**ACTION OF COUNCIL:** **JOURNAL #:**  
**PAGE #:**

### DOCUMENT DESCRIPTION:

**AN ORDINANCE** introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made part of the Zoning Ordinances by Section 48-1.03 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at 6209, 6211, 6213 SW 10th Avenue in the City of Topeka, Kansas from "R-1" Single-Family Dwelling District and "C-2" Commercial District ALL TO "PUD" Planned Unit Development District ("C-2" use group). **First Reading.** (PUD08/2)(Council District No. 9)

*(Approval would allow for hotel/retail uses and a pole sign height of 69 feet.)*

### POLICY ISSUE:

The request is consistent with the land use policies and principles of the Topeka Land Use and Growth Management Plan-2025.

### 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

Item #20

### SOURCE OF FUNDING:

N/A

**ATTACHMENTS:**

[ordinance](#)

[aerial map](#)

[zoning map](#)

[application](#)

[staff report](#)

[PC minutes 10-20-08](#)



(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 6209, 6211 and 6213 SW 10<sup>th</sup> Avenue in the City of Topeka, Kansas from "R-1 Single Family Dwelling District and "C-2" Commercial District **ALL TO** "PUD" Planned Unit Development District ("C-2" use group). **(PUD08/2) (Council District No. 9)**

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

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

**6209 SW 10<sup>th</sup> Avenue**

**Lot 1, Block A, K. E. N. Subdivision, in the City of Topeka, Shawnee County, Kansas.**

**6211 SW 10<sup>th</sup> Avenue**

**Part of the East half of the SE  $\frac{1}{4}$  of Section 32, Township 11 South, Range 15 East of the 6<sup>th</sup> P.M., Shawnee County, Kansas, described as follows:**

**Beginning at a point on the north line of said SE  $\frac{1}{4}$  of Section 32, which is 502.88 feet west of the NE corner thereof; thence west along said north line, 125.71 feet to a point 628.59 feet west of the NE corner of said  $\frac{1}{4}$  Section; thence south 346.5 feet; thence east 125.71 feet; thence north 346.50 feet to the point of beginning.**

**6213 SW 10<sup>th</sup> Avenue**

**A part of the east  $\frac{1}{2}$  of the SE  $\frac{1}{4}$  of Section 32, Township 11 South, Range 15 East of the 6<sup>th</sup> P.M., in the City of Topeka, Shawnee County, Kansas described as follows:**

**Beginning at a point on the north line of said SE  $\frac{1}{4}$  of Section 32, which is 628.59 feet west of the NE corner thereof; thence west along the north line of said  $\frac{1}{4}$  Section, 125.71 feet to a point which is 754.30 feet west of the NE corner thereof; thence south 346.50 feet; thence east 125.71 feet; thence north 346.50 feet to the point of beginning.**

from "R-1 Single Family Dwelling District and "C-2" Commercial District **ALL TO** "PUD" Planned Unit Development District ("C-2" use group).

**Subject to:**

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

**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**

**Wanamaker Northwest Development** – Annie Driver summarized the staff report for both the zoning and subdivision discussion is for both as well. Annie informed the commission a new PUD and plat was passed out tonight and there hasn't been time for review but the applicant had verbally agreed to all conditions in the staff report.

**Discussion by members:**

Doug Bassett asked if staff agreed with the plat and PUD the applicant's representative presented tonight? Mrs. Driver replied as far as she could see they revised both in accordance with conditions in the staff reports.

Doug Bassett asked for explanation of the sign allowed? Mrs. Driver stated the Phillips 66 sign is grandfathered in and is taller than all signs in the area. It has been there since before the property was in the city. Mr. Bassett said your study included a crane? Mrs. Driver replied yes. She stated she went out with the applicant to see how high the sign would need to be to still have view from the interstate. It was set at 70 feet.

**Proponents:**

Dan Cook, Level 4 Engineering, stated they agree with the staff reports. He said the revisions passed out were based off of the staff report for the PUD and plat.

- a. **PUD08/2 Wanamaker Northwest PUD** by Wanamaker North LC requesting to amend the District Zoning Classification from "R-1" Single Family Dwelling District and "C-2" Commercial District **ALL TO** "PUD" Planned Unit Development District (C-3" use group) on property located at 6209, 6211 and 6213 SW 10<sup>th</sup> Avenue. **(Driver)**

Exparte communications - none

Jim Brown moved approval as written by staff, seconded by John Federico. **APPROVAL. (6-0-0) Mark Boyd was out of the room.**

- b. **Wanamaker Northwest Subdivision (Preliminary Plat Phase)(P08/24)** by Wanamaker North LC on property located at 6209, 6211 and 6213 SW 10<sup>th</sup> Avenue. **(Driver)**

Jim Brown moved approval as written by staff and adding the same note to the plat as the PUD regarding street benefit district, seconded by Federico. **APPROVAL. (6-0-0) Mark Boyd was out of the room.**

October 20, 2008  
Agenda Item # G-10a

# ZONING REPORT

## CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: PUD08/2 Wanamaker Northwest

by: Wanamaker North L.L.C.

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**PROPOSAL:** Zone change request from “C-2” Commercial District and “R-1” Single-Family Dwelling District **ALL TO** “PUD” Planned Unit Development (C-2 use group).

**LOCATION:** 6209, 6211, 6213 SW 10<sup>th</sup> Avenue

**PARCEL ID NUMBER:** 0993204001002000, 0993204001003000, and 0993204001004000

**PRESENT USE:** Vacant parcels and an unoccupied single-family residence on 2.88 acres

**PROPOSED USE:** As currently proposed, Lot 1 will contain a 3-story hotel with a maximum ground floor area of 13,250 sq. ft. Lot 2 will contain a one-story commercial/retail building with a maximum floor area of 12,000 sq. ft. The PUD is required to allow for a pole sign height greater than 35’ and to allow signage for Lot 1 located on Lot 2.

**CHARACTER OF NEIGHBORHOOD:** The subject property is located upon a minor arterial (SW 10<sup>th</sup> Avenue), on the west side of the Wanamaker commercial corridor, in an area that is changing from single-family to commercial. A large vacant tract (31 acres) lies to the south of the subject property. A stream running from the northwest to the southeast separates this property from this vacant tract and a single-family neighborhood to the west.

### **ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:**

| ZONING CLASSIFICATION |                                                                    | PRESENT LAND USE                                                     |
|-----------------------|--------------------------------------------------------------------|----------------------------------------------------------------------|
| North:                | “C-4” Commercial District                                          | Restaurant                                                           |
| South:                | “R-1” Single-Family Dwelling District                              | Vacant                                                               |
| East:                 | “C-2” Commercial District                                          | Gas station/convenience store                                        |
| West:                 | “R-1” Single-Family Dwelling District<br>“C-2” Commercial District | Single-family residence<br>Single-family residence/plumbing business |

**LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION:** The properties 6211 and 6213 SW 10<sup>th</sup> have remained zoned for single-family residential purposes since prior to their annexation in the 1980s

October 20, 2008  
Agenda Item # G-10a

and were built in the 1950s. The residence at 6209 SW 10<sup>th</sup> was built in 1970 and has remained commercial for some time. The residences at 6209 and 6211 have already been demolished.

**SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED:** The subject property is no longer suitable for single-family residential uses. The properties north of SW 10<sup>th</sup> have developed for commercial uses (restaurants and hotels). A mixed use residence/plumbing business is located west of these properties, which was zoned “C-2” in 1976. Since the subject properties are adjacent to and across from commercial properties, they are probably no longer at a desirable location for new single-family residences. However, each property by itself is too small for a commercial use to be viable because of stream buffer, landscaping, parking, and access management requirements. They will function better as an integrated commercial development.

**CONFORMANCE TO COMPREHENSIVE PLAN:** The Topeka Land Use and Growth Management Plan – 2025 establishes this area for *Commercial/Office* land uses, but also indicates that there should be transitional area between single-family residential and commercial land uses. The existing stream to the west would provide a natural stream buffer for the single-family residential neighborhood. Commercial rezonings west of the stream would breach that natural stream buffer and possibly disrupt the integrity of the single-family neighborhood along SW 10<sup>th</sup>.

**THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES:** The applicant has proposed a 75’ pole sign, which may affect nearby commercial properties by allowing a greater pole sign height than what is currently allowed on similar zoned or even less restrictive commercial zoning. The C-2 District permits pole signs of no greater than 35’. This PUD proposes a pole sign even higher than what is permitted in the C-4 District (maximum of 55’). This may be considered an unfair advantage by similar C-2 properties. The existing C-4 pole signs in the area, west of Wanamaker, have heights of 60’ (Country Inn), 50.5’ (Hooters), 54.6 (Burger King), and 56.5’ (Clubhouse Inn) measured from the top of the sign to their elevation. The existing 73’ tall Phillip’s 66 sign in the area is grandfathered in under its current zoning. The elevations of these signs, measured from the top of the sign, range from 976’ to 987’ for an average of 55.4’. This would equal a 65’ tall sign on the subject property since it sits at a lower elevation than the other properties. Based on a visual inspection (i.e. a sign hoisted by a crane), staff believes the property at minimum needs a 65’ tall sign for full interstate visibility.

**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 gain to the public health, safety and welfare by not allowing the higher pole sign would be to reduce visual clutter along SW 10<sup>th</sup>. Currently, pole signs along SW 10<sup>th</sup> are setback from street frontages, which reduces their visibility from the street. The hardship imposed upon the individual landowner would be the decreased window of opportunity for interstate visibility. However, visual clutter and safety along 10<sup>th</sup> may be negatively impacted if the properties are permitted two 200 sq. ft. signs at 35’ or lower that would be allowed under straight C-2 zoning. Therefore, the trade-off of not having an additional pole sign in exchange for a taller pole sign at reduced square footage may ultimately reduce visual clutter along SW 10<sup>th</sup> more than the C-2 “by-right” alternative. As another trade-off, the PUD proposes two 5’ tall, 50 sq. ft. monument signs, which is smaller than surrounding monument signs and smaller than that permitted under the base zoning.

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**AVAILABILITY OF PUBLIC SERVICES:** All essential public utilities, services and facilities are presently available to this area and will be extended at developer expense.

**COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:** The PUD indicates the required parking for commercial/retail uses on Lot 2 will be met at 1 per 200 sq. ft. of floor area. Parking requirements should be revised to state that Lot 2 will also meet parking requirements for a family dining restaurant at 1 per 150 sq. ft. of floor area or 1/3 the occupant load.

Minimum Lot Area: 1 acre

Setbacks: 30' perimeter building setback- The applicant has requested a variance to reduce the setbacks on Lot 1 to 20' on the west side and 18' on the north side due to stream buffer and landscape parking lot buffer requirements. The PUD proposes a 30" landscape berm along SW 10<sup>th</sup> Street to mitigate effects of the reduced landscape parking lot buffer.

Platting: Lots 1 and 2, Block A, Wanamaker Northwest Subdivision is proposed in conjunction with this application

**CONCERNS OF STAFF AND REVIEWING AGENCIES:** This request was submitted to all applicable reviewing agency staff for consideration and comment. City Water Pollution Control has granted a variance to the stream buffer ordinance to reduce the required width, as shown on the PUD plan. SW 10<sup>th</sup>, between I-470 and Wanamaker, currently carries more than 10,000 vehicles per day, which is nearing its capacity as a two-lane arterial. Recommendations provided in the Traffic Impact Analysis indicated the owners should agree to a benefit district for the future improvement of SW 10<sup>th</sup> Avenue and should allow for cross access with the unplatted property to the west. Due to the limited length of frontage for these properties, the City Traffic Engineer has indicated they should have one combined access point. It is not possible that the properties could have two access points and still meet the 300' driveway spacing requirement that is required by City Street Design Criteria. Staff cannot find any justification to allow more than one access point particularly on an undersized 2-lane arterial so close to the region's major commercial traffic corridor that will continue to experience future growth.

**ADDITIONAL FACTORS:**

1. Neighborhood Improvement Association: N/A
2. Capitol Area Plaza Authority: N/A
3. Flood Hazard Area: N/A
4. Airport Hazard Area: N/A
5. Historic Properties: There are no National Register properties within 500 ft. .

**STAFF RECOMMENDATION:** Based upon the above findings and analysis, the planning staff recommends **APPROVAL** of this proposal, subject to:

1. Use and development of the site in accordance with the Master Planned Unit Development Plan for Wanamaker Northwest.

October 20, 2008  
Agenda Item # G-10a

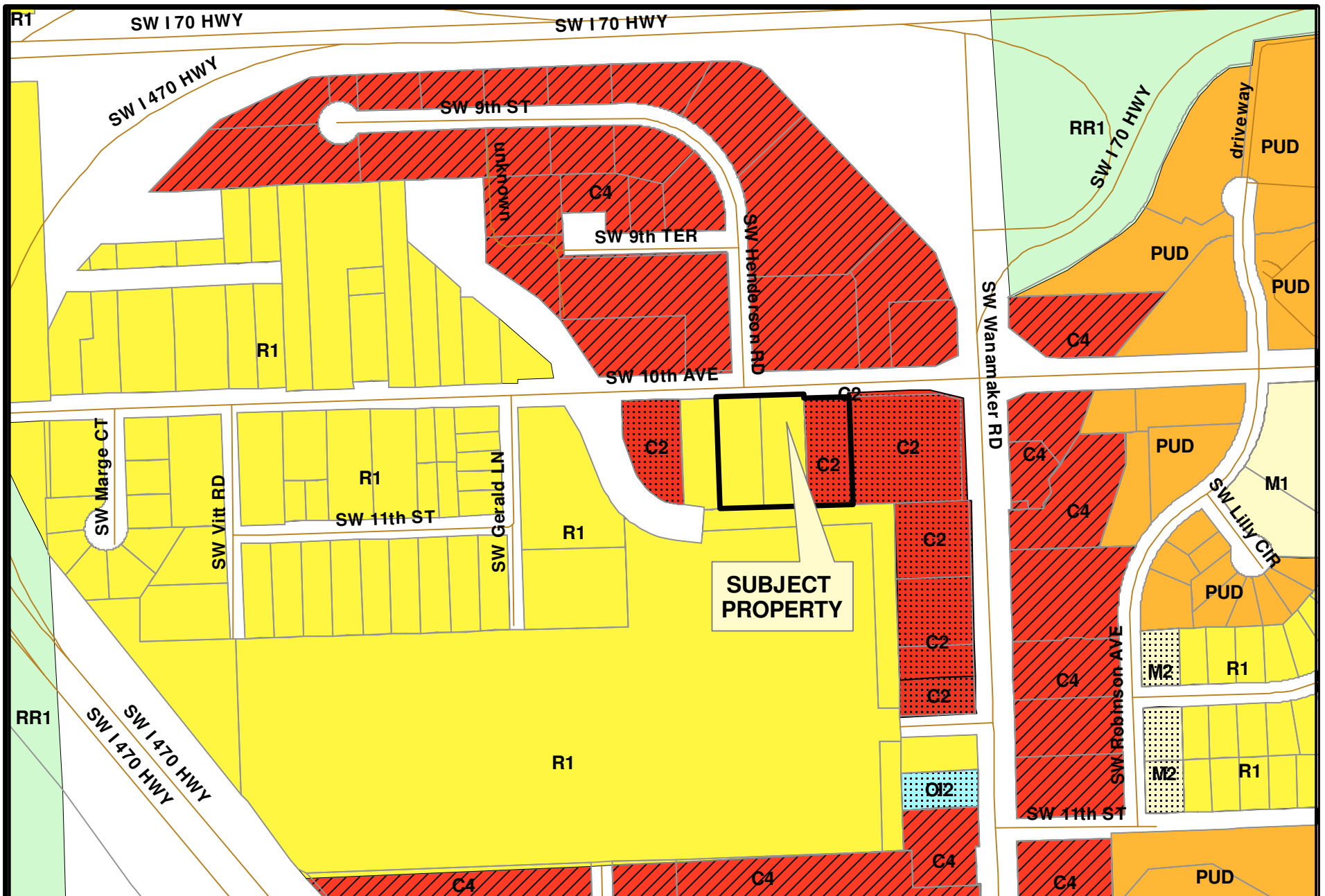
2. "The Topeka Planning Commission hereby grants a variance to Section 48-24.02(b)(2)a of the Comprehensive Zoning Regulations to reduce the perimeter building setback from 30' to 20' along the west property line of Lot 1 and from 30' to 18' along the north property line of Lot 1."
3. Revision of Note #1 under Variances on the PUD to reflect Comment #2.
4. Revision of Note #2 under Variances on the PUD to state, "City of Topeka Water Pollution Control has granted a variance . . ."
5. Revision of Note #3 under Variances on the PUD to state, "The 18' landscape easement along SW 10<sup>th</sup> Avenue will satisfy City landscape parking lot buffer requirements."
6. Revise Note #1 under Circulation, Parking, and Traffic on the PUD to include one point of cross access will be provided with the adjacent property to the west.
7. Revision of Note #2 under Circulation, Parking, and Traffic on the PUD to state, "A maximum of two (2) access points for both Lots 1 and 2 shall be allowed along SW 10<sup>th</sup> Avenue to be determined at site plan review"
8. Addition of Note under Circulation, Parking, and Traffic on the PUD to state, "The property owners(s) agree(s) to an irrevocable waiver of objection to equitable participation in a street benefit district for their share of improvements to SW 10<sup>th</sup> Avenue."
9. Revision to sign graphic and pole sign note to indicate a maximum pole sign height of 69 feet.
10. Addition of note under Landscaping stating, "Pole sign shall be landscaped around the base of the sign to be determined at site plan review."
11. Removal of existing buildings/structures from the PUD plan.
12. Revision under commercial/retail parking requirements of Project Program to also include, ". . . Or a family dining restaurant at 1 per 150 sq. ft. of floor area or 1/3 the occupant load, which ever is less."
13. Showing drainage easements and minimum opening elevations on the PUD, as required by City Engineering.

Prepared by:  
Annie Driver, Planner I



## PUD08/2 Wanamaker Northwest PUD





## PUD08/2 Wanamaker Northwest PUD



## 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): Wanamaker North, L.C.

Street Address: 3501 SW Fairlawn Road, Suite 200

City: Topeka State: KS Zip: 66614 E-mail: \_\_\_\_\_

Business phone: 785-272-1398 Home phone: \_\_\_\_\_ Fax: 785-272-1796

Authorized Owner Representative (if any): MRV, Inc., c/o Steve Johnson

Street Address: 3501 SW Fairlawn Road, Suite 200

City: Topeka State: KS Zip: 66614 E-mail: sjohnson@mrvcpanies.com

Business phone: 785-272-1398 x151 Home phone: \_\_\_\_\_ Fax: 785-272-1796

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

Level 4 Engineering LLC - Mark Boyd

Street Address: 2641 SW Wanamaker Road

City: Topeka State: KS Zip: 66614 E-mail: Mark.Boyd@Level4Eng.com

Business phone: 785-228-9600 Home phone: \_\_\_\_\_ Fax: 785-228-9609

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

Owner 1 Signature: *J. Ungerer* Date: 7/1/08

Owner 2: \_\_\_\_\_

Owner 2 Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## Requested Action and Site Information

**Address of Property to be Re-Zoned** (or if vacant, describe general location): 6209, 6211, 6213 SW 10th  
Topeka, Kansas 66615

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

**Total Area** (acres/square feet): 2.88 acres

**Type of Application:**

1. *Re-zoning from:* C-2, R-1, R-1 *to:* PUD/C-3

2. *Conditional Use Permit proposed use:* \_\_\_\_\_

**Existing Use** (# of dwelling units, square feet, etc.): vacant, houses and outbuildings

How long has the existing use been on the property? Not sure.

**Proposed Use** (# of dwelling units, square feet, etc.): anticipated 67 room hotel and approximately 7,000 square feet restaurant/retail

**Was a Pre-Application Meeting or Zoning Inquiry completed with Staff?** Yes *If Yes, when?* 6/27/08

### FOR OFFICE USE ONLY

**Date submitted:** 7/3/08

**Date notice sent:** 7/25/08

**Application no.:** PUD08/2

**Date advertised:** 7/25/08

**Filing fee:** 1094<sup>00</sup> **Receipt no.:** 11806

**Date of hearing:** 8/15/08

**Quarter section map no.:** \_\_\_\_\_

**Council district:** #9

### CHECK YES OR NO

**Capital Plaza Area:** Yes \_\_\_\_\_ No \_\_\_\_\_

**Within Historic Site Environs:** Yes \_\_\_\_\_ No \_\_\_\_\_

*If Yes, what is it?:* \_\_\_\_\_

**100 yr Floodplain:** Yes \_\_\_\_\_ No \_\_\_\_\_

**National/State Historic Register:** Yes \_\_\_\_\_ No \_\_\_\_\_

**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?**

It is currently a mixed zoning of single family and commercial uses. The site is currently surrounded by C-2, C-4 and PUD zoning. The area to the south is zoned R1 but will be changed to some type of commercial zoning in the future. Commercial zoning under a PUD provides the highest and best use of this property and is compatible with other land use in the area.

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

The proposed development is in keeping with similar development in the immediate area and continues to maintain the commercial development levels in the immediate area of 10th and Wanamaker. The existing housing in poor condition will be replaced with area compatible commercial development.

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

There is no existing 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:

12" water main on the north side of 10th 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" sewer main on the north side of 10th 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?

It will be conveyed in a private storm sewer system.

- 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?

Yes, 10th Street is 26'.

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

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

No.



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## Council Action Form

Council Chambers  
214 SE 8th Street  
Topeka, Kansas 66603

November 3, 2008

+ Back Print

|                       |                                            |             |         |
|-----------------------|--------------------------------------------|-------------|---------|
| DATE:                 | December 9, 2008                           |             |         |
| CONTACT PERSON:       | David Thurbon / Bill Fiander               | DOCUMENT #: | N/A     |
| SECOND PARTY/SUBJECT: | Temple of Deliverance Church               | PROJECT #:  | PUD08/5 |
| CATEGORY/SUBCATEGORY  | 014 Ordinances – Non-Codified / 007 Zoning |             |         |
| CIP PROJECT:          | No                                         |             |         |
| ACTION OF COUNCIL:    | JOURNAL #:<br>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 southeast corner of SE Adams and SE 21st Street from “R-1 Single Family Dwelling District and “C-2” Commercial District ALL TO “PUD” Planned Unit Development District (“M-2” use group).  
**First Reading.** (PUD08/5) (Council District No. 4)

*(Approval would allow development of 49 dwelling units for affordable housing on a 3.98 acre property.)*

### POLICY ISSUE:

Considering the site’s location at the intersection of two completed arterial streets on the periphery of the neighborhood, the proposal is consistent with the neighborhood model of the Comprehensive Plan. The proposal will not increase traffic upon existing local streets and will have existing forested areas to shield the development from adjacent properties.

### STAFF RECOMMENDATION:

The Planning Commission recommended this proposal be **APPROVED** by a vote of 5-2-0 at their November 17, 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 attached staff report.  
City Council Options Include:

- (1) Adopt the recommendation of the Planning Commission to approve by a three-fourths majority (**7 votes of the City Council membership**) Item #21
- (2) Override the Planning Commission's recommendation by a two-thirds majority (6 votes of the City Council membership)

(3) 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:**

[Ordinance](#)

[Aerial](#)

[Zoning](#)

[Application](#)

[Staff Report](#)

[Plan Layout 1](#)

[Plan Layout 2](#)

[Memo](#)

[Map](#)

[Computations](#)

[Protest Petitions](#)

[Planning Commission Minutes](#)

(Published in the Topeka Metro News \_\_\_\_\_)

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE** introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at southeast corner of SE Adams and SE 21<sup>st</sup> Street from "R-1 Single Family Dwelling District and "C-2" Commercial District **ALL TO** "PUD" Planned Unit Development District ("M-2" use group).  
**(PUD08/5) (Council District No. 4)**

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

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

**Tract I:**

**A tract of land in the NW ¼ of Section 8, Township 12 south, Range 16, East of the 6<sup>th</sup> P.M., in the City of Topeka, Shawnee County, Kansas, described as follows:**

**Beginning at a point on the north line of the NW ¼ of said Section 8, Township 12 south, Range 16 which is 564 feet east of the NW corner of said ¼ Section, at the intersection of an alley and 21<sup>st</sup> Street;**

**Thence south parallel with the west line of said NW ¼, 433.6 feet;**

**Thence west parallel with the north line of said NW ¼, 190.4 feet;**

**Thence north parallel with the west line of said NW ¼, 178 feet;**

**Thence west parallel with the north line of said NW ¼, 118 feet, more or less, to the East line of a 1 ½ acre tract in square form in the NW corner of said NW ¼; thence north along the east line of said 1 ½ acres tract 255.6 feet, more or less, to the north line of said NW 1/4 ; thence east along said north line to the place of beginning, EXCEPT that part taken by condemnation as set forth in District Court Case No. 122,881.**

**Tract II:**

**1 ½ acres in a square form in the NW corner of the NW ¼ of Section 8, Township 12 South, Range 16, East of the 6<sup>th</sup> P.M., in the City of Topeka, Shawnee County Kansas, EXCEPT that part now platted in Jefferson Square Subdivision No. 2; AND EXCEPT that part taken by condemnation as set forth in District Court Case No. 122,881.**

**Tract III:**

**Lots 3 & 4, Block A, Jefferson Square Subdivision #2, commonly known as 2132 SE Adams Street, in the City of Topeka, Shawnee County, Kansas.**

from "R-1 Single Family Dwelling District and "C-2" Commercial District **ALL TO** "PUD" Planned Unit



Development District ("M-2" use group). **Subject to:**

- 1. Use and compliance of the site in accordance with the recorded Master Planned Unit Development Plan of Pioneer Adams II, L.P.**

**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:

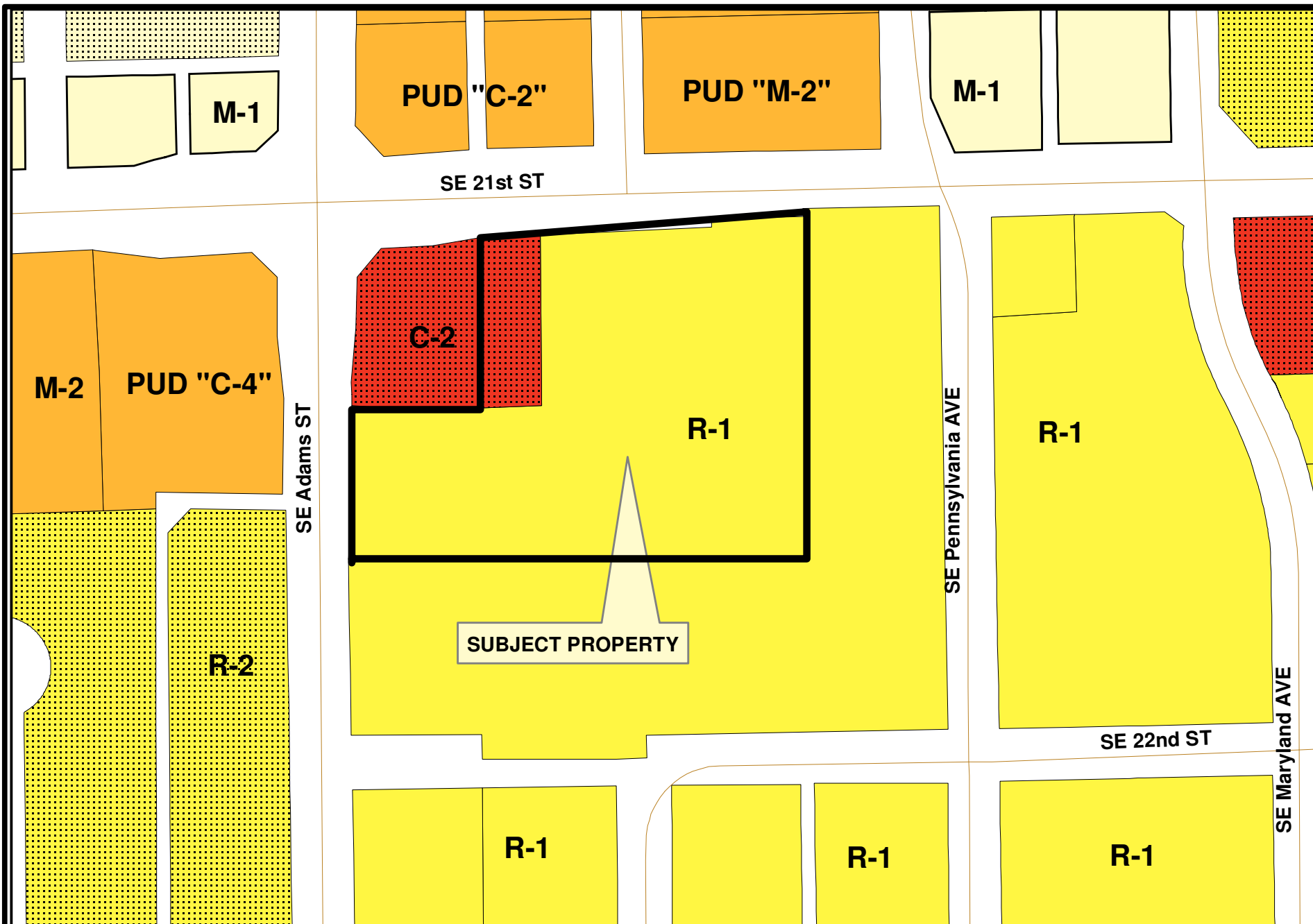
\_\_\_\_\_  
Brenda Younger, City Clerk

To Be Codified \_\_\_\_\_

Not To Be Codified   X



**PUD 08/5 by Temple of Deliverance Church**



**PUD 08/5 by Temple of Deliverance Church**

November 17, 2008  
Agenda Item # F-2

# ZONING REPORT

## CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: **PUD 08/5 Pioneer Adams II**

by: **Temple of Deliverance Church**

---

**PROPOSAL:** Zone change from “R-1” Single Family Dwelling District and “C-2” Commercial District ALL TO “PUD” Planned Unit Development District (M-2 use group).

**LOCATION:** On property located at the southeast corner of SE 21<sup>st</sup> Street and SE Adams Street.

**PARCEL ID NUMBER:** 1330802006002000, 1330802006006000.

**PRESENT USE:** A total of 3.98 acres of property on two separate parcels. 0.63 acres of the parcel with frontage along SE Adams Street (1330802006006000) has been divided into two lots, with one single-family unit facing Adams St. upon the south lot. The remaining 1.09 acres of this parcel is vacant. The parcel with frontage along SE 21<sup>st</sup> Street (1330802006002000) is vacant and has a total of 2.6 acres in area.

**PROPOSED USE:** The plan proposes a mix of multiple-family apartment buildings and duplexes for a total of 49 living units using the tax credit program.

**CHARACTER OF NEIGHBORHOOD:** The subject property is located within a single-family residential area near the intersection of two arterial streets, with frontage along each street. While there is commercial zoning on the southeast, southwest and northeast corner of the intersection, there are no present commercial uses at this location. The two homes adjacent to the subject property are zoned for commercial, but are used for residential purposes. With the exception of a single-family home on the west side of the subject property, the remainder of the area is unimproved and rather forested.

### **ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:**

|        | <b>ZONING CLASSIFICATION</b>                                          | <b>PRESENT LAND USE</b>                    |
|--------|-----------------------------------------------------------------------|--------------------------------------------|
| North: | PUD with “M-2” Multiple-Family Dwelling;<br>“C-2” Commercial District | Multiple-Family Apartment Units;<br>Vacant |
| South: | “R-1” Single-Family Dwelling District                                 | Single-Family Residences                   |
| East:  | “R-1” Single-Family Dwelling District                                 | Single-Family Residences                   |
| West:  | “C-4” Commercial District; “R-1” Single-Family<br>Dwelling District   | Vacant; Single-Family Residence            |

November 17, 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 has been classified for *Single-Family Residential* ever since zoning was established for the area, although a small portion of parcel 1330802006002000 was re-zoned for *Commercial* in 1964. A house was built along SE Adams Street around 1910, while the rest of the property has remained vacant, including the portion zoned for *Commercial*.

**SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED:** While single-family residential is the primary development pattern in the area, the site is potentially more suitable for higher-intensity land uses due to its proximity to the intersection of two arterial streets, as well as the presence of commercial zoning at this intersection as well. Since the site will require significant improvements in order to build upon, such as the construction of right-of-way and utility lines, further single-family development upon this site may no longer be the most cost-effective alternative, nor will it be the most efficient use of land for such a small amount of property.

**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 49 units on less than four acres of land for a density ratio of about 12 units / acre. This is high-density development and would not be in conformance with the Comprehensive Plan's future land use map. However, considering the site's location near an intersection of two arterial streets on the periphery of a neighborhood, the use would be consistent with the Comprehensive Plan Neighborhood Model.

**THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES:** The proposal should have no adverse effects upon nearby properties as the proposal will not increase traffic upon existing local streets. The project will also have adequate landscaping and existing forested areas to shield the development from adjacent properties of single-family homes.

**THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE OWNER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER:** There will be no gain to the public by denying the request of the landowner since reclassification of the property will allow the site to develop more intensely at an appropriate infill location with infrastructure in place, thus improving the surrounding area that is in need of re-investment.

**AVAILABILITY OF PUBLIC SERVICES:** A water main will need to be extended into and thru the site, and easements will need to be written and granted.

**COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:** Parking requirements have been accommodated at a ratio of 1.75 spaces per unit. 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.



November 17, 2008  
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Minimum Lot Area:

**Compliant.** While the use group category of the proposal is not comparable to that of the surrounding neighborhood (with the exception of the Pioneer Adams Towne Homes located across SE 21<sup>st</sup> Street), the project will not have any greater impact upon streets and utilities in the area than would conventional development and will not adversely affect the enjoyment of neighboring properties. The PUD proposal, furthermore, will allow the site to develop much more efficiently than would occur with single-family residential development.

Setbacks: **Compliant.**

Platting: The property will need to be platted into one lot as a condition of development.

**CONCERNS OF STAFF AND REVIEWING AGENCIES:** This request was submitted to all applicable reviewing agency staff for consideration and comment. All issues or concerns that were expressed by reviewing staff relative to code compliance or provisions of public service have been resolved or will be addressed at the building permit stage.

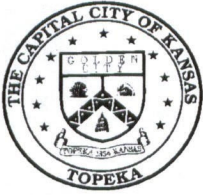
**ADDITIONAL FACTORS:**

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

**STAFF RECOMMENDATION:** Staff recommends **APPROVAL** of this proposal subject to the following:

1. *Organizing PUD Notes according to administrative policies (insert headings).*

Prepared by:  
Cylus Scarbrough, Planner I



## 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): TEMPLE OF DELIVERENCE CHURCH (W.O. SHEPPARD)

DAN H. OLIVER

Street Address: 520 S.E. NORWOOD 1800 S.W. JAMES

City: TOPEKA State: KS Zip: \_\_\_\_\_ E-mail: \_\_\_\_\_

Business phone: 608-7358 Home phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Authorized Owner Representative (if any): ROSS FREEMAN, PIONEER GROUP

Street Address: 1200 S. KANSAS AVE

City: TOPEKA State: KS Zip: 66612 E-mail: ROSSPGI@MSN.COM

Business phone: 232-1122 Home phone: 272-6254 Fax: 232-1660

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

ARCHITECT ONE, P.A.

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

City: TOPEKA State: KS Zip: 66614 E-mail: mtwe architect one pa. com

Business phone: 271-7010 Home phone: 271-8494 Fax: 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: TEMPLE OF DELIVERENCE CHURCH

Owner 1 Signature: W.O. Sheppard

Date: 10/1/08

Owner 2: Dan H. Oliver Sr.

Owner 2 Signature: Dan H. Oliver Sr. by SS

Date: 10/1/08



## Requested Action and Site Information

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

SOUTHEAST OF 21<sup>ST</sup> & ADAMS - EXCLUDING 2 HOMES ON CORNER

Legal Description of Property: lot(s) 3 & 4 block A subdivision JEFFERSON SQUARE  
(if unplatted, attach metes and bounds description) AND FURTHERMORE AS PER THE SUP #2 ATTACHED LEGAL DESCRIPTIONS

Total Area (acres/square feet): 171,097 S.F. ±

**Type of Application:**

1. Re-zoning from: R-1 to: PUD w/ M-1 USE GROUP

2. Conditional Use Permit proposed use: \_\_\_\_\_

Existing Use (# of dwelling units, square feet, etc.): 1 RESIDENCE, 1,000 S.F.

How long has the existing use been on the property? 70 YRS ±

Proposed Use (# of dwelling units, square feet, etc.): 49 UNITS

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

### FOR OFFICE USE ONLY

Date submitted: 10/3/08

Date notice sent: 10/24/08

Application no.: PUD08/5

Date advertised: 10/24/08

Filing fee: 1150<sup>00</sup> Receipt no.: 11842

Date of hearing: 11/17/08

Quarter section map no.: \_\_\_\_\_

Council district: #4

### CHECK YES OR NO

Capital Plaza Area: Yes \_\_\_\_\_ No \_\_\_\_\_

Within Historic Site Environs: Yes \_\_\_\_\_ No \_\_\_\_\_

If Yes, what is it?: \_\_\_\_\_

100 yr Floodplain: Yes \_\_\_\_\_ No \_\_\_\_\_

National/State Historic Register: Yes \_\_\_\_\_ No \_\_\_\_\_

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?

PROPERTY HAS NOT BEEN DEVELOPED AND  
RESTS ON A MAJOR INTERSECTION IN AN  
AREA OF TOWN NEEDING AFFORDABLE HOUSING.

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

- PROJECT WILL SUBSTANTIALLY BE SIMILAR TO  
APARTMENT/TOWN HOME PROJECT TO THE NORTH.
- BRING NEW LIFE TO UNDEVELOPED GROUND  
& REMOVE OLDER HOME & OUT BUILDINGS

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

NO ADOPTED PLAN FOR THIS AREA.

## Infrastructure Availability

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

### 1. Water

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

8" WATER MAIN ON 21<sup>ST</sup> ST. & ADAMS

- 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:

(2) 8" LINES RUN N/S THROUGH SITE

- 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?

COMBINATION OF SURFACE & U.GROUND SYSTEM  
W/ ON-SITE RETENTION IF REQUIRED.

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

T.A.D. - WILL PROVIDE RETENTION SYSTEM  
IF REQUIRED.

### 4. Traffic Circulation

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

YES ADAMS - 50' WIDE  
21<sup>ST</sup> - 60' WIDE

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

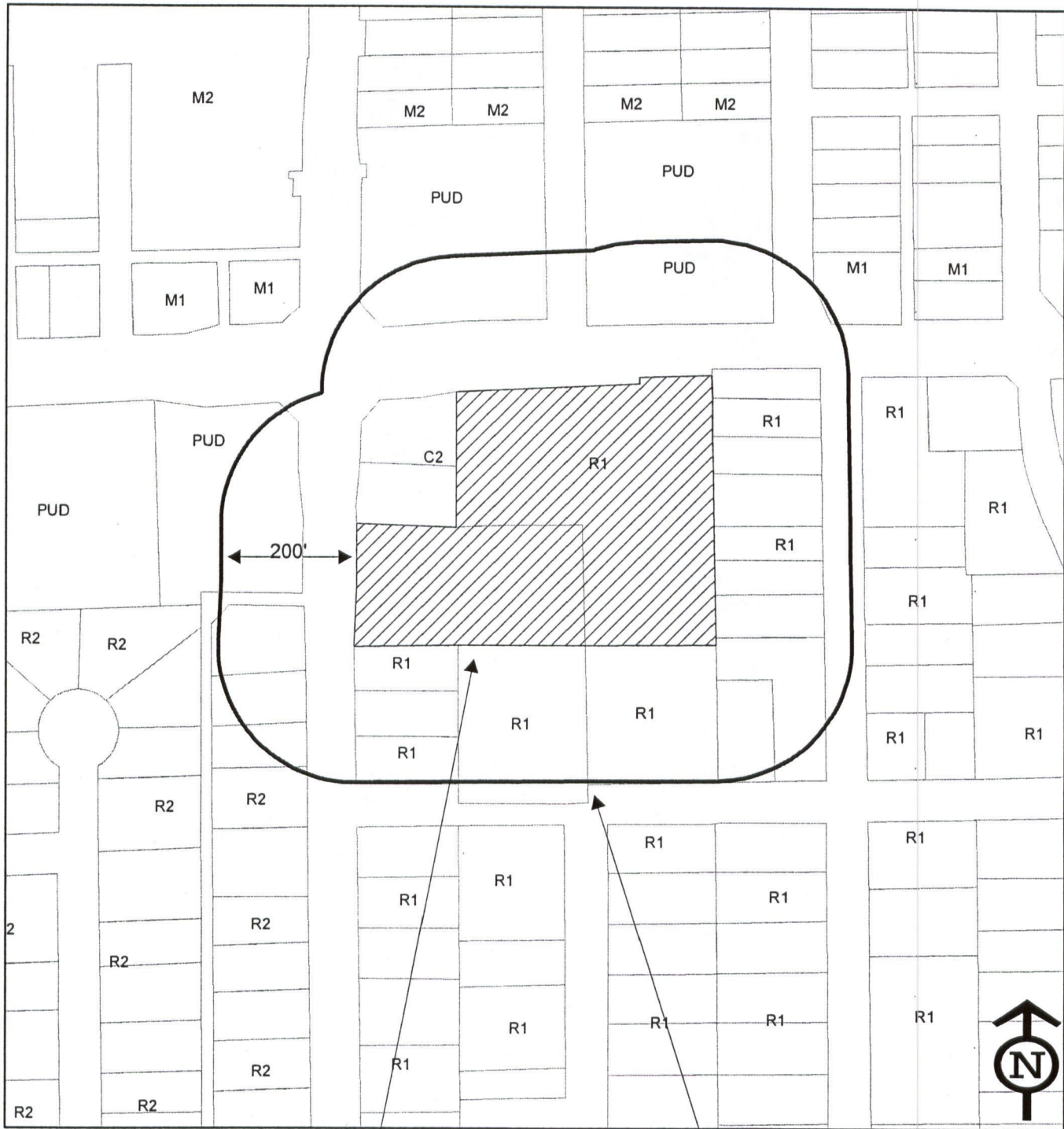
PROPOSED ACCESS - ONE DRIVE EACH FROM  
21<sup>ST</sup> & ADAMS

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

REQUEST SHORTENING OF SOUTH END OF  
ISLAND ON ADAMS, SOUTH OF 21<sup>ST</sup> ST.



# PUD08/5 by Pioneer Adams II, L.P.



Requested Area

Notification Area

PUD08/5 Pioneer Adams II, L.P. by Temple of Deliverance Church, Gerald L/Marion N. Halbett and Dan Oliver, Sr. requesting to amend the District Zoning Classification from "R-1" Single Family Dwelling District TO "PUD" Planned Unit Development ("M-2" Multiple Family Dwelling District use group) on property located at the southeast corner of SE Adams and SE 21st Street.







## Certification

### Owners Certification

**Legal Description**

Reprints of articles and book reviews are available from the American Society of Human Genetics, 11 Dupont Circle, N.W., Washington, D.C. 20036, U.S.A. or from the British Society of Human Genetics, 11 St. Andrews Place, Regents Park, London, N.W.1, U.K.

Theresa North married with the North line of said Northland Quarter, 173 land. Theresa North married with the North line of said Northland Quarter, 183 land, more or less, to the land line of a 1/2 acre tract in square farm in the Northland corner of said Northland Quarter. Theresa North during the last line of said 1/2 acre tract, 26 1/2 land, more or less, to the North line of said Northland Quarter. Theresa North alone said North line to the ridge of Highway, 222 feet.

**TRACT 3b**  
1/2 acre is a square farm in the Northwest Quarter of Section 4, Township 12 South, Range 16, East of the 4th P.M., in the City of Tanabe, Shawano County, Wisconsin. DCECT that are now placed in Jefferson Square Subdivision No. 21 AND DCECT that part taken by condemnation as set forth in District Court Case No. 172, 386.

Beginning 206.6 feet South of the Northwest Corner of Section 8, Township 12 South, Range 16 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, Thence South 77½ degrees East, 190 feet to the North line of said Quarter Section 217.6 feet; Thence North parallel with the line of said Q.

at Imperial, CALIF. The total 18,000 tons of the second 50,000 tons now pending on Lata 3 and 4. Check differences Square Substation No. 2 and except the part assigned for rights of way large narrow Street Improvement Project No. 204.

### Building Areas

**Duplex** 2 Buildings

**Fourplex** 4 Buildings  
(4) 2 Bedrooms + 2 Baths

**Eligible** 2 Buildings

Twelveplex 1 Building  
(4) 2 Buildings & (8) 1 Buildings

**Common Bldg. 1 Building**  
Landing Office & (1) 3 Bedrooms

LOCAL AREA:  
36,732 sq  
10 Buildings

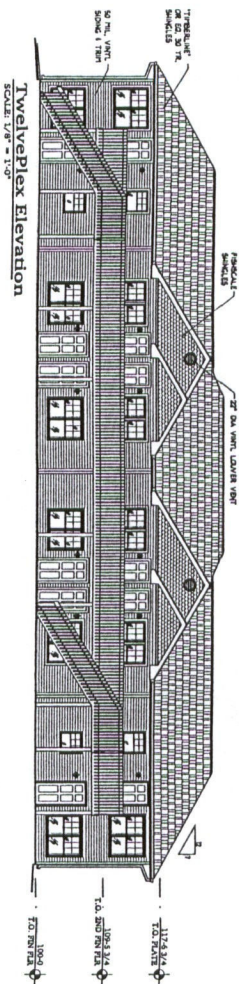
### Landscape Notes

- [illegible]

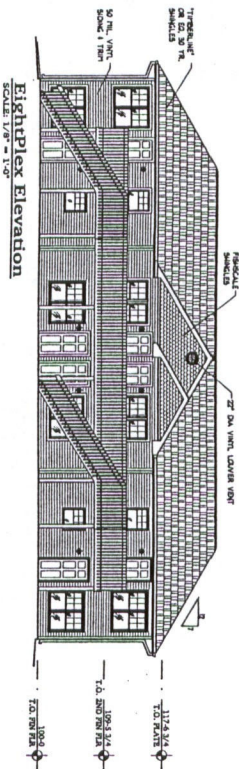
## LANDSCAPING REDEVELOPMENT CALCULATIONS

[illegible]

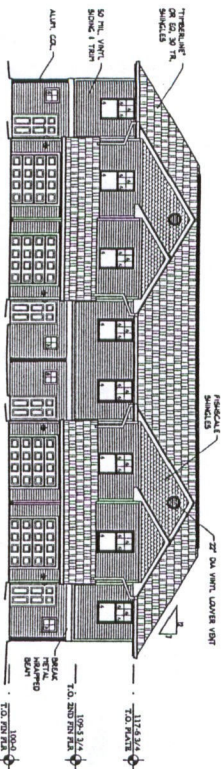
### Landscaping Legend

[illegible]

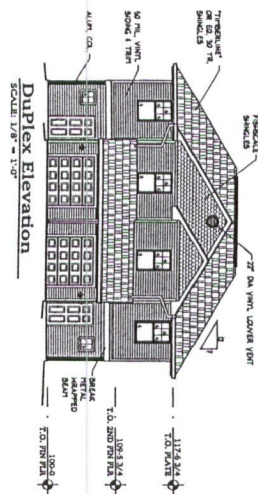
SCALE: 1/8" = 1'-0"



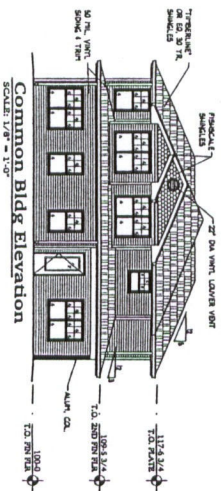
**ENGINEERING ELEVATIONS**  
**SCALE: 1/8" = 1'-0"**



**Fourplex Elevation**  
SCALE: 1/8" = 1'-0"



**Duplex Elevation**  
SCALE: 1/8" = 1'-0"



**COMMON BIGG ELEVATION**  
**SCALE: 1/8" = 1'-0"**

Plans prepared for  
Pioneer Adams II, L.P.

**OWNERS OF RECORD**  
**W.O Sherrod, President**

Dan H. Oliver, Sr.

Plans prepared by

ZONING CASE PUR  
DATE: 10/30/200

ARCHITECT



# CITY OF TOPEKA

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PLANNING DEPARTMENT  
David Thurbon, Director  
620 SE Madison Street, Unit 11  
Topeka, Kansas 66607-1118  
Tel.: (785) 368-3728

Fax: (785) 368-2535  
[www.topeka.org](http://www.topeka.org)

## MEMORANDUM

**DATE:** December 2, 2008

**TO:** Honorable Mayor William W. Bunten and Members of Topeka City Council  
Norton N. Bonaparte, Jr., City Manager/CEO

**FR:** Cylus Scarbrough, Planner I

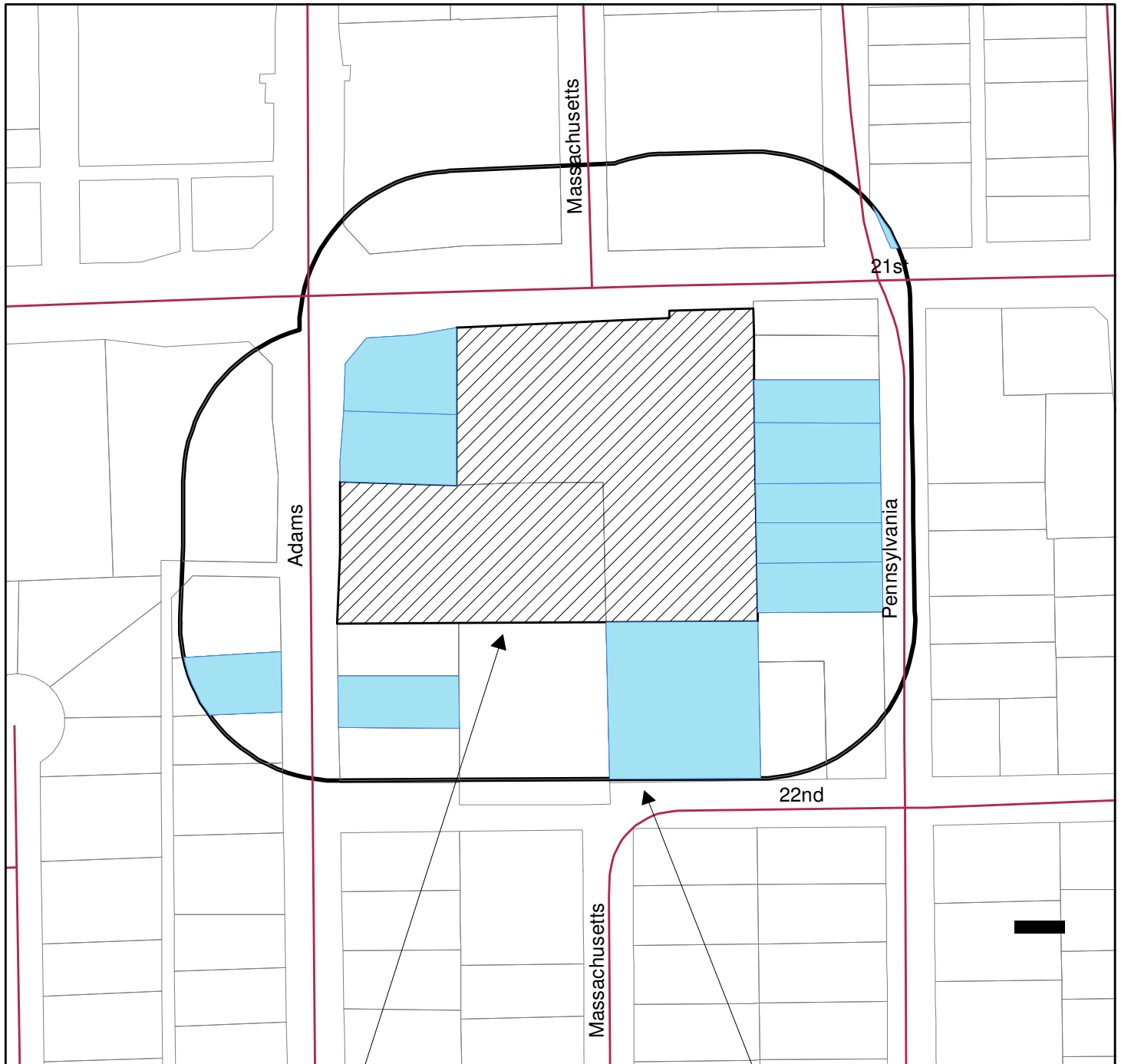
**RE:** **PUD08/5 Pioneer Adams II, L.P. by Temple of Deliverance Church**

Please be advised that protest petitions were filed by the December 1, 2008, deadline regarding the above zoning proposal. The extent of protest constitutes **39.1%** of the required notification area. Pursuant with K.S.A. 12-757(f)(1), the zoning proposal cannot be passed, since the extent of protest exceeds 20%, except by at least a three-fourths vote (7 of 9) of all members of the City Council. Accordingly, the City Council may:

1. **Adopt** the Planning Commission's recommendation by Ordinance, subject to a three-fourths vote;
2. **Return** such recommendation to the Planning Commission for further consideration. If the case is remanded back to the Planning Commission, it will still require a three-fourths vote of the City Council to approve the rezoning.

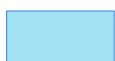
Accompanying is a copy of the protest area map and protest computations.

# PUD08/5 Pioneer Adams II, L.C.



**Requested Area**

**Notification Area**

 Petitions Filed by Property

# *LEGAL PROTEST COMPUTATIONS*

*PUD08/5 Pioneer Adams II, L.P.*

Total Area..... 658,708.74 square feet

Less Request Area..... 173,443.08 sq. ft.

Less R/W Area..... 148,919.86 sq. ft.

Net Area..... 336,345.80 sq. ft.

Protest Area..... 131,421.72 sq. ft.

Protest Area

Net Area = .39073 or 39.1%



## **Pioneer Adams II, L.P.**

### **Protest Petitions**

| <b>Owner Name</b>  | <b>Property Address</b>     | <b>Property Area<br/>(square feet)</b> |
|--------------------|-----------------------------|----------------------------------------|
| Mr. & Mrs. Mulryan | 2141 SE Adams St.           | 8,375                                  |
| Mr. & Mrs. Hinton  | 2129 SE Pennsylvania Ave.   | 10,170                                 |
| Mr. & Mrs. Sanders | 700 SE 22 <sup>nd</sup> St. | 38,578                                 |
| Brenda McClelland  | 2121 SE Pennsylvania Ave.   | 8,009                                  |
| Theresa Eagleman   | 2112 SE Adams St.           | 13,171                                 |
| Mr. & Mrs. Eklund  | 2109 SE Pennsylvania Ave.   | 8,772                                  |
| Enrique Hernandez  | 2100 SE Adams St.           | 13,634                                 |
| Mr. & Mrs. Huggins | 2144 SE Adams St.           | 10,145                                 |
| Peggy Lewis        | 2115 SE Pennsylvania Ave.   | 12,208                                 |
| Mr. & Mrs. Newman  | 2119 SE Pennsylvania Ave.   | 8,020                                  |
| Terry Inc.         | 2030 SE Pennsylvania Ave.   | 334                                    |

DRAFT

**Minutes of the  
Topeka Planning Commission  
November 17, 2008**

**PUD08/5 Pioneer Adams II, L.P.** by Temple of Deliverance Church, Gerald L/Marion N. Halbett and Dan Oliver, Sr. requesting to amend the District Zoning Classification from "R-1" Single Family Dwelling District and "C-2" Commercial District **ALL TO** "PUD" Planned Unit Development ("M-2" Multiple Family Dwelling District use group) on property located at the southeast corner of SE Adams and SE 21<sup>st</sup> Street. **(Scarborough)** Cylus Scarborough summarized the staff report.

**Proponents:**

Ross Freeman, owner/developer of the property, spoke in favor of the proposal. He passed out a plan of the property. He said this property lies south of Pioneer Adams I. He said with the first development there were 300 names on a waiting list before it opened. There are still people on the waiting list waiting for this project also. He said this development will look the same as the first one. He said the townhomes are 1400 square feet with attached garage. They are income qualified properties and rent ranges from \$350 to \$625.

Howard Blackmon asked was it determined this project won't increase traffic? Mr. Scarborough replied the internal streets are private and access is to SE Adams and SE 21<sup>st</sup> Street. There are no local streets used to access the property. Mr. Blackmon said he is concerned with the traffic it will put onto SE Adams and SE 21<sup>st</sup> Street.

Mr. Freeman said the Pioneer Adams development is the first of its kind in this area. He said he thinks it will be good for the area.

Michelle Hoferer asked how many of these types of developments are in this neighborhood? She said isn't there one to the west of this property, across Adams? Mr. Blackmon replied, that is a senior center. Ms. Hoferer asked, what about SE 15<sup>th</sup> and Adams? Wasn't there some type of multiple family zoning approved in that area? Mr. Thurbon replied we have not seen any residential proposals for that area. The zoning is there for it but not sure what type it will be yet. Ms. Hoferer said she thinks there have been a couple of other developments approved in the Highland Park area.

Larry McDowell, 2130 SE Madison, spoke in favor of the proposal. He said he thinks this development will improve our neighborhood and he fully supports it.

**Opponents:**

Eric Newman, 2119 Pennsylvania, spoke in opposition to the proposal. He stated he lives within the 200 foot notification area and he is opposed to the development. He said he has lived there for 30 years and this property has always been vacant. He said it is virtually unbuildable. He said he likes the neighborhood like it is and does not want that high of density in his backyard. I don't see the gain in building this development. He said he watched as Pioneer I was being built and in his opinion it is the cheapest construction that can be built. Within 10 years they will be deteriorated and all the problems that go along with that.

Peggy Lewis, 2115 Pennsylvania, spoke in opposition to the proposal. She said the development would be in her backyard and that is a lot of people. She said the SW corner of SE 21<sup>st</sup> & Adams is vacant, maybe that would be a better location for this. She said she doesn't see this will bring anything to the neighborhood. The neighborhood is well established with generational families in the neighborhood.

Curtis Moore, 2205 Massachusetts, spoke in opposition to the proposal. He said every time it rains in this area there is flooding. Turning off of Massachusetts onto 21<sup>st</sup> Street this project will block the view. We need new streets and sidewalks in this area. Ms. Hoferer asked Mr. Moore if his property is to the south of the proposal property? Mr. Moore replied yes. He stated I am opposed to this.

**Proponent:**

Reverend Walter Sheppard, Temple of Deliverance Church, spoke in favor of the proposal. He said he agrees with Mr. Freeman. This property has never been developed and now we can have affordable housing for the neighborhood. The trees will be a buffer for existing homes in the area. Reverend Sheppard said Mr. Freeman will fix the water drainage problems and upgrade the neighborhood. Ms. Hoferer asked how long the church has owned this property? Reverend Sheppard replied 17 years.

**Opponents:**

Stephanie McCormick, 2224 SE Massachusetts, spoke in opposition to the proposal. She said this is too intense for our neighborhood. She read the district description. She said it is not a good transition from residential to multiple family. This will be a apartment complex with 100 or more people living in them. The land north of 21<sup>st</sup> Street was already zoned for multiple-family before it was built. She showed pictures of homes and properties in the area. She stated this land has never been developed. I am sure if this property went up for sale, people would have purchased and built single family homes on it. She again showed pictures and had copies of the appraisals of homes in the area. She stated these are homes that have been built in the last 10 years. She added there was no mention of the small creek in the back of this property. This project will increase storm water runoff more than single family homes. We aren't against development of this area, just the intense use. We want single family homes in this area. Ms. Hoferer asked where the new homes that were in the pictures are located at? Ms. McCormick replied SE 25<sup>th</sup> and Adams and SE 25<sup>th</sup> and Virginia.

John Federico commended Ms. McCormick in her presentation.

Yvonne May, 24<sup>th</sup> and Pennsylvania, spoke in opposition to the proposal. She said we aren't against development, just this type of development. She gave a small description of character of the neighborhood. She said this is Highland Park and it is about 160 years old. We don't have this large type of development anywhere else in Highland Park. She said many generations have lived in the area. She said the staff report states this development doesn't follow the future land plan and we agree. We agree it should be single family homes. The staff report also says it will be a deterrent to the neighborhood. The intense use of this property will bring too many people in this area. She said there will be a lot of traffic noise and car noise. It wouldn't be there with single family homes. According to City of Topeka 40% of the properties in town are rental properties. We want to see more home ownership in Topeka. We want stability in our neighborhood. Flooding will be a problem. There are many historic homes in this neighborhood. Some of which were linked to underground-railroad. She said there was also a natural spring.

Wanita Marshal, 2301 SE Massachusetts, spoke in opposition to the proposal. She said she has lived in this area for over 50 years. We have been trying to get decent wider streets in this area. I believe if we have decent streets people will come to build homes. This is not a run down neighborhood. With this multiple family you never know what will come. Ms. Hoferer asked what the first Pioneer development has done to the neighborhood? Have you noticed more traffic? Ms. Marshal replied, no really I stay at home so I don't see it. Ms. Marshall stated she thinks it would be better to have single family homes.

Jane Newman, lives in the neighborhood, spoke in opposition of the proposal. She said if this goes in it will increase our property tax. It will also increase the traffic. She said with the original development there has been a lot more traffic than there was. This development will increase the noise in my back yard. There will be lights from the buildings and the cars. It has been vacant for along time. Why not offer to single family and leave it like that.

Pat Mulryan, 2141 SE Adams, spoke in opposition to the proposal. He said he rents out this house. He said the entrance into the new development will cause a big problem. They will turn from the south off Adams into the development. They can't exit south onto Adams out of the development. We fixed up our home, we rent out for more than \$425 and I can't compete with this development. We keep the house in good shape. We do oppose this. It will bring crime and more drugs into the area. Mr. Mulryan requested a protest petition. David Thurbon explained the process to Mr. Mulryan. He said depending on the outcome from the vote here, it takes six votes of the Council to override the Planning Commission and with a full protest of 20% of land owners it takes 7. He informed Mr. Mulryan to contact the Planning Department and we will help you obtain the form.

John Federico asked what the Highland Park NIA had to say about this development? Mr. Scarbrough replied we have not heard from the NIA.

Wanita Marshal stated she is the past President of the Highland Park NIA and the current President could not be at the meeting tonight. She said he relayed to her that he is opposed to the development. She said the Vice President is also against it. Mr. Federico asked if there was an official vote taken? Mr. Thurbon said he is not sure if there was an official vote or just opposition by property owners.

Mr. Freeman, owner/developer, said he had met with the NIA regarding this development. He said at the time there was no opposition. We contacted the President of the Highland Park NIA again to attend the November meeting and they were having a dinner meeting so we didn't get to go. All of the meetings with the current

President have been positive and he has never shown opposition.

Jim Brown said there seems to be a lot of conversation about run off? Mr. Freeman said there is a detention pond located in the NW corner of the development. On the plan it is stated about runoff retention. Mr. Brown asked if there will be any additional underground retention? Mr. Freeman replied yes.

Mark Boyd asked if there was a drainage report created? Mike Wilson said no a drainage report has not been executed. He stated the runoff runs from south to north which puts it in Pioneer Adams I. The concerns of the neighbors aren't completely clear. We have detention pond on Pioneer I to handle the retention for that property. Of course we will take care of it. Mr. Boyd added until the development is complete you won't know how big retention will be. Mr. Freeman stated we have the pond built into the project. Mr. Wilson said we will control our runoff on our property. It is our intent to keep as many trees as possible. We also have a 6 foot wood fence that will shield surrounding neighbors. Mr. Boyd said it isn't uncommon to have zoning then a plat which a drainage report is required for. Just want to see how it would be handled since there is not a drainage report. Mr. Brown added the ground will be leveled that should help with the drainage. Mr. Wilson agreed. He said it is in our best interest to keep water away from our buildings. I think we will improve the drainage from what it is now.

Curtis Moore stated the water runs off of SE 23<sup>rd</sup> Street into my backyard. They will be blocking that and will need to resolve it.

Eric Newman said they are talking runoff and we are talking backing up of the water. If they level their property there will be way too much runoff for the creek and their retention pond. We are concerned about upstream. I have seen on Pennsylvania Street where the water was going across the top of the drainage pipe because it couldn't handle all the water. If its channel narrows it will back up. Mr. Boyd said they will account for the entire drainage basin. It will be held on the property any overflow will go over the pipes. That is what they are designed to do. It may not happen but with all the flat property it will cause more flow.

Ms. Hoferer asked if this property will need to be platted? Mr. Thurbon replied yes and a drainage report will be done at that time.

Yvonne May stated she was at the NIA meeting when this was presented. She said the members thought it was informal and informational only. We didn't know there should have been a vote for the proposal. We weren't given much information at all. Ms. Hoferer said there was no formal vote taken? Ms. May replied no. At that time we weren't told when it was going to be heard by the Planning Commission.

Mr. Blackmon said what about traffic? Mr. Thurbon said traffic could be reduced with this development instead of what could be generated with it current commercial zoning. He said it is estimated 10 trips per day per unit. With 20 units it would make 200 trips. They are also rezoning ½ acre of commercial. It could be strip mall, restaurant, etc. and that would generate additional traffic. In figuring with what is proposed it is estimated 250-300 trips per day. With single family zoning it would be estimated at about 200 trips, which isn't a big difference. He also stated once the commercial is in the trip numbers it could be higher with that is the current zoning. Mr. Blackmon said the reality is there will be situations with traffic, more than a normal residential neighborhood. He said they did a great job with the first development, with what was there it is much better now than before. This property doesn't have the same situation.

Mr. Boyd stated this is located at two major arterials. He said the model would make this a potential commercial corner. In looking at the model residential doesn't fit here. Both streets are five lane and prime for commercial properties. Mr. Blackmon added there will be traffic and safety issues. Mr. Boyd said no matter what is developed there will be the same amount of trips. Mr. Blackmon pointed out the property across the street has been vacant for many years. Mr. Boyd agreed and said there have been other corners in the city that have been vacant for years. Mr. Blackmon said we don't see the commercial entities running to these corners. Nothing is in concrete in this city. Jim Brown stated it is our job to review the rezoning. Mr. Thurbon said there are options and you can make modifications since it is a PUD.

Mr. Boyd asked will the two houses to the west of this development be useless for commercial? Mr. Thurbon said they will likely have right in and right outs because of the medians. Mr. Thurbon said the two lots the houses are on could be combined into one in the future. Mr. Boyd asked if access would be allowed this close to the intersection? No one will want to own those homes as single family homes and it will be rendered useless as commercial. Mr. Thurbon said if the lots are combined they could be used as an office. I don't think they could be developed individually but may if they were combined.

Mr. Boyd asked if the building is built on slab and if so is there a storm shelter? Mr. Freeman replied said the buildings are on slab and both developments have storm shelters.

**MOTION:**

Mark Boyd moved approval as written by staff, seconded by Doug Bassett.

Michelle Hoferer stated she understands why this location would be a good place to put this type of development since it has been vacant for so long. We have approved many of these types of developments and there is a concern there is too much moderate income housing in this area. She said she is opposed to this proposal. She added she thinks there will be some type of similar development located at 15<sup>th</sup> & Adams in the future.

Doug Bassett said he thinks the Pioneer Adams I to the north of this property is a great development. He said this property has been vacant for years. He said the zoning on the corner is C-2. This is a use with 49 units which is comparable to an apartment complex and the number of people isn't that much difference. I don't think drainage will be an issue. I think this is a great project and I will vote in favor of it. I hope to see more of these projects as infill projects.

Mark Boyd said he echoes Mr. Bassett's comments. He said he doesn't know the developer personally but he does know he has a great reputation around town with the quality developments he builds. Mr. Boyd added he doesn't think we have enough moderate housing in Topeka and will be voting in favor of the proposal.

Jim Brown stated he will support the proposal. This property has been vacant for years and this development will help generate more tax dollars. He added with Mr. Freeman as the developer it will be a great development.

Exparte communications – Mr. Blackmon stated he did receive a phone call regarding the development.

Restated motion: Mark Boyd moved approval as written by staff, seconded by Doug Bassett.

**APPROVAL. (5-2-0) Commissioners Blackmon and Hoferer voted no.**



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