



A Capital City Serving You...

www.topeka.org

City Council Agenda

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

November 3, 2009
6:00 PM

City Manager: Norton N. Bonaparte, Jr.

Mayor: William W. Bunten

Councilmembers

Karen A. Hiller	District No. 1	Deborah Swank	District No. 6
John Alcala	District No. 2	Robert E. Archer	District No. 7
Sylvia E. Ortiz	District No. 3	Jeff Preisner	District No. 8
Jack Woelfel	District No. 4	Richard Harmon	District No. 9
Larry Wolgast	District No. 5		

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

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

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

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

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

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

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

INVOCATION:

PLEDGE OF ALLEGIANCE:

1. PROCLAMATIONS:

"Pancreatic Cancer Awareness Month"

2. PRESENTATIONS:

"None scheduled at this time."

3. ROLL CALL:

4. CONSENT AGENDA:

A. MINUTES of the regular meeting of October 27, 2009

B. APPLICATIONS:

5. UNFINISHED BUSINESS:

A. Ordinance - Manufactured Homes Zoning Regulations (AZCR09/3)



[ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Sections 48-1.09, 48-7.00, 48-7.02, 48-7.03 and 48-7.04 concerning manufactured home zoning regulations and specifically repealing said original sections as well as Section 48-7.05. Final Reading.

Voting Requirement: Majority vote of the Governing Body, including the Mayor.

(Approval would amend the R-4 district of the Zoning Code to allow manufactured homes only within subdivisions specifically approved for this type of housing.)

B. Ordinance - Manufactured Homes and Trailers



[ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., concerning manufactured homes and trailers, amending City of Topeka Code Section 98-1 and specifically repealing said original section and creating City of Topeka Code Section 98-85. Final Reading.

(Approval would require new mobile home parks to have sufficient area to accommodate a minimum of ten mobile home units and meet setback requirements; and require units to be skirted within thirty days of placement or for existing units within thirty days after receipt of written notice of violation.)

C. Ordinance - Contractor Licensing



[ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., repealing City of Topeka Code Chapter 26, Article 5 and Section 30-62 and creating Chapter 30, Article 15, all concerning Contractor Licenses and Requirements. Final Reading.

(Approval would clarify and provide some additional definitions relating to licensing; make continuing education for licensed trade personnel consistent with state law; require the name of the contractors to be displayed on service vehicles; and relocate contractor licensing provisions in the code book as part of the recodification of the city code book.)

6. NEW BUSINESS:

A. Contract - Downtown Topeka Redevelopment Incentive Grant Program



[ATTACHMENTS](#)

APPROVAL of an agreement between the City of Topeka and Downtown Topeka Incorporated for the Downtown Topeka Redevelopment Incentive Grant Program for 2009.

(Approval of the master agreement would establish the parameters for the evaluation of grant applications and award of incentive grant funds.)

B. Ordinance - Weekly Expenditures - October 12-18, 2009

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of October 12, 2009, through October 18, 2009, and enumerating said expenditures therein. First and Final Reading.

7. ZONING:

A. Resolution - Kansas Children's Discovery Center (CU09/4)

 [ATTACHMENTS](#)

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., in accordance with Section 48-4.02(c)(6) of the Code of the City of Topeka, approving a Conditional Use Permit to allow for a cultural facility on property currently zoned "R-1" Single Family Dwelling District and located at SW 10th Street and Rock Garden Drive (SW corner of Gage Park) in the City of Topeka, Kansas. (CU09/4) (Council District No. 9)

Voting Requirement: Majority vote of the Governing Body, including the Mayor.

(Approval would allow use of the site for the Kansas Children's Discovery Center cultural facility.)

B. Ordinance - Topeka Housing Authority (Z09/6)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located approximately 500 feet east of SE California Avenue lying between SE 13th and SE 21st streets from "R-1" Single Family Dwelling District TO "M-1" Two Family Dwelling District. Final Reading. (Z09/6) (Council District No. 3)

Voting Requirement: Majority vote of the Governing Body, including the Mayor.

(Approval would allow for a 64 dwelling unit duplex housing development using the low income housing tax credit Green Communities Program.)

8. MISCELLANEOUS:

-

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

-

10. PUBLIC COMMENT:

-

11. ADJOURNMENT:

-



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 6, 2009

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

DATE: November 3, 2009

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 6, 2009

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

DATE: November 3, 2009

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 6, 2009

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

DATE: November 3, 2009

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

"Pancreatic Cancer Awareness Month"

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 6, 2009

+ Back Print

DATE: November 3, 2009

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

"None scheduled at this time."

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 6, 2009

+ Back Print

DATE: November 3, 2009

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 6, 2009

+ Back Print

DATE: November 3, 2009

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 6, 2009

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

DATE: November 3, 2009

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 21, 2009

+ Back Print

DATE: November 3, 2009

CONTACT PERSON: David Thurbon / Cylus Scarbrough **DOCUMENT #:**

SECOND PARTY/SUBJECT: Manufactured Homes Zoning Regulations **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 City of Topeka Code Sections 48-1.09, 48-7.00, 48-7.02, 48-7.03 and 48-7.04 concerning manufactured home zoning regulations and specifically repealing said original sections as well as Section 48-7.05. Final Reading.

Voting Requirement: Majority vote of the Governing Body, including the Mayor.

(Approval would amend the R-4 district of the Zoning Code to allow manufactured homes only within subdivisions specifically approved for this type of housing.)

POLICY ISSUE:

The primary policy issues are:

- 1) Whether to require manufactured homes to be located only within designated subdivisions to avoid the intermixing of these units with site built housing, and
- 2) Whether to require minimum design standards when an existing, grandfathered manufactured home is replaced on a single lot.

STAFF RECOMMENDATION:

The Planning Commission recommended approval of the attached ordinances by a vote of 6-0-0. The Planning Department also recommends approval.

BACKGROUND:

Currently, manufactured homes are allowed on single lots within the R-4 zoning district intermixed with traditional site-built homes. The attached ordinance would require a minimum of 10 contiguous lots in order to be considered for a zone change to R-4. This requirement would implement the Planning Commission's recommendation that mobile home/manufactured homes not be intermixed due to the tendency of most manufactured homes to depreciate in value while site built homes tend to appreciate. The attached ordinance also establishes design standards for any new manufactured unit that would be located within an R-4 district and any replacement of an existing manufactured unit. It may be helpful to review the definitions of the various manufactured housing on page one of the attached Planning

Commission staff report. Please see the attached staff report to the Planning Commission for a detailed discussion of this item.

BUDGETARY IMPACT:

NA

SOURCE OF FUNDING:

NA

ATTACHMENTS:

[Staff Report to Planning Commission](#)

[Mobile Home Pictures](#)

[Land Use Map](#)

[Zoning / Mobile Home Locations](#)

[Planning Commission Minutes Jan. 09](#)

[Planning Commission Minutes April 09](#)

[Planning Commission Minutes May 09](#)

[Planning Commission Minutes June 09](#)

[Planning Commission Minutes August 09](#)

[Ordinance](#)

MOBILE HOME / R-4 RESIDENTIAL ZONING DISTRICT (AZCR09/3)

August 17, 2009 Planning Commission

Background. In November 2008, the Planning Department was approached by officers of the North Topeka West neighborhood to discuss the issue of mobile homes in their neighborhood, particularly the appearance, ownership, safety, and upkeep of mobile home units. The Planning Department scheduled this issue for discussion with the Planning Commission at its Policy meeting on November 24th, 2008 (see attached minutes). Reading the following definitions will prove helpful when considering the issues in this staff report.

Definitions. The term manufactured housing refers to units that are built in a factory and are in compliance with the National Manufactured Home Construction and Safety Standards Act (NMHCSS).

Manufactured home: Means a structure which is subject to the federal manufactured home construction and safety standards established pursuant to 42 USC 5403.

Mobile home: A manufactured unit constructed for dwelling purposes and which is not subject to the Federal Manufactured Home Construction and Safety Standards as established pursuant to 42 U.S.C. section 5403. Mobile homes refer to manufactured units built before June, 1976.

Residential-design manufactured home: A manufactured home on a permanent foundation which has: (a) minimum dimensions of 22 body feet in width, (b) a pitched roof and (c) siding and roofing materials which are customarily used on site-built homes. State law requires these units to be allowed within residential zoning districts.

The neighborhood representatives requested that revisions to the Zoning Code be made so that mobile home units would not be allowed by right within their neighborhood. The NIA representatives stated their desire to have the North Topeka West neighborhood treated like any other neighborhood in the City. At the time, mobile home units were only allowed on single-family lots within the “R-4” and “X-2” districts of the zoning code. [They are also allowed within a mobile home park through the use of a planned unit development (PUD).] The majority of existing R-4 and X-2 zoning districts in the City of Topeka are located within blocks just north of the Kansas River (see [Map 1](#)). [Note: In July the City Council approved an amendment to the Zoning Code removing mobile homes as uses allowed by right within the X-2 zoning district.]

A survey was performed by Planning staff to determine the character of manufactured housing/mobile homes located within the area south of NW Gordon Street within the X-2 Mixed-Use zoning district of the North Topeka West neighborhood (refer to Maps 1 & 2 and the attached pictures of mobile home units in this neighborhood). The purpose of this survey was to help determine options to amend the Zoning Code to address future manufactured home development in this area and City-wide.

Contemporary single-wide manufactured homes often have design elements such as a double-pitched roof, window trimming and higher-quality building materials than mobile home units. Single-wide manufactured homes in the study area, in fact, are generally well-maintained and are much more appropriate for homeownership. The older mobile home units in the study area, however, are usually made with inexpensive metal materials, do not have a pitched roof, and lack any aesthetic details. Additionally, many mobile home units in the area have code compliance problems and are not suitable for long-term homeownership. The pictures attached to this memo illustrate the difference between modern manufactured housing and their outdated mobile home counterparts. Map 2 shows that there are eighteen mobile home units and seven manufactured homes in the sub-area surveyed in the North Topeka West neighborhood.

City Council Committee. The Planning Commission decided to request direction from the City Council's Economic and Community Development Committee prior to spending additional time and effort on this issue. A Committee meeting was held on March 4th, 2009 with representatives of the North Topeka West NIA, Planning Department staff, and the City Manager in attendance. At this meeting, members of the Council committee (Jack Woelfel, Lana Kennedy attending) stated their desire to have the Planning Commission and Planning staff develop potential revisions to the Zoning Code that would no longer permit mobile homes on single-family lots except within designated mobile home parks.

Planning staff was also asked to look at methods in which affordable, single-wide manufactured housing units could be permitted within the City in an ownership or subdivision-style setting, rather than upon individual lots intermixed with site-built housing. It was determined that single-wide manufactured units should not be intermixed with site-built homes due to the way in which mobile homes and most single-wide units tend to depreciate in value over time. Draft Ordinances No. 1 and 2 are a result of these meetings.

It was concluded that single and double-wide manufactured homes placed upon a permanent foundation, along with other design standards are appropriate for homeownership in a setting separate from subdivisions with site-built housing or located within a mobile home park through the use of a PUD.

Recommendations.

R-4 Amendments. Attached is a draft ordinance (Ordinance No. 1) which would amend the current R-4 Residential zoning district. The purpose of the amendment is to permit manufactured homes only within a subdivision specifically approved for such housing, which will provide for the location and use of manufactured homes at affordable levels in a subdivision setting.

Design Standards. The proposed ordinance requires manufactured housing locating in an R-4 district to meet design standards [Note: Manufactured housing not meeting these standards will be required to locate in a mobile home park, which requires approval of a PUD (planned unit development) zoning district.] These design standards include:

- a. The manufactured home shall have a minimum dimension of 14 body feet in width and a length not exceeding five (5) times its width for the principal structure.
- b. The manufactured home shall be secured to the ground on a permanent foundation.
- c. The undercarriage of the manufactured home shall be completely screened from view by the foundation or skirting, such skirting to be of material harmonious to the unit structure and installed within ten days of unit placement.
- d. The manufactured home shall have the towing apparatus, wheels, axles, and transporting lights removed.
- e. The manufactured home shall have an exterior façade of vinyl or wood siding, stone, brick, or other non-metallic material.
- f. The roof of the manufactured home shall be double pitched and have a minimum vertical rise of three (3) inches for each twelve inches (12) of horizontal run, and shall be covered with material that is residential in appearance, including but not limited to wood, asphalt, composition of fiberglass shingles, but excluding corrugated aluminum, corrugated fiberglass, or corrugated metal roofing material. The roof shall have a minimum eave projection or overhang of ten (10) inches on a least two (2) sides, which may include a four (4) inch gutter.

Replacement of Existing Mobile Homes. The current Zone Code allows the replacement of a nonconforming mobile home with another mobile home. Line numbers 79 and 80 of the attached Ordinance No. 1 is a recommended amendment requiring any replacement of an existing nonconforming manufactured/mobile home in the R-4 and X-2 districts and on lots with a Special Permit to comply with the design standards listed in a. through f., above. (Note: The Special Permit option for mobile homes is no longer available, having been replaced by the R-4 zoning district.) Ordinance No. 2 would amend the Zoning Regulations and require any replacement to comply with the design standards outlined above and contained in Ordinance No. 1.

Chapter 98 – Manufactured Homes and Trailers. Attached is Chapter 98 of the City code which governs mobile home parks. A revision to the definition of “mobile home park” is needed to resolve any potential conflicts between this chapter of the City Code and the Zoning Code. Currently, even one mobile home on one lot is defined a mobile home park. This Chapter is not part of the Zoning Code; therefore, a public hearing on this amendment is not required but it has been attached to this report for information.

Planning Commission Action. After holding a public hearing on the R-4 and Replacement ordinances, the Planning Commission should take one of the following actions:

1. Recommend approval of the ordinances, with or without modifications, and forward to the City Council for consideration;
2. Recommend disapproval;
3. Continue the public hearing for further study.

Attachments:

Photographs of sample single-wide mobile home units

Zoning map and mobile home locations – North Topeka

Land Use map/aerial – North Topeka

Ordinance No. 1 – Section 48

Ordinance No. 2 – Chapter 98 amendment

Chapter 98 – full chapter

Planning Commission Minutes – June 22, May 18, April 27, January 26

Existing Manufactured Housing: North Topeka West NIA

Preferred



1. Residential Design Manufactured Home.
Characteristics: permanent foundation; garage & driveway; pitched roof; industry standard building and siding materials; attractive window details. (Photo taken outside of the sub-area surveyed).



2. *Characteristics:* skirting; pitched roof; standard building and siding materials; window details, permanent foundation.



3. *Characteristics:* skirting; pitched roof; industry standard building and siding materials; window details, permanent foundation.



4. *Characteristics:* skirting; pitched roof; standard building and siding materials; window details, permanent foundation.

Not Preferred



5. *Characteristics:* exposed foundation (on blocks); no pitched roof; inferior building and siding materials; minimal details; towing apparatus exposed.



6. *Characteristics:* no pitched roof; inferior building materials; no window details.



7. *Characteristics:* inexpensive metal used for skirting; no pitched roof; towing apparatus exposed.



8. *Characteristics:* flat roof; inferior building materials; inexpensive material used for skirting.

North Topeka West NIA (Sub-Area)
Land Uses
Map #2



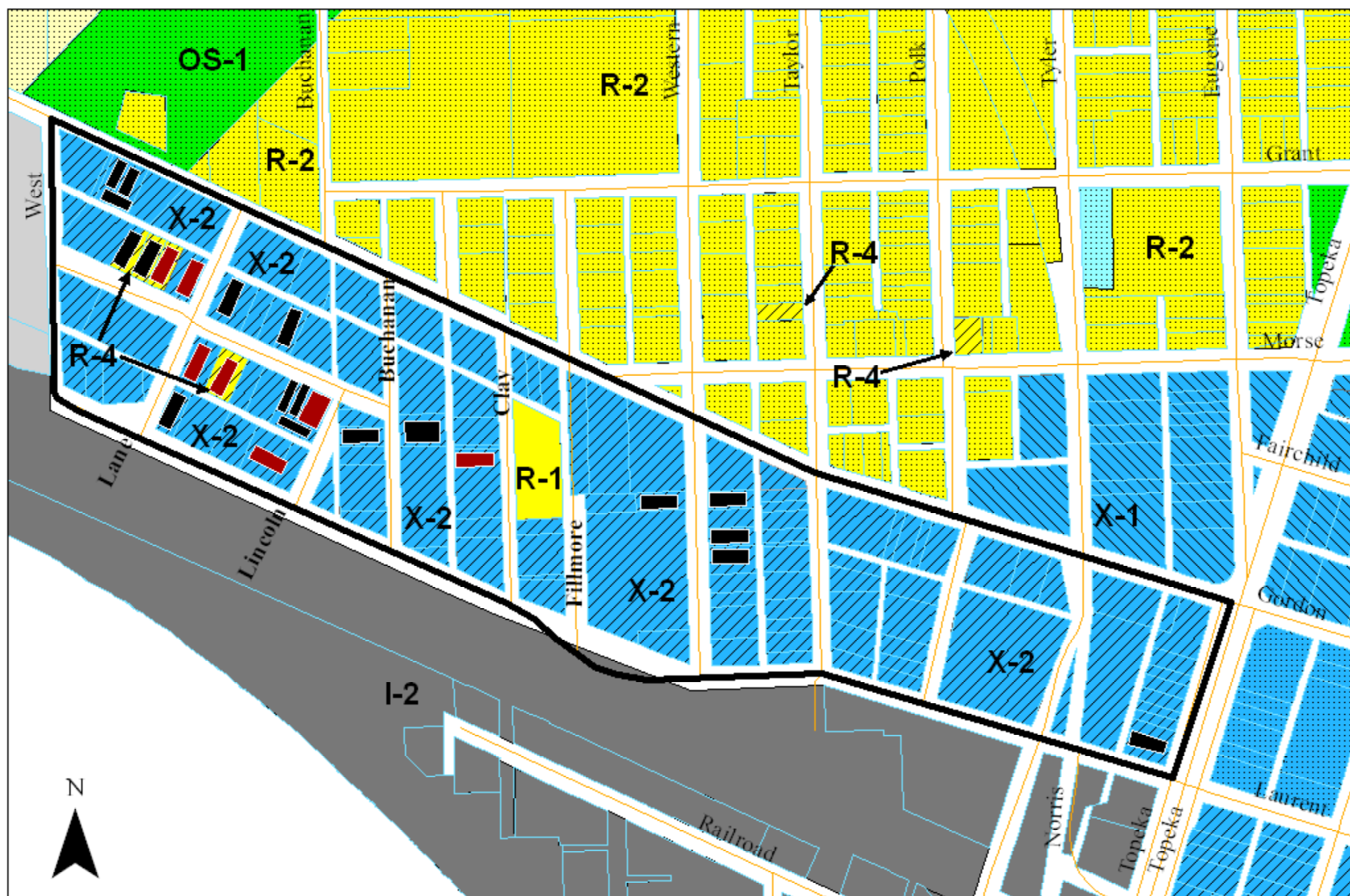
North Topeka West NIA (Sub-Area)
Zoning & Mobile Home Types
Map #1



Unit Preferred



Unit Not Preferred



MINUTES OF THE TOPEKA PLANNING COMMISSION POLICY BOARD
Monday, January 26, 2009
620 SE MADISON STREET, HOLLIDAY CONFERENCE ROOM
TOPEKA, KANSAS

Draft Mobile Home Zoning Regulations-Cylus Scarbrough

Cylus Scarbrough, Planner I said the North Topeka West NIA requested revisions to the zoning code in order to provide rigorous design, construction and land use regulations for mobile home units due to the way in which these structures tend to decrease rapidly in individual re-sale value, and reduce surrounding property values as well. Mr. Thurbon stated this analysis wasn't just done for North Topeka it included all areas of Topeka. The Planning Department used this area as an example. Mr. Thurbon said the Planning Commission requested to proceed with design standards for mobile homes in previous Planning Commission meetings.

Mr. Scarbrough said mobile homes are presently allowed the right within the "R-4" and "X-2" districts of the City Code. Mr. Scarbrough said properties with newer and higher quality mobile homes that were surveyed in this area were generally well-maintained and were more appropriate for homeownership. Older mobile homes in this area were made with inexpensive metal materials, they didn't have a pitched roof, and lack any aesthetic details. Also, the older mobile homes didn't have skirting. After speaking with the North Topeka Code Compliance Inspector she informed him that our city code does not require mobile homes to have skirting, or required to be on permanent foundation. If Mobile homes currently have skirting it must be maintained if not they will be cited with a code violation.

Mr. Thurbon said the Planning Commission had two (2) issues with design standards, such as materials and skirting. Mr. Thurbon said skirting must be harmonious to design of mobile home.

Mary Boyd asked Mr. Thurbon if someone wanted to put a mobile home on a lot what would they have to do. Mr. Thurbon said they would have to apply for a mobile home permit from Development Services. Mr. Boyd asked if only a license contractor can set a mobile home or just anyone. Mr. Thurbon said he would check on this issue. Mr. Thurbon went on to say other cities ban mobile homes all together. Anyone can put a modular home anywhere. Howard Blackmon said if the Planning Commission proposes to ban R-4 does this mean a mobile home can not be put on lots in R-4 neighborhoods again. Mr. Thurbon said yes, only to replace the existing mobile homes already there. Any existing mobile homes will be cited by Code Compliance if they are not in compliance. Mr. Thurbon said the Planning Department has two (2) zoning inspectors that survey the City, 80% of complaints come from neighbors reporting possible zoning violations.

Mr. Thurbon spoke briefly about code amendment. He said if the Planning Commission wants a code amendment there is a procedure to follow, such as hold public hearings, notice of amendment must be advertised such as Channel 4, mobile home manufactures must be notified, and then go before the City Council for approval. Deputy, Bill Fiander of Planning said the City Council must amend to add design standards to mobile homes.

Mr. Thurbon said he will set-up a meeting with the following people, Chairman of Council Committee of Planning and Community Development, members of City Council, Doug Bassett, Mark Boyd, John Federico, Planning Commissioners, and Teresa Miller President of North Topeka NIA, Paulette English, Vice-President of North Topeka NIA. Mr. Thurbon said this meeting will be to discuss the complaints from the North Topeka West NIA and come up with a resolution for mobile homes and or design standards.

MINUTES OF THE TOPEKA PLANNING COMMISSION POLICY BOARD
Monday, April 27, 2009
620 SE MADISON STREET, HOLLIDAY CONFERENCE ROOM
TOPEKA, KANSAS

Mobile Homes-update

David Thurbon said the Planning Department was approached by the North Topeka West NIA to possibly change zoning and clean up existing mobile homes due to many code violations. Mr. Thurbon said he and a Planning Commission committee (Doug Bassett, Mark Boyd and John Federico) had a meeting with the City Council Committee of Planning and Community Development. He said they discussed amending the ordinance by taking mobile homes out of "X-2" Mixed Use District by right. Also discussed was a possible code amendment that would not allow inter-mixing site built houses and mobile homes. There was discussion of creating a new district. This district would allow property owners or developers to designate a larger area for mobile home subdivisions. This would allow individual lots to be sold off, verses a mobile home rental site. Mr. Thurbon said they are also working on minimum lot sizes, and minimum acreage. The group suggested 5 acres be the minimum. He said they also met with Martha Smith, a representative of the Manufactured Homes Association, and she supports the single wide in residential districts but with some standards associated with the mobile homes. Mr. Thurbon said the direction the City Council Committee is they don't want the single wide intermixing with site built housing. Mr. Thurbon said these are the code amendments that the committees are working on and should be ready for presentation at the Policy meeting by next month.

Mark Boyd said the Code Compliance Officer assigned to this area said it has been difficult to enforce city codes and initially make contact with violators. Mr. Boyd asked what the process was for amending the zoning code. Mr. Thurbon said it will first come back to the Planning Commission for general discussion, then advertised for public hearing a subsequent Planning Commission meeting then a recommendation submitted to the City Council. Bill Fiander said changes to the "X-2" District are scheduled for public hearing next month.

**Minutes of the
Topeka Planning Commission
May 18, 2009**

ACZR09/2 Proposed amendments to Section 48-23a.04 of the Topeka City Code for the purpose of amending the provisions of the **X-2 Mixed Use District** contained in the Zoning Regulations to eliminate **mobile homes** as a permitted use. **(Fiander)** Bill Fiander summarized the staff report.

Discussion by members:

Mark Boyd asked if this item requires action from the board? Mr. Fiander replied it is ready for action. Mr. Boyd asked if this item will then be forwarded on to the City Council? Mr. Fiander replied only if the commission wants it to.

Richard Beardmore asked if the grandfathering clause refers to the lot or dwelling? Mr. Fiander replied the lot. If there is a single wide on a lot now then the lot is grandfathered. Our current code says they can be replaced. In the current code, if a use is abandoned for a year then the use won't be allowed after that. Mr. Boyd asked if the section of the code pertaining to non conforming uses needs to be revised? Mr. Fiander replied that section of the code would only have to be changed if you don't want to allow the lot to be grandfathered.

Proponents:

Martha Smith, representing Kansas manufactured housing association, stated her members offers all forms of factory built homes. She said there is no problem with mobile homes built after 1976. She said that single section manufactured homes that are on permanent foundations be allowed. She said the current code doesn't require skirting. She said she would like that to be added to the code. She said many of the lots in this area are fairly narrow and have rundown single wide homes on them. She said she would like to have the option of replacing those with manufactured housing.

It is one of the most affordable types of housing. They are less than 22 feet wide and built to HUD standards. She suggested requiring what is currently on these lots to have skirting. Lee Williams asked what is width of the manufactured homes you have? Ms. Smalsh replied 14 to 16 feet.

Mr. Beardmore stated this action is just to remove the mobiles homes. The skirting and everything else would be a separate amendment. Mr. Fiander replied yes. We are currently working on mobile home design guidelines. We want to take this first step to take care of the X-2 zoning district. Mr. Boyd said this is something that should be corrected in this district. Michelle Hoferer asked if all property owners in the X-2 District will be notified this is happening? Mr. Fiander replied we aren't required to but we could under your direction. If so, we would want a continuation of this item so they can be notified. He added this item was advertised in the Metro News. Ms. Hoferer said is hesitant to change this due to the fact someone may want to move a mobile home to a vacant lot in the X-2 District and then find they have to have R-4 zoning when with the current zoning code they can put it there automatically. Mr. Fiander stated the only people affected are the ones with vacant lots or those with mobile homes. Mr. Boyd said this is a pretty routine change/alteration in the code. We are only passing this on to city council for adoption. Ms. Hoferer said she is not sure if the Metro News is enough advertisement. She said she doesn't want to vote on this without trying to notify those affected. Howard Blackmon asked how would the property owners be notified? Ms. Hoferer replied she is not sure. Mr. Fiander said the only thing to do is to contact all via mail. Doug Bassett said he is not sure that is a good idea to notify all of them, that may have the opposite affect and they may start putting in more mobile homes. He said he doesn't see this amendment causing many problems.

MOTION: Richard Beardmore moved to adopt as written by staff but requested notification in Metro News prior to the City Council meeting, seconded by John Federico. Mr. Blackmon asked why would we notify prior to council? Mr. Boyd stated to notify further. Mr. Fiander stated it will be advertised on the council agenda.

Mr. Federico asked where staff is on the mobile home design standards? Cylus Scarbrough said it is ready but he is waiting for the Director's approval. He said he is hopefully it will be at the Policy meeting. Mr. Scarbrough said skirting will be required as well as other design standards.

RESTATED MOTION: Richard Beardmore moved to adopt as written by staff but requested notification in Metro News prior to the City Council meeting, seconded by John Federico.
APPROVED. (9-0-0)

DRAFT

MINUTES OF THE TOPEKA PLANNING COMMISSION POLICY BOARD
Wednesday, June 22, 2009
620 SE MADISON STREET, HOLLIDAY CONFERENCE ROOM
TOPEKA, KANSAS

Manufactured Home Zoning Regulations

David Thurbon discussed the draft ordinance. Mr. Thurbon said the proposed draft will amend the current "R-4" Residential District. The purpose of the amendment is to permit manufactured homes only within a subdivision specifically approved for manufactured housing. He said under Sec 48-7.03 minimum district size will change to a 10 lot minimum requirement. The lots will have to be platted as a subdivision to allow individual ownership of single wide mobile homes. Mr. Thurbon said the mobile home must be secured to the ground on a permanent foundation. Most mobile home parks only require mobile homes to be tied down or skirted but not on permanent foundation.

Martha Smith a representative of the Manufactured Homes Association, John Carey, owner of several manufactured mobile home communities both agreed with newly revised ordinance. Ms. Smith said she has been working with staff and she supports the current draft as presented. Mr. Thurbon said ordinance No. 2 specifies replacement of an existing single-wide mobile home or manufactured home with another manufactured home on the same lot or parcel. That is provided the existing unit was allowed by permit and was in conformance with all other applicable zoning regulations. This includes the development regulations contained with Article 7 of the Zoning.

Howard Blackmon asked staff what the definition of a residential designed manufactured home? Mr. Thurbon answered, it is defined in our zoning code as being a double wide and must meet design criteria. It must be on permanent foundation, pitched roof and a minimum width of 22 feet. If all conditions are met it can go anywhere within the city by right; this is a state law.

Motion

Motion made by Howard Blackmon, to approve draft ordinance No. 1 and No. 2 as submitted, seconded by Richard Beardmore.

Approved 6-0-0

DRAFT

**Minutes of the
Topeka Planning Commission
August 17, 2009**

ACZR09/3 an amendment to the City of Topeka Comprehensive Zoning Regulations Article VII, Sections 48-1.09, 48-7.00, 48-7.02, 48-7.03, 48-7.04 and repealing Section 48-7.05 for the purpose of amending the provisions of the **R-4 Single-Family Dwelling District** contained in the Zoning Regulations to eliminate **mobile homes** as a permitted use; to provide for the location and use of **manufactured homes**, as defined, in a subdivision setting; and establishing design standards and dimensional and size standards. David Thurbon summarized the amendment and ordinance.

Discussion by members:

Mark Boyd asked if the zoning district is being renamed? Mr. Thurbon said yes, on line 122 it is renamed to be Manufactured Home District.

Mr. Thurbon explained the attachments for this item. The first attachment is a separate code in the city code to add this amendment to. Mr. Brown stated the code is way out of date. Mr. Thurbon stated that portion of the code needs a major overhaul, we just changed what we needed. We also attached previous staff report dealing with the North Topeka mobile home issue and maps.

Mr. Boyd asked if the items must be voted on separately? The first dealing with zoning regulations and the other is the definition. Mr. Thurbon replied yes. Mr. Thurbon added Ordinance 1 is needed to for Ordinance 2. Mr. Boyd asked if all of Ms. Smith's concerns had been addressed?

Proponents:

Martha Smith, Kansas Manufactured Housing Association, spoke in favor of the proposal. She said she has met with staff several months ago and we are okay with the proposed ordinance. She said she appreciates having input.

Mr. Boyd asked if there was anymore input from the North Topeka NIA? Mr. Thurbon replied not since the last meeting. He added their main focus was the X-2 district. They didn't have any comments on the R-4 district.

Mr. Copley said ordinance #2 is not part of the zoning regulations. He said only the council has to act on it this commission does not. It is for your information only. He said yes Section 98 is horribly out of date. He said this change requires a mobile home park to have 10 units. Mr. Boyd asked if they could take a block without internal access? Mr. Thurbon replied mobile home subdivisions could have individual curb cuts. Mr. Copley said it is unlikely they will be able to get 10 curb cuts within standards.

Mark Boyd moved approval as written, seconded by John Federico. **APPROVAL. (7-0-0)**

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code §48-1.09, §48-7.00, §48-7.02, §48-7.03 and §48-7.04 concerning manufactured home zoning regulations and specifically repealing said original sections as well as §48-7.05.

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

Section 2. That section 48-1.09, Use and building restrictions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Use and building restrictions.

(a) Except as hereinafter provided:

(1) No person shall use any premises for a use other than those permitted in the district in which such premises are located.

(2) No building shall be erected, enlarged or structurally altered unless it shall be designed to make the premises conform to the regulations for the district in which the premises are located.

(b) The use of buildings and land, and the regulations herein shall be uniform for each district but may differ from those regulations in other districts.

(c) The use regulations shall not apply to:

(1) Public utilities such as poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves, hydrants, or other similar facilities located on public rights-of-way or public easements and operated by a public utility as a franchise holder from the City of Topeka or Shawnee County, Kansas; and including water lines, sewer lines and similar facilities owned and operated by the City of Topeka

or Shawnee County, Kansas, except the following which shall be subject to the use regulations:

- a. Substations; booster stations; pump stations; distribution stations;
- b. Treatment plants; transmission equipment buildings; and
- c. Towers or reservoirs and similar uses facilitating utility transmission, distribution, and collection systems.

(2) Railroad right-of-way and all uses in conjunction with such railroad operations. Nonrailroad use upon any railroad right-of-way or other property shall conform to these regulations.

(3) The temporary use of land in conjunction with, and exclusively for, a specific construction project; and conditional to the following restrictions and requirements:

a. Public works construction projects. The temporary use of any land located either on the site of construction or off-site, is permitted which is in conjunction with a project by a governmental entity. Such uses shall include topsoil or fill-dirt extraction; and the location of an asphaltic concrete and/or portland cement concrete plant. However, said plants shall be located a minimum distance of 400 feet from the nearest residential dwelling unit. Distances less than 400 feet may only be permitted by action of the metro board of appeals.

b. Other construction projects. The temporary use of land in conjunction with a construction project is permitted wherein the temporary use is located upon the site of the project; however, the temporary use of

53 an asphaltic concrete and/or portland cement concrete plant shall be
54 located a minimum distance of 400 feet from the nearest residential
55 dwelling. Distances less than 400 feet may only be permitted by action of
56 the metro board of appeals.

57 c. The temporary use of land for any construction project as set
58 forth above is subject to the approval by the applicable public works
59 director of the political subdivision in which the temporary use is located.
60 Further, said temporary use of land shall not commence until such time
61 that a permit has been granted by the above referenced public works
62 director after first consulting with the planning director; and said permit
63 may include conditions, limitations, and requirements as may be required
64 by other applicable laws, statutes and codes, or as may be determined by
65 the public works director in order to provide for the public health, safety,
66 comfort, and welfare of the community. The public works director may at
67 his or her discretion, deny such temporary use.

68 (4) Exceptions. The appropriate city or county building official or
69 governing body shall have the authority to permit certain exceptions to the district
70 regulations set forth as follows, by the issuance of a permit maintaining
71 conditions governing design, construction, operation and/or expiration of the
72 exception, so as to adequately safeguard the health, safety, and welfare of
73 citizens of Topeka and unincorporated Shawnee County.

74 a. Exception for manufactured homes.

75 i. Replacement of an existing single-wide mobile home
76 or manufactured home with another manufactured home on the

77 same lot or parcel; provided the existing unit was allowed by permit
78 and as otherwise be in conformance with all other applicable zoning
79 regulations; including the development regulations contained within
80 Article 7 of the Comprehensive Zoning Regulations as well as the
81 wastewater management plan.

82 ii. Within the unincorporated areas of Shawnee County,
83 the temporary placement of a manufactured home as a second
84 dwelling on an existing lot or parcel, in instances of extreme
85 hardship or necessity, not based on financial considerations, as
86 determined by the board of commissioners, provided:

87 (a) The applicant shall justify and attest to the
88 hardship or reason for requesting said exception in a
89 notarized affidavit; and

90 (b) The applicant shall agree that the exception
91 may be granted for a one time period not to exceed 18
92 months; provided, however, that at such time the hardship or
93 reason of necessity shall cease and become null and void
94 and the temporary manufactured home shall be removed;
95 and

96 (c) The placement of the temporary manufactured
97 home shall otherwise comply with the comprehensive zoning
98 regulations, wastewater management plan, and all other
99 applicable restrictions and regulations.

(5) The use regulations and dimension requirements of each zoning district shall not apply to agricultural buildings.

(d) Other general requirements:

(1) Prior to the construction of any development or excavation within 1,000 feet of any flood protection facility, a certificate of approval shall be obtained from the city or county engineer, as applicable.

(2) Any or all development authorized by these regulations shall be subject to other applicable codes, regulations, or policies as adopted by the City of Topeka, Shawnee County, Kansas, and the State of Kansas, as appropriate.

(3) Burial of human remains on residentially zoned property is prohibited except as may specifically be provided for herein.

(4) Frontage as required herein shall be continuous in both dimension and extension, and further provided, the subject street frontage is improved to applicable standards or is guaranteed to be improved through appropriate surety. When applicable, the entire frontage shall include all right-of-way abutting, adjacent or coincident with such development site, including corner lots. For purposes of unplatted property, "frontage" shall not include or recognize those segments, sides or portion of the tract or parcel perimeter which restricts and prohibits vehicular ingress/egress; and further, "frontage" shall not include the cross-section width of a stub street as defined by this chapter.

Section 2. That Appendix C, Article VII of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~R-4 SINGLE FAMILY DWELLING~~ MANUFACTURED HOME DISTRICT

Section 3. That section 48-7.00, Purpose; intent, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Purpose; intent.

The primary purpose for the establishment of this district is to provide for the location and use of detached single-family dwellings and manufactured homes as defined, together with specified accessory and supportive uses; and to provide for housing development at affordable levels ~~through minimum site area requirements, lot size and design standards~~in a subdivision setting. This district may be established in conjunction with an approved plat of subdivision for development in accordance with the provisions of the dimensional requirements and general lot requirements established in section 48-27.01. ~~Further, development for the above stated purpose may be established in conjunction with the planned unit development district and subject only to the dimensional requirements and standards set forth in said district.~~

Section 4. That section 48-7.02, Use regulations, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Use regulations.

(a) *Permitted uses:*

(1) ~~Detached single family dwelling district building, r~~Residential- design manufactured home,and manufactured home, ~~and/or ANSI certified mobile home,~~ for the purpose, use and occupancy of a family as defined herein.

The manufactured home shall meet the ~~below listed development requirement which may be appealable to the metro board of zoning appeals~~development requirements listed in (a) through (f) below:

a. The manufactured home shall have a minimum dimensions of 14 body feet in width and a length not exceeding five (5) times its width for the principal structure.

b. The manufactured home shall be secured to the ground on a permanent foundation.

c. The undercarriage of the manufactured home shall be completely screened from view by the foundation or skirting, such skirting to be of material harmonious to the unit structure and installed within ten days of unit placement.

d. The manufactured home shall have the towing apparatus, wheels, axles, and transporting lights removed.

e. The manufactured home shall have an exterior façade of vinyl or wood siding, stone, brick, or other non-metallic material.

f. The roof of the manufactured home shall be double pitched and have a minimum vertical rise of three (3) inches for each twelve inches (12) of horizontal run, and shall be covered with material that is residential in appearance, including but not limited to wood, asphalt, composition of fiberglass shingles, but excluding corrugated aluminum, corrugated fiberglass, or corrugated metal roofing material. The roof shall have a minimum eave projection or overhang of ten (10) inches on a least two (2) sides, which may include a four (4) inch gutter.

(2) Group home.

(3) Public parks, playgrounds, trails, paths, recreational areas, golf courses, scenic and historic sites, and associated recreational and leisure

170 facilities, including but not limited to shelters, pools, court games, maintenance
171 structures and associated parking to the above uses.

172 (4) Private parks, playgrounds, trails, paths, recreation areas, golf
173 courses, scenic and historic sites, common open space, and associated
174 recreational and leisure facilities, including but not limited to clubhouses,
175 shelters, pools, court games, parking and maintenance structures, for use by
176 members and guests only, provided such facilities are developed in conjunction
177 with, and intended to serve, a residential community and are located and
178 designated on either the recorded plat of subdivision or on an approved planned
179 unit development.

180 (5) Subdivision maintenance facilities and/or U.S. Postal Service
181 receptacle pods and shelter, developed in conjunction with, and intended to
182 serve, a residential community and which is located and designated on either the
183 recorded plat of subdivision or on an approved planned unit development.

184 (6) Public or private elementary and secondary school.

185 (7) Residential care facility, type I.

186 (8) Medical care facility, type I.

187 (b) *Provisional uses:*

188 (1) Day care facility, type I subject to the requirements of article XXVI.

189 (2) Religious assembly subject to the requirements of article XXVI.

190 (3) Golf course subject to the requirements of article XXVI.

191 (c) *Uses permitted by conditional use permit:* The following uses may be
192 granted a conditional use permit by the governing body provided by article XXV:

193 (1) Public use facility.

(2) Vehicle surface parking lot in association with a principal use.

(3) Cultural facility.

(4) Recreation field, court, track, or range in which the principal use is of an outdoor and unenclosed nature and which may include accessory and support facilities as an incidental and ancillary use. Permitted uses shall include the following activities:

a. Swimming.

b. Tennis.

~~(5) Retail sales of a nature clearly incidental and subordinate to and customary in connection with, a principal use.~~

(6) Food service facility, in which food and beverage is offered or prepared for sale or for service with or without charge on the premises and clearly incidental and subordinate to a principal use.

(7) Private or public utility structures facilitating the transmission, distribution, and/or collection systems, including substations, distribution stations, pump stations, reservoirs, towers, transmission equipment buildings and similar such uses.

(8) Community center.

(9) Common open space.

~~(10) Bed and breakfast home subject to the requirements of article XXVI.~~

~~(11) Bed and breakfast inn subject to the requirements of article XXVI.~~

~~(12) Reception, conference and assembly facility subject to requirements of article XXVI.~~

(~~439~~) Communication towers, telecommunication equipment and accessory facilities other than those provided for elsewhere in this chapter as exempt as set forth by definition; and subject to the requirements of article XXVI.

(~~4410~~) Group residence limited, subject to article XXVI.

Section 5. That section 48-7.03, Dimensional requirements, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Dimensional and size requirements.

(a) Minimum district size and minimum number of lots:

(1) 10 lots.

(b) Minimum lot size:

(1) Minimum lot width = 40 feet.

(2) Minimum lot depth = 75 feet.

(~~a~~c) Minimum lot area and maximum intensity of use:

(1) Single-family dwelling: ~~4~~5,000 square feet.

(2) All other uses: 7,500 square feet.

(~~b~~d) Minimum yard requirements and maximum structure height:

(1) Front yard: 25 feet.

(2) Side yard: ~~five~~5 feet.

(3) Rear yard: 25 feet.

(4) If the recorded plat of subdivision provides for a greater minimum yard requirement than provided by this district, the provisions of the plat shall prevail.

~~(5) The applicable side yard of a corner lot and the rear yard of a double frontage lot shall conform to the minimum front yard requirements of this district.~~

~~(65) Height: 42 feet.~~

~~(c) Minimum district size and number of dwellings:~~

~~(1) The "R-4" single-family dwelling district minimum size is 8,000 square feet.~~

Section 6. That section 48-7.04, General provisions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

General provisions.

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

(a) *Accessory uses and requirements:*

(1) Permitted accessory uses and restrictions. See article XXIX.

(2) Off-street parking requirements. See article XXX.

(3) Sign regulations. See article XXXI.

(b) *Other provisions:*

(1) Dimensional requirements. See article XXVII.

(2) Nonconforming uses. See article XXVIII.

(3) The development of "R-4" manufactured home district shall apply to subdivided land of record which meets the objectives and requirements of this district, the subdivision of land regulations, and the applicable plat of subdivision stipulations.

(4) If the land subject to "R-4" rezoning is not subdivided land of record, an application for a plat of subdivision shall be submitted concurrently with the "R-4" zoning change application. The application for the plat of subdivision shall comply with Chapter 134 of the Topeka City code.

Section 7. That section 48-7.05, Development alternatives, of The Code of the City of Topeka, Kansas, is hereby specifically repealed.

Development alternatives.

~~(a) The development of "R-4" single family dwelling district uses with multiple principal structures and/or uses may follow the provisions of article XXIV, Planned Unit Development District.~~

~~(b) The development of "R-4" single family dwelling district shall apply to subdivided land of record which meets the objectives and requirements of this district, the subdivision of land regulations, and the applicable plat of subdivision stipulations.~~

Section 8. That original §48-1.09, §48-7.02, §48-7.03 and §48-7.04 of The Code of the City of Topeka, Kansas, is 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



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 21, 2009

+ Back Print

DATE: November 3, 2009

CONTACT PERSON: Miriam Berke **DOCUMENT #:**

SECOND PARTY/SUBJECT: Chapter 98 - **PROJECT #:**
Manufactured Homes and Trailers

CATEGORY/SUBCATEGORY 013 Ordinances - Codified / 098 Manufactured Homes and Trailers

CIP PROJECT: No

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

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., concerning manufactured homes and trailers, amending City of Topeka Code Section 98-1 and specifically repealing said original section and creating City of Topeka Code Section 98-85. Final Reading.

(Approval would require new mobile home parks to have sufficient area to accomodate a minimum of ten mobile home units and meet setback requirements; and require units to be skirted within thirty days of placement or for existing units within thirty days after receipt of written notice of violation.)

POLICY ISSUE:

The current manufactured home and zoning regulations allow placement of a single mobile home unit within the R-4 Single Family Dwelling District. The companion ordinance ACZR09/3 eliminates mobile homes as a permitted use and provides for the location of manufactured homes in a subdivision setting; and establishes design standards and dimensional and size standards. This was approved by the Planning Commission by a vote of 7-0-0 on August 17, 2009.

STAFF RECOMMENDATION:

Adopt the ordinance.

BACKGROUND:

The current regulations in Chapter 98 allow a single manufactured unit to be considered a mobile home park and subject to licensure. This amendment requires that a new mobile home park must be of sufficient area to accomodate a minimum of ten (10) mobile home units and meet the setback requirements. This ordinance also requires that units be skirted within thirty (30) days of placement or for existing units within (30) days after receipt of written notice of violation.

BUDGETARY IMPACT:

None

Item #9

SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

[Ordinance](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Norton N. Bonaparte, Jr., City Manager, concerning manufactured homes and trailers, amending City of Topeka Code § 98-1 and specifically repealing said original section and creating City of Topeka Code § 98-85.

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

Section 1. That section 98-1, Definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Mobile home means any ~~house car, house trailer, trailer home or similar mobile unit which may be used for permanent, semipermanent or temporary living quarters~~ manufactured structure constructed for dwelling purposes.

Mobile home park means any tract or parcel of land maintained, ~~offered or used for the parking or camping of one or more mobile homes or similar portable units for habitation; provided, that for zoning purposes a mobile home park shall be considered as a tourist or trailer camp under the zoning ordinance~~ for the purpose of renting or leasing spaces for not less than ten (10) mobile home units for human habitation purposes, whether the mobile homes are owned by the owner of the mobile home park or owned by individual occupants.

Section 2. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section to be numbered 98-85, which said section reads as follows:

Skirting.

All manufactured homes which are not placed on a permanent enclosed perimeter foundation shall have skirts within thirty (30) days after issuance of the permit and placement of the manufactured home on the site. The skirt shall:

(a) Be completely around the structure from the base of the manufactured home to the ground level beneath;

(b) Be of material with similar appearance to the manufactured home or masonry material;

(c) Be weather resistant material for skirting and shall not be scrap metal or polyurethane scrap material;

(d) Be skirted in such a way as not to allow access to the underside of the manufactured home for storage and/or trash accumulation but access only for repair purposes to the manufactured home;

Any manufactured home existing within the City on the effective date hereof will be required to have skirts no later than thirty (30) days from enactment of this ordinance. However, before being subject to a penalty for violation of this subsection the City shall serve the owner or occupants of any manufactured home without skirts with written notice of violation hereof requiring compliance within such time as designated therein.

Section 3. That original § 98-1 of The Code of the City of Topeka, Kansas, is hereby specifically 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 City Council _____.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 21, 2009

+ Back Print

DATE: November 3, 2009
CONTACT PERSON: Miriam Berke / Dave
Lundry **DOCUMENT #:**
SECOND PARTY/SUBJECT: Contractor Licensing **PROJECT #:**
CATEGORY/SUBCATEGORY 013 Ordinances - Codified / 030 Businesses
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., repealing City of Topeka Code Chapter 26, Article 5 and Section 30-62 and creating Chapter 30, Article 15, all concerning Contractor Licenses and Requirements. Final Reading.

(Approval would clarify and provide some additional definitions relating to licensing; make continuing education for licensed trade personnel consistent with state law; require the name of the contractors to be displayed on service vehicles; and relocate contractor licensing provisions in the code book as part of the recodification of the city code book.)

POLICY ISSUE:

The amendment clarifies and provides some additional definitions relating to licensing, makes continuing education for licensed trade personnel consistent with state law, and requires the name of the contractor to be displayed on service vehicles as recommended by the council appointed committee to review the Development Services Division and contractor licensing issues.

STAFF RECOMMENDATION:

Adopt the ordinance.

BACKGROUND:

This proposed ordinance moves the contractor licensing provisions from Chapter 26 Buildings and Building Regulations to Chapter 30 Businesses and Business Licenses. The relocation of the contractor licensing was identified as part of the recodification of the city code book.

BUDGETARY IMPACT:

None.

SOURCE OF FUNDING:

Not applicable.

Item #10

ATTACHMENTS:

[Ordinance](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., repealing City of Topeka Code Chapter 26, Article V and § 30-62 and creating Chapter 30, Article XV, all concerning Contractor Licenses and Requirements.

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

Section 1. That section 26-231, Definitions, of the Code of the City of Topeka, Kansas, is hereby repealed.

Definitions.

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Apprentice or helper* means an individual who works as an employee in training under the direct supervision of a journeyman or master. An apprentice or helper is not a licensed individual.~~

~~*Board* means that board appointed for each licensed trade for the purpose of reviewing code interpretations taken by the building code enforcement division, granting variances from the code, reviewing license applications and license suspensions and revocation.~~

~~*Code* means the National Electrical Code, Uniform Mechanical Code and Uniform Plumbing Code as adopted by the city, as the context of this article may require.~~

~~*Direct supervision* means that the apprentice is limited to the same structure and/or building site as the journeyman or master, except in the case of one- and two-~~

family residential development, where the apprentice may be on the job site within 100 feet of where the journeyman or master is working.

~~*Journeyman* means an individual that holds a license issued pursuant to this article evidencing such person to be qualified to lay out, install, maintain and repair work in his area of expertise. A journeyman is responsible for the supervision of any apprentice assigned to work with him.~~

~~*Laborer* means a nonregistered individual engaged in physical work requiring minimal training or skill. Work activities are limited to matters other than installation.~~

~~*Licensed contractor* means a person that engages in the business of mechanical, electrical, plumbing or gas fitting.~~

~~*Licensed trade or trade* means the mechanical, electrical, plumbing or gas fitting trade, as the context of this article may require.~~

~~*Master* means an individual who holds a license issued pursuant to this article evidencing such person to be qualified to control and have authority of all technical work performed under the authority of the contractor's enterprise and assures quality control and is responsible for compliance with all applicable laws, codes and regulations.~~

~~*Nonworking master* means a principal partner in a licensed contracting company who is not a licensed journeyman as of January 12, 1988. A nonworking master has all the rights and responsibilities of a master and is subject to the same renewal fees. A nonworking master license is nontransferable between individuals and shall not be issued to any individual who is not a principal partner in a licensed contracting company.~~

Section 2. That section 26-236, Boards for each trade created, of the Code of

the City of Topeka, Kansas, is hereby repealed.

~~Boards for each trade created.~~

~~There is hereby created a board for each of the licensed trades: Board of electrical appeals, Board of plumbing examiners, and Board of mechanical examiners. Such boards shall be comprised of two (2) masters licensed in the particular trade, two (2) journeymen licensed in the particular trade, and an engineer, or equivalent, practicing in the particular trade, appointed by the mayor. For the purpose of the mechanical trade only the board shall be comprised of two (2) masters licensed in the particular trade; one engineer or equivalent, practicing in the particular trade; and two (2) persons who shall be a licensed journeyman, licensed master, or an engineer practicing in the particular trade; all of which shall be appointed by the mayor.~~

~~The purpose of the boards shall be to review applications and approve the issuance of licenses in accordance with chapter 26 of the Code of the City of Topeka. The board shall be empowered to hear and determine interpretations of applicable codes and to permit exceptions, variances, or waivers therefrom, provided such exceptions, variances, or waivers meet the intent of the adopted code and do not endanger life, limb, property or public welfare. The boards shall conduct their business in accordance with chapter 26 of the Code of the City of Topeka.~~

Section 3. That section 26-237, Terms of members, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Terms of members.~~

~~The terms of office for the members of the trade licensing boards shall be two years or until their successors have been duly selected and qualified.~~

76 Section 4. That section 26-238, Chairpersons, of the Code of the City of
77 Topeka, Kansas, is hereby repealed.

78 **~~Chairpersons.~~**

79 ~~The chairpersons of the trade licensing boards shall be selected by a majority~~
80 ~~vote of the members thereof.~~

81 Section 5. That section 26-239, Licensing authority, of the Code of the City of
82 Topeka, Kansas, is hereby repealed.

83 **~~Licensing authority.~~**

84 ~~The board shall approve and direct the building code enforcement division to~~
85 ~~issue licenses based upon experience and competency for the particular licensed trade.~~
86 ~~Competency shall be determined by examination prepared or approved by the board to~~
87 ~~establish the applicant's knowledge of the particular trade and the applicable code. The~~
88 ~~board shall review all initial applications prior to testing to determine eligibility. The~~
89 ~~board shall notify the applicant of the test results within seven working days after receipt~~
90 ~~of the test results. The board shall be responsible for determining the format and~~
91 ~~content of the examination.~~

92 Section 6. That section 26-240, Power to permit exceptions, variances, of the
93 Code of the City of Topeka, Kansas, is hereby repealed.

94 **~~Power to permit exceptions, variances.~~**

95 ~~The board shall be empowered to hear and determine interpretations of the code~~
96 ~~and to permit exceptions, variances or waivers from the code provisions in cases or~~
97 ~~situations in accordance with the purpose and intent of the code. An exception, variance~~
98 ~~or waiver shall not be granted except in those situations that will not endanger life or~~

limb, health, property, or public welfare. All requests for interpretations, exceptions, variances or waivers shall be written. Such application shall be accompanied by a full written explanation of the rationale and reasoning for such request.

Section 7. That section 26-251, Required, of the Code of the City of Topeka, Kansas, is hereby repealed.

Required.

It shall be unlawful for any person to conduct, carry on or engage in the business of commercial or residential construction or remodeling, excavation, elevator repair or construction, concrete work, demolition, swimming pool construction, roofing, fire alarm installation, fire sprinkler installation, water softener/conditioner, lawn irrigation system installation or mechanical, electrical, plumbing or gas fitting trades, without first obtaining the appropriate contractor's license.

Section 8. That section 26-252, Grandfather provisions for certain mechanical licenses, of the Code of the City of Topeka, Kansas, is hereby repealed.

Grandfather provisions for certain mechanical licenses.

(a) Any individual who as of the effective date of this section has a current master mechanical license or journeyman mechanical license may renew the license in the category in which the current license was issued and in accordance with the provisions of Topeka City Code section 26-259. The categories of license are as follows:

(1) Comprehensive, all items covered by Code.

(2) Combination warm heating system/air conditioning systems, including duct work and ventilation.

~~(3) Refrigeration.~~

~~(4) Boilers.~~

~~(5) Commercial hoods.~~

~~(6) Factory-built solid fuel burning appliances.~~

~~There shall be no further issuance of new licenses for the mechanical trade by subcategories, except as outlined in parts (b) and (c) of this section commencing with the effective date of this section.~~

~~(b) Individuals wanting a master's license for factory built solid fuel or gas fireplace hearth appliances shall have passed both an approved fireplace hearth certification exam and a gas hearth appliance certification exam. Only those examinations developed by an independent, nationally recognized testing or educational institution and approved by the chief building inspector will be accepted.~~

~~(c) Individuals wanting a sheet metal journeyman's license shall make application for that subcategory exam as given by Exporior in accordance with the provisions of the Topeka City Code sections 26-254 and 26-257.~~

Section 9. That section 26-253, Utility firms exempt, of the Code of the City of Topeka, Kansas, is hereby repealed.

Utility firms exempt.

~~Any gas utility company doing business under a franchise with the city shall not be required to secure a license or file a bond when engaged in the performance of duties, obligations or rights conferred upon such utility by the franchise. The employees and agents of the utility shall comply with the requirements of this article in all respects when engaged in work required by the further provisions to be performed by gas fitters.~~

Section 10. That section 26-254, Application and examination, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Application and examination.~~

~~(a) Each initial application for examination for journeyman or master license shall be made on forms provided by the building code enforcement division and shall be accompanied by an administrative fee of \$20.00 for regularly scheduled examinations. Applications for examination shall be made to the board at least four weeks prior to the scheduled examination date. In addition, each applicant for examination shall be responsible for paying Experior directly for the cost of the exam where the board has adopted and approved the Experior exam.~~

~~(b) Examinations for the sheet metal journeyman, an unlimited mechanical journeyman and unlimited mechanical master shall be the Experior exam, by Experior Gainesville, Florida.~~

~~(c) The minimum passing score shall be 75 percent for any of the trade examinations.~~

~~(d) Fees for the licenses shall be as set out in section 30-62.~~

~~(e) Water softener/conditioner contractors and those employed to install or service softener/conditioning equipment shall be required to take an examination prepared and approved by the water softener committee, plumbing board of appeals and the city development services division. Examinations for both masters and journeymen shall be given by Experior, Gainesville, Florida.~~

~~(f) Lawn irrigation contractors and those employed to install, repair or service lawn sprinkler systems shall be required to take an examination approved by the~~

development services division and given by Experior. Lawn irrigation contractors and their employees who will be replacing, repairing or testing backflow prevention devices will be required to obtain a certification from the State of Kansas in backflow prevention. This certification is required to be renewed every three years.

Section 11. That section 26-255, License qualifications and responsibilities—Contractor, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~License qualifications and responsibilities—Contractor.~~

~~(a) All commercial, trade, excavation, elevator, framing, concrete, demolition, swimming pool, roofing, fire alarm, and fire sprinkler contractors shall show proof of broad form comprehensive commercial general liability insurance, including product/completed operations, in the amount of \$300,000.00 per occurrence. All residential contractors shall show proof of broad form comprehensive general liability insurance in the amount of \$300,000.00 per occurrence. As a precondition to the issuance of a contractor's license, all of the aforementioned contractors shall carry worker's compensation insurance as required by state law. The required insurance shall be in effect during the duration of the contractor's license. Failure to renew such insurance or cancellation of such insurance shall be cause for the immediate cancellation of the contractor's license. If the contractor renews his required insurance, he or she may obtain a new contractor's license by providing evidence of current insurance coverage and paying the license fee.~~

~~(b) Except as provided in subsection (c) below, any contractor license, except for trade contractor licenses issued after December 14, 2004, will be a provisional license contingent upon the qualifying party either passing prior to December 14, 2005,~~

191 ~~the appropriate examination selected by the development services director from a~~
192 ~~recognized testing agency or alternatively providing the development services director~~
193 ~~with a certified copy of a transcript from an accredited university, college or vocational~~
194 ~~school demonstrating passing grades in at least 30 hours of coursework directly related~~
195 ~~to the license applied for. The provisional license designation will allow the individual to~~
196 ~~obtain building permits until December 14, 2005. No contractor shall be allowed to pull~~
197 ~~any permit after December 14, 2005, unless the contractor shall have achieved a~~
198 ~~passing score on the appropriate examination or provided proof of meeting the~~
199 ~~educational requirements. Notwithstanding the foregoing, no trade contractor shall be~~
200 ~~permitted to obtain a license without achieving a passing score on the appropriate~~
201 ~~exam. There is no alternative educational requirement for trade contractors.~~

202 ~~(c) Any commercial, residential, excavation, elevator, concrete, demolition,~~
203 ~~swimming pool, roofing, fire alarm, or fire sprinkler contractor who has, prior to~~
204 ~~December 31, 2005, pulled permits for and has passed final inspection for at least five~~
205 ~~jobs or work sites within the corporate limits of the City of Topeka during the period~~
206 ~~commencing January 1, 2000 through December 31, 2005, shall be grandfathered in~~
207 ~~under the license requirements of this section without the need to achieve a passing~~
208 ~~score on the appropriate examination or providing proof of satisfying the educational~~
209 ~~requirement.~~

210 ~~(d) Commercial contractor type I, commercial contractor type II, and residential~~
211 ~~contractors must provide documentation of having earned eight continuing education~~
212 ~~units in a calendar year to maintain said license. Continuing education courses must be~~
213 ~~directly relevant to the contractors' licensed field and must be approved by the~~

development services director.

~~(e) A licensed trade contractor shall be a master or have in his employ and so designate a master on a full time basis. Before issuance of a trade contractor's license, the applicant shall submit the address of his place of business, business telephone number, name of the designated master and other information as may be required on forms provided by the development services division and pay all relevant fees. The contractor shall be ultimately responsible for the work done.~~

~~(f) If a designated master is employed by more than one trade contractor, it shall be deemed that he is loaning his license and this shall be cause for the board to revoke such master's license. If the designated master for a contractor is terminated, resigns, retires, expires or changes employers, such licensed contractor shall secure the services of another master no later than 90 days after the departure of the first master. Any work in progress during the absence of a master may continue for such period of 90 days; however, no new permits shall be issued. Failure to secure the services of another master within such 90 days shall be cause for revocation of the contractor's license and all work in progress shall cease until the services of a master are acquired and a new contractor's license is issued.~~

Section 12. That section 26-256, Same--Master, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Same--Master.~~

~~(a) The requirements to become a licensed master in the plumbing, electrical and mechanical trades shall be a minimum of three years' experience as a licensed journeyman within the trade and pass the master's examination or have seven years'~~

~~experience owning/operating a shop and appear before the board to have his
experience and knowledge reviewed. If the board determines after such review that the
individual has the necessary experience and knowledge, the individual may take the
master's examination. For the purpose of the mechanical trade only, a licensed master
shall have a minimum of two years experience as a licensed journeyman,
comprehensive only or grandfathered only, within the trade and pass the masters
examination or have four years experience owning and operating a mechanical
contractor's business and appear before the mechanical board to have their experience
and knowledge reviewed. If the board determines after such review that the individual
has the necessary experience and knowledge, the individual may take the masters
examination. The requirements to become a licensed master in the water
softener/conditioner trade shall be a minimum of one year of experience as a licensed
journeyman within the trade and pass the masters' examination. To become a licensed
master in the lawn irrigation trade, a person must work as a journeyman for two years
within the trade and pass the master's examination. The city shall grant a master's
license for those working in the lawn irrigation field in the capacity of a shop owner or
manager for a period of five years before July 1, 2000. A master license holder shall be
responsible to oversee all work activity to assure compliance with applicable codes and
must have direct contact with the job site.~~

~~(b) Any owner of a licensed electrical contracting company as of one year prior
to the effective date of the ordinance from which this article derives will be issued a
master electrician license and shall be responsible for all requirements of a master
outlined in this division. Work experience shall be verified by past and current~~

employers on forms provided by the development services division.

~~(c) The principal partners of a contracting company formed by a partnership, as defined by state law, shall be licensed as masters, provided these partners fulfill the requirements of that license. If a principal partner is not a licensed journeyman as of the effective date of the ordinance from which this article derives, he shall be issued a nonworking master license.~~

~~(d) No licenses shall be issued pursuant to the provisions of subsections (b) and (c) of this section effective November 1, 1991, provided that the license applicant was otherwise qualified as of January 1, 1991.~~

~~(e) For the purposes of the mechanical trade only, a master's license is categorized as follows:~~

~~(1) Comprehensive, all items covered by the Code.~~

~~(2) Solid fuel burning appliances.~~

~~A contractor employing a mechanical master with a noncomprehensive license shall be limited to that work which falls within the master's category. A mechanical contractor may employ more than one mechanical master.~~

Section 13. That section 26-257, Same--Journeyman, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Same--Journeyman.~~

~~(a) The requirements to become a licensed journeyman in the plumbing, electrical and mechanical trades shall include, a minimum of four years' experience working within the trade in conjunction with training of a school approved by the appropriate board or a minimum of five years' experience working within the trade and~~

pass the journeyman's examination. For the purpose of the mechanical trade only, the requirements to become a licensed journeyman, comprehensive or sheet metal, shall include a minimum of two years experience working within the trade in conjunction with training of a school approved by the board or a minimum of three years experience working within the trade. The requirements to become a licensed journeyman in the water softener/conditioner trade shall be a minimum six months experience in the trade and pass the journeyman's examination. To become a licensed journeyman in the lawn irrigation trade a person must work as an apprentice for one year within the trade and pass the journeyman's examination. The city shall grant a journeyman's license for those working in the lawn irrigation field in the capacity of an installer or service technician for a period of two years before July 1, 2000. Work experience shall be verified by previous and current employers on forms provided by the building code enforcement division.

(b) For the purposes of the mechanical trade only, a journeyman license is categorized as follows:

- (1) Comprehensive, all items covered by the Code.
- (2) Solid fuel burning appliances.
- (3) Sheet metal journeyman, limited to perform the following types of installation:
 - a. The placement and installation of the furnace, air conditioning or other air handling equipment. This does not include any connections of the line voltage electricity, fuel gas piping or refrigeration piping.
 - b. The installation of the complete air distribution system.

c. ~~The installation of the products of combustion venting system.~~

Section 14. That section 26-258, Same--Apprentice, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Same--Apprentice.~~

~~An apprentice is an individual who is registered with the development services division as working within the licensed trades of electrical, mechanical, plumbing and lawn irrigation. The working ratio for licensed journeyman or master to registered apprentice shall be one to one, except the mechanical and lawn irrigation trades, wherein the ratio shall be one licensed journeyman or master to two registered apprentices.~~

Section 15. That section 26-259, When licenses and registrations expire, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~When licenses and registrations expire.~~

~~All licenses and registrations shall expire the last working day before December 15. Failure by an individual to renew his/her license(s) by the aforementioned date will result in a fee double that of the standard fee for reinstatement of the delinquent license(s).~~

Section 16. That section 26-260, Suspension or revocation, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Suspension or revocation.~~

~~(a) The board shall be empowered to suspend a license holder for the following infractions:~~

~~(1) Failure to obtain a permit within 48 hours of initiating work on the project.~~

329 ~~(2) Creating a hazardous situation which endangers life and/or property.~~

330 ~~(3) Failure to correct a written violation notice within the allotted time.~~

331 ~~(b) The board shall be empowered to revoke a license holder's license for the~~
332 ~~following infractions:~~

333 ~~(1) Loaning of his license to another individual or company.~~

334 ~~(2) Creating a hazardous situation which endangers life and/or property.~~

335 ~~(3) Subsequent violations of failure to obtain a permit within 48 hours of~~
336 ~~initiating work on the project, creating a hazardous situation which endangers life~~
337 ~~and/or property, or failure to correct written violation notice within the allotted time~~
338 ~~after having been previously suspended for such violation.~~

339 ~~(c) The board shall send written notice to the license holder setting forth the~~
340 ~~alleged infraction(s) and setting forth a time and place at which the matter of suspension~~
341 ~~will be heard by the board. The license holder may appear with or without counsel. After~~
342 ~~hearing the matter, the board shall make written findings and specify the length of~~
343 ~~suspension, if any. During the course of suspension all work shall cease except that~~
344 ~~work necessary to correct a hazardous situation or correct a written violation notice. In~~
345 ~~the case where a license holder is found to have committed any of the infractions listed~~
346 ~~in this section, the license shall be suspended for a minimum of two weeks, not to~~
347 ~~exceed a maximum of one year.~~

348 Section 17. That section 26-261, Display of all trade contractor's, master's and
349 journeyman's licenses, of the Code of the City of Topeka, Kansas, is hereby repealed.

350 **~~Display of all trade contractor's, master's and journeyman's licenses.~~**

351 ~~All plumbing, mechanical, electrical and water softener/conditioner, lawn~~

irrigation contractors licensed pursuant to this division shall display or post the required license in their place of business. All master and journeyman tradepersons shall carry their licenses on their persons and exhibit the license on the demand of the inspector, his assistants or any officer of the city.

Section 18. That section 30-62, Contractors, masters, journeymen and apprentices, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Contractors, masters, journeymen and apprentices.~~

~~(a) Definitions.~~

~~Commercial contractor type I shall entitle the holder of this license to contract for and to perform any act as a contractor to erect, construct, enlarge, or remodel any commercial, single or multiple dwelling residential buildings not exceeding three (3) stories in height and to perform non-structural remodeling, and tenant finishes.~~

~~Commercial contractor type II shall entitle the holder of this license to contract for and to perform any act as a contractor for any structure.~~

~~Concrete contractor shall entitle the holder thereof to contract for and perform any act as a contractor to pour and finish any floor, driveway, parking area, street, or sidewalk or to pour and finish any footer, basement, wall, or other structural building element.~~

~~Demolition contractor shall entitle the holder thereof to demolish any building.~~

~~Elevator contractor shall entitle the holder thereof to contract for and perform any act as a contractor to install, repair and maintain any elevator, dumbwaiter, escalator, or moving walk.~~

~~Excavation contractor shall entitle the holder thereof to contract for and perform~~

~~any act as a contractor to grade, excavate, fill, clear, and construct earth works.~~

~~Fire alarm contractor shall entitle the holder thereof to contract for and perform any act to install, maintain, repair, or alter any fire alarm system.~~

~~Fire sprinkler contractor shall entitle the holder to install, maintain, repair, alter or extend all piping for fire sprinkler systems, including the connection to the water service outlet provided for fire sprinkler systems.~~

~~Framing contractor shall entitle the holder to fabricate and install any wood product in a structure including, but not limited to rough framing, structural and nonstructural work, trusses, sheathing, paneling, trim, cabinetry, doors and windows and all hardware incidental thereto. A framing contractor may not contract for or install, maintain, repair or alter any concrete, masonry, roofing, dry wall or other work not specifically mentioned above. Further, the framing contractor may not act as a residential or commercial contractor, type I or II or secure permits to build any structure; however, a framing contractor may obtain permits to construct decks and accessory structures.~~

~~Residential contractor shall entitle the holder thereof to contract for and to perform any act as a contractor to erect, construct, enlarge, or remodel any one (1) or two (2) family residence and accessory buildings thereto.~~

~~Roofing contractor shall entitle the holder thereof to contract for and to install, repair and replace roofs. Work may include roof deck insulation, roof coating, painting and covering, and may include use of sheet metal and installation of other sheet metal products incidental to roofing work or other material in connection therewith, or any combination thereof.~~

~~Swimming pool contractor shall entitle the holder thereof to contract for and to excavate, construct, fabricate, install and equip all swimming pools, including the pumps, pool heaters, solar pool heaters, filters and chlorinators and that piping incidental to the recirculating system. A swimming pool contractor may do concrete work such as a patio incidental to the pool.~~

~~Trade contractor shall entitle the holder thereof to contract for and to perform any act as a contractor to construct, remodel, repair, or remove the plumbing, electrical, or mechanical facilities for which the contractor has passed the required examination or has in its employed the appropriate master.~~

~~(b) The original annual license or registration fees for contractors, masters, journeymen and apprentices in the electrical, mechanical, plumbing and gas fitting trades are:~~

~~(1) Contractor:~~

~~a. Commercial contractor type I . . . \$250.00~~

~~b. Commercial contractor type II . . . \$450.00~~

~~c. Concrete contractor . . . \$150.00~~

~~d. Demolition contractor . . . \$150.00~~

~~e. Elevator contractor . . . \$150.00~~

~~f. Excavation contractor . . . \$150.00~~

~~g. Fire alarm contractor . . . \$150.00~~

~~h. Fire sprinkler contractor . . . \$150.00~~

~~i. Framing contractor . . . \$150.00~~

~~j. Residential contractor . . . \$200.00~~

- 421 k. ~~Roofing contractor . . . \$150.00~~
- 422 l. ~~Swimming pool contractor . . . \$150.00~~
- 423 m. ~~Trade contractors . . . \$250.00~~
- 424 1. ~~Master . . . \$100.00~~
- 425 2. ~~Journeyman . . . \$50.00~~
- 426 3. ~~Apprentice registration . . . \$30.00~~
- 427 (c) ~~Annual renewal of license for the trades listed in this section:~~
- 428 (1) ~~Contractor:~~
- 429 a. ~~Commercial contractor type I . . . \$200.00~~
- 430 b. ~~Commercial contractor type II . . . \$400.00~~
- 431 c. ~~Concrete contractor . . . \$100.00~~
- 432 d. ~~Demolition contractor . . . \$100.00~~
- 433 e. ~~Elevator contractor . . . \$100.00~~
- 434 f. ~~Excavation contractor . . . \$100.00~~
- 435 g. ~~Fire alarm contractor . . . \$100.00~~
- 436 h. ~~Fire sprinkler contractor . . . \$100.00~~
- 437 i. ~~Framing contractor . . . \$100.00~~
- 438 j. ~~Residential contractor . . . \$150.00~~
- 439 k. ~~Roofing contractor . . . \$100.00~~
- 440 l. ~~Swimming pool contractor . . . \$100.00~~
- 441 m. ~~Trade contractors . . . \$150.00~~
- 442 1. ~~Master . . . \$75.00~~
- 443 2. ~~Journeyman . . . \$30.00~~

3. ~~Apprentice registration . . . \$20.00~~

(d) ~~Registration for out-of-city licenses for the trade contractors listed in this section:~~

(1) ~~Master . . . \$100.00~~

(2) ~~Journeyman . . . \$50.00~~

(e) ~~In addition to the foregoing license or registration fees the following fees or charges shall also apply to all contractors' licenses.~~

~~Change of designated master for trade contractors: . . . \$50.00~~

~~Reinstatement fee: . . . \$30.00~~

~~Change of address: . . . \$30.00~~

~~Duplicate license: . . . \$30.00~~

~~Exam application: . . . \$50.00~~

~~Exam re-test: . . . \$50.00~~

~~Grade verification letter: . . . \$50.00~~

Section 19. That Chapter 30, Article XV of The Code of the City of Topeka, Kansas, is hereby created to be read as follows:

CONSTRUCTION AND BUILDING LICENSES

Section 20. That Chapter 30, Article XV of The Code of the City of Topeka, Kansas, is hereby amended to by adding a section, to be numbered 30-520, which said section reads as follows:

Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a

different meaning:

Apprentice or helper means an individual who works as an employee in training under the direct supervision of a journeyman or master. An apprentice or helper is not a licensed individual.

Contractor license means a license issued by the City allowing an individual to engage in the business or occupations of construction and building as set forth in this article.

Development services director shall mean the director of the development services division of the public works department or his or her designee.

Direct supervision means that the apprentice is limited to the same structure or building site as the journeyman or master.

Electrical trades means the construction, repair or installation of electrical systems.

Inactive master license shall mean a license issued by the City which demonstrates that the individual has been qualified to engage in a licensed trade but which does not currently allow the individual to perform any licensed work.

Inactive journeyman license shall mean a license issued by the City which demonstrates that the individual has been qualified to perform work as a journeyman but which does not currently allow the individual to perform any licensed work.

Journeyman means an individual that holds a license issued pursuant to this article evidencing such person to be qualified to lay out, install, maintain and repair work in mechanical, electrical and plumbing trades. A journeyman is responsible for the supervision of any apprentice assigned to work with him.

Laborer means a nonregistered individual engaged in physical work requiring minimal training or skill. Work activities are limited to matters other than installation.

Licensed trade contractor means a person that engages in the business of mechanical, electrical, or plumbing.

Licensed trade or trade means the mechanical, electrical, or plumbing trade, as the context of this article may require.

Limited masters license shall mean a license issued by the City to engage in an area within the licensed trades described in the license specified.

Limited journeyman license shall mean a license issued by the City to engage in a particular area within the licensed trades such as sheet metal, lawn irrigation or water conditioner/softener.

Master means an individual who holds a license issued pursuant to this article evidencing such person to be qualified to control and have authority of all technical work performed under the authority of the contractor's mechanical, electrical or plumbing business and assures quality control and is responsible for compliance with all applicable laws, codes and regulations.

Mechanical trade means the construction, repair or installation of heating ventilation and air conditioning systems including, but not limited to, sheet metal, gas fitting, heating and cooling, and solid fuels.

Non trade contractor license means all contractor licenses except those for the licensed trades.

Plumbing trade means the construction, repair or installation of plumbing systems including, but not limited to, lawn irrigation and water softener/conditioner

513 systems.

514 Trade board means that board appointed for each licensed trade for the purpose
515 of reviewing code interpretations taken by the development services division, granting
516 variances from the code, reviewing license applications and license suspensions and
517 revocation.

518 Trade code means the current version of the electrical, mechanical, and
519 plumbing codes as adopted by the city council, as the context of this article may require.

520 Trade contractor shall entitle the holder thereof to contract for and to perform any
521 act as a contractor to construct, remodel, repair, or remove the plumbing, electrical, or
522 mechanical systems or facilities for which the contractor has passed the required
523 examination or has in its employ the appropriate master.

524 Section 21. That Chapter 30, Article XV of The Code of the City of Topeka,
525 Kansas, is hereby amended to by adding a section, to be numbered 30-521, which said
526 section reads as follows:

527 **Insurance.**

528 (a) All commercial, residential, trade, excavation, elevator, framing, concrete,
529 demolition, swimming pool, roofing, fire alarm, and fire sprinkler contractors shall
530 provide the City with evidence of insurance in the amounts and for the type covered
531 required by this section.

532 (b) All commercial, trade, excavation, elevator, framing, concrete, demolition,
533 swimming pool, roofing, fire alarm, and fire sprinkler contractors shall have
534 comprehensive commercial general liability insurance, including product/completed
535 operations, in the amount of \$300,000.00 per occurrence.

(c) All residential contractors shall show proof of commercial general liability insurance in the amount of \$300,000.00 per occurrence.

(d) All commercial, residential, trade, excavation, elevator, framing, concrete, demolition, swimming pool, roofing, fire alarm, and fire sprinkler contractors shall carry worker's compensation insurance as required by state law.

(e) The insurance required under this section shall be in effect during the duration of the contractor's license and the contractor shall provide the development services director with evidence of insurance which shall be on a standard accord form or such other form as approved by the city attorney. Failure to renew such insurance or cancellation of such insurance shall be cause for the immediate cancellation of the contractor's license. If the contractor renews his or her required insurance, he or she may obtain a new contractor's license by providing evidence of current insurance coverage and paying the license fee.

Section 22. That Chapter 30, Article XV of The Code of the City of Topeka, Kansas, is hereby amended to by adding a section, to be numbered 30-522, which said section reads as follows:

License required.

It shall be unlawful for any person to conduct, carry on or engage in the business of commercial or residential construction or remodeling, excavation, elevator repair or construction, concrete work, demolition, swimming pool construction, roofing, fire alarm installation, fire sprinkler installation, water softener/conditioner, lawn irrigation system installation or mechanical, electrical or plumbing trades, without first obtaining the appropriate contractor's license.

Section 23. That Chapter 30, Article XV of The Code of the City of Topeka, Kansas, is hereby amended to by adding a section, to be numbered 30-523, which said section reads as follows:

Licenses and registrations term.

All licenses and registrations shall be for a term of one year and shall expire the last working day before December 15. In the event of the expiration of a license or registration, no new license or registration shall be issued until one year after the license or registration has expired. In the event the individual elects to be licensed during this one year period, he or she will be required to pay the renewal fee, plus any applicable late or other fees.

Section 24. That Chapter 30, Article XV of The Code of the City of Topeka, Kansas, is hereby amended to by adding a section, to be numbered 30-524, which said section reads as follows:

Fees.

(a) The original annual license or registration fees for contractors, masters, journeymen and apprentices in the electrical, mechanical, plumbing and gas fitting trades are:

(1) Contractor:

a. Commercial contractor type I . . . \$250.00

b. Commercial contractor type II . . . \$450.00

c. Concrete contractor . . . \$150.00

d. Demolition contractor . . . \$150.00

e. Elevator contractor . . . \$150.00

- 582 f. Excavation contractor . . . \$150.00
- 583 g. Fire alarm contractor . . . \$150.00
- 584 h. Fire sprinkler contractor . . . \$150.00
- 585 i. Framing contractor . . . \$150.00
- 586 j. Residential contractor . . . \$200.00
- 587 k. Roofing contractor . . . \$150.00
- 588 l. Swimming pool contractor . . . \$150.00
- 589 m. Trade contractors . . . \$250.00
- 590 1. Master . . . \$100.00
- 591 2. Journeyman . . . \$50.00
- 592 3. Apprentice registration . . . \$30.00
- 593 (b) Annual renewal of license for the trades listed in this section:
- 594 (1) Contractor:
- 595 a. Commercial contractor type I . . . \$200.00
- 596 b. Commercial contractor type II . . . \$400.00
- 597 c. Concrete contractor . . . \$100.00
- 598 d. Demolition contractor . . . \$100.00
- 599 e. Elevator contractor . . . \$100.00
- 600 f. Excavation contractor . . . \$100.00
- 601 g. Fire alarm contractor . . . \$100.00
- 602 h. Fire sprinkler contractor . . . \$100.00
- 603 i. Framing contractor . . . \$100.00
- 604 j. Residential contractor . . . \$150.00

605 k. Roofing contractor . . . \$100.00

606 l. Swimming pool contractor . . . \$100.00

607 m. Trade contractors . . . \$150.00

608 1. Master . . . \$75.00

609 2. Journeyman . . . \$30.00

610 3. Apprentice registration . . . \$20.00

611 4. Inactive . . . \$30.00

612 (c) Registration fee for individuals holding trade licenses issued by another
613 jurisdiction which has license requirements which comply with the provisions of Topeka
614 City Code § 30-527:

615 (1) Master . . . \$100.00

616 (2) Journeyman . . . \$50.00

617 (d) In addition to the foregoing license or registration fees the following fees or
618 charges shall also apply to all licenses.

619 Change of designated master for trade contractors: . . . \$50.00

620 Reinstatement fee: . . . \$30.00

621 Change of address (Failure to notify development services director): . . . \$10.00

622 Duplicate license: . . . \$10.00

623 Exam application: . . . \$50.00

624 Exam re-test: . . . \$20.00

625 Grade verification letter: . . . \$50.00

626 (e) Late registration or renewal fee in an amount equal to 25% of the renewal
627 fee up to 15 days after the expiration of license. Late registration or renewal fee in an

amount equal to 50% of the renewal fee 15 days or more after expiration.

Section 25. That Chapter 30, Article XV of The Code of the City of Topeka, Kansas, is hereby amended to by adding a section, to be numbered 30-525, which said section reads as follows:

Non trade contractor license.

(a) The following is a list of the non trade contractors license categories available from the City and the scope of the work allowed by such license:

Commercial contractor type I shall entitle the holder of this license to contract for and to perform any act as a contractor to erect, construct, enlarge, or remodel any commercial, single or multiple dwelling residential buildings not exceeding three (3) stories in height and to perform non-structural remodeling, and tenant finishes.

Commercial contractor type II shall entitle the holder of this license to contract for and to perform any act as a contractor for any structure.

Concrete contractor shall entitle the holder thereof to contract for and perform any act as a contractor to pour and finish any floor, driveway, parking area, street, or sidewalk or to pour and finish any footer, basement, wall, or other structural building element.

Demolition contractor shall entitle the holder of this license to demolish any building.

Elevator contractor shall entitle the holder thereof to contract for and perform any act as a contractor to install, repair and maintain any elevator, dumbwaiter, escalator, or moving walk.

651 Excavation contractor shall entitle the holder thereof to contract for and
652 perform any act as a contractor to grade, excavate, fill, clear, and construct earth
653 works.

654 Fire alarm contractor shall entitle the holder thereof to contract for and
655 perform any act to install, maintain, repair, or alter any fire alarm system.

656 Fire sprinkler contractor shall entitle the holder to install, maintain, repair,
657 alter or extend all piping for fire sprinkler systems, including the connection to the
658 water service outlet provided for fire sprinkler systems.

659 Framing contractor shall entitle the holder to fabricate and install any
660 wood, metal or composites product in a structure including, but not limited to
661 rough framing, structural and nonstructural work, trusses, sheathing, paneling,
662 trim, cabinetry, doors and windows and all hardware incidental thereto. A framing
663 contractor may not contract for or install, maintain, repair or alter any concrete,
664 masonry, roofing, dry wall or other work not specifically mentioned above.
665 Further, the framing contractor may not act as a residential or commercial
666 contractor, type I or II or secure permits to build any structure; however, a
667 framing contractor may obtain permits to construct decks and accessory
668 structures.

669 Residential contractor shall entitle the holder thereof to contract for and to
670 perform any act as a contractor to erect, construct, enlarge, or remodel any one
671 (1) or two (2) family residence and accessory buildings thereto as governed by
672 the currently adopted International Residential Code.

673 Roofing contractor shall entitle the holder thereof to contract for and to

install, repair and replace roofs. Work may include roof deck insulation, roof coating, painting and covering, and may include use of sheet metal and installation of other sheet metal products incidental to roofing work or other material in connection therewith, or any combination thereof.

Swimming pool contractor shall entitle the holder thereof to contract for and to excavate, construct, fabricate, install and equip all swimming pools, including the pumps, pool heaters, solar pool heaters, filters and chlorinators and that piping incidental to the recirculating system. A swimming pool contractor may do concrete work, such as a patio or apron, incidental to the pool. A swimming pool contractor may not perform work involving the installation of electrical circuits, potable water supply lines, drain lines or gas lines.

(b) Any non trade contractor license shall require the qualifying party to pass the appropriate examination selected by the development services director from a recognized testing agency or alternatively providing the development services director with a certified copy of a transcript from an accredited university, college or vocational school demonstrating passing grades in at least 30 hours of coursework directly related to the license applied for. No non trade contractor shall be allowed to obtain a license unless the non trade contractor shall have achieved a passing score on the appropriate examination or provided proof of meeting the educational requirements.

(c) Commercial contractor type I, commercial contractor type II, and residential contractors must provide the development services division with documentation of having earned eight (8) continuing education hours in a calendar year to maintain said license. All continuing education courses must be directly relevant to

the contractors' licensed field and must be approved by the development services director. Further, at least four (4) hours of the continuing education course work for each year must be directly related to construction techniques or other provisions contained in the applicable building code.

Section 26. That Chapter 30, Article XV of The Code of the City of Topeka, Kansas, is hereby amended to by adding a section, to be numbered 30-526, which said section reads as follows:

Trade contractor license.

(a) A licensed trade contractor shall be a master or have in his employ and so designate a master on a full-time basis. Before issuance of a trade contractor's license, the applicant shall submit the address of his place of business, business telephone number, name of the designated master and other information as may be required on forms provided by the development services division and pay all relevant fees. The trade contractor shall be ultimately responsible for the work done.

(b) If a designated master is employed by more than one trade contractor in the capacity of a designated master, it shall be deemed that he or she is loaning his or her license and this shall be cause for the board to revoke such master's license. If the designated master for a contractor is terminated, resigns, retires, expires or changes employers, such licensed contractor shall secure the services of another master no later than ninety (90) days after the departure of the first master. Any work in progress during the absence of a master may continue for such period of ninety (90) days; however, no new permits shall be issued. Failure to secure the services of another master within such ninety (90) days shall be cause for revocation of the contractor's license and all

work in progress shall cease until the services of a master are acquired and a new contractor's license is issued.

Section 27. That Chapter 30, Article XV of The Code of the City of Topeka, Kansas, is hereby amended to by adding a section, to be numbered 30-527, which said section reads as follows:

Apprentice, journeyman and master registration and license.

(a) Each initial application for examination for journeyman or master license shall be made on forms provided by the development services division and shall be accompanied by payment of the appropriate application fee. Applications for examination shall be made to the development services director prior to the scheduled examination date. In addition, each applicant for examination shall be responsible for paying the cost of the exam to the testing agency designated in K.S.A. 12-1509, 12-1542 and 12-1526. All applicants for trade examinations shall achieve a score of at least seventy-five percent (75%) for any of the trade examinations. There shall be no alternate education requirement for the trade examinations.

(b) All plumbing, mechanical, electrical and water softener/conditioner, lawn irrigation contractors licensed pursuant to this division shall display or post the required license in their place of business. All master and journeyman tradepersons shall carry their licenses on their persons and exhibit the license on the demand of the inspector, his assistants or any officer of the city

(c) MASTER.

(1) To become a licensed master an individual shall meet the current requirements found in K.S.A. 12-1509, and any amendments thereto, relating to

743 plumbing contractor; K.S.A. 12-1542, and any amendments thereto, relating to
744 mechanical contractor; and K.S.A. 12-1526, and any amendments thereto,
745 relating to electrical contractor. The requirements to become a licensed master
746 in the water softener/conditioner area within the plumbing trade shall be a
747 minimum of one year of experience as a licensed journeyman within the water
748 softener/conditioner trade and pass the water softener/conditioner masters
749 examination issued by the City of Topeka. To become a licensed master in the
750 lawn irrigation area within the plumbing trade, a person must work as a
751 journeyman for two years within the lawn irrigation area within the plumbing trade
752 and pass the master's examination. The requirement to become a licensed
753 master in the solid fuel burning appliance in the mechanical trade shall pass the
754 fireplace/hearth certificate exam and the gas hearth appliance certificate exam
755 approved by the development services director. A master license holder shall be
756 responsible to oversee all work activity to assure compliance with applicable
757 codes and must have direct contact with the job site.

758 (2) A master shall be limited to that work which falls within the master's
759 trade or specialty area within that trade for which he or she is licensed.

760 (3) Continuing Education.

761 a. Individuals possessing a master's license in plumbing,
762 mechanical and electrical trades shall be required to meet the continuing
763 education requirements set forth in K.S.A. 12-1509, and any amendments
764 thereto, relating to plumbing contractor; K.S.A. 12-1542, and any
765 amendments thereto, relating to mechanical contractor; and K.S.A. 12-

1526 to renew their respective license(s). The continuing education courses may be provided by the local jurisdiction, a nationally recognized trade organization, a product manufacturer or other sources deemed acceptable to the development services director. Individuals holding multiple masters' licenses shall be required to obtain statutory continuing education hours for each license held; however, course work which applies to more than one category of license may count towards the continuing education requirement for each such license.

b. An individual with an expired or an inactive master's license shall be required to provide proof of six (6) hours of continuing education credits for each year such license was expired or inactive in order to reactivate the license. However, in the event the master's license was expired or inactive for a two year period or longer, only twelve (12) hours of continuing education credit will be required for reactivation.

(d) JOURNEYMAN.

(1) To become a licensed journeyman in the plumbing, electrical and mechanical trades an individual shall meet the current requirements found in K.S.A. 12-1509, and any amendments thereto, relating to plumbing contractor; K.S.A. 12-1542, and any amendments thereto, relating to mechanical contractor; and K.S.A. 12-1526, and any amendments thereto, relating to electrical contractor. To become a licensed journeyman in the lawn irrigation trade a person must work as an apprentice for one year within the trade. Work experience shall be verified by previous and current employers on forms

provided by the development services division.

(2) For the purposes of the mechanical trade only, a journeyman license is categorized as follows:

a. Comprehensive, all items covered by the Code.

b. Sheet metal journeyman, limited to perform the following types of installation:

1. The placement and installation of the furnace, air conditioning or other air handling equipment. This does not include any connections of the line voltage electricity, fuel gas piping or refrigeration piping.

2. The installation of the complete air distribution system.

3. The installation of the products of combustion venting system.

(3) Continuing Education.

a. Individuals possessing a journeyman's license in the plumbing, mechanical and electrical trades shall be required to meet the continuing education requirements set forth in K.S.A. 12-1509, and any amendments thereto, relating to plumbing trade license; K.S.A. 12-1542, and any amendments thereto, relating to mechanical trade license; and K.S.A. 12-1526, and any amendments thereto, relating to electrical trade license to renew their respective license(s). The continuing education courses may be provided by the local jurisdiction, a nationally recognized

trade organization, a product manufacturer or other sources deemed acceptable to the development services director. Individuals holding multiple journeymen's licenses shall be required to obtain the statutory requirements for continuing education hours for each license held; however, coursework which applies to more than one category of license may count towards the continuing education requirement for each such license.

b. An individual with an expired or an inactive journeyman's license shall be required to provide proof of six (6) hours of continuing education credits for each year such license was expired or inactive in order to reactivate the license. However, in the event the journeyman's license was expired or inactive for a two year period or longer, only twelve (12) hours of continuing education credit will be required for reactivation.

(e) APPRENTICE.

(1) An apprentice is an individual who is registered with the development services division as working within the trades of electrical, mechanical, plumbing and lawn irrigation. The working ratio for licensed journeyman or master to registered apprentice shall be one to one, except the mechanical and lawn irrigation trades, wherein the ratio shall be one licensed journeyman or master to two registered apprentices.

Section 28. That Chapter 30, Article XV of The Code of the City of Topeka, Kansas, is hereby amended to by adding a section, to be numbered 30-528, which said section reads as follows:

Utility firms exempt.

Any utility company doing business under a franchise with the city shall not be required to secure a license when engaged in the performance of duties, obligations or rights conferred upon such utility by the franchise. The employees and agents of the utility shall comply with the requirements of this article in all respects when engaged in work subject to the applicable plumbing or electrical code adopted by the city.

Section 29. That Chapter 30, Article XV of The Code of the City of Topeka, Kansas, is hereby amended to by adding a section, to be numbered 30-529, which said section reads as follows:

Grandfather provisions for certain mechanical licenses.

(a) Any individual who as of the effective date of this ordinance has a current master mechanical license or journeyman mechanical license issued by the city may renew the license in the category in which the current license was issued. The categories of license are as follows:

(1) Comprehensive, all items covered by Code.

(2) Combination warm heating system/air conditioning systems, including duct work and ventilation.

(3) Refrigeration.

(4) Boilers.

(5) Commercial hoods.

(6) Factory-built solid fuel burning appliances.

There shall be no further issuance of new licenses for the mechanical trade by subcategories, except as outlined in parts (b) and (c) of this section.

(b) Individuals wanting a master's license for factory-built solid fuel or gas fireplace hearth appliances shall have passed both an approved fireplace hearth certification exam and a gas hearth appliance certification exam. Only those examinations developed by an independent, nationally recognized testing or educational institution and approved by the development services director will be accepted.

(c) Individuals wanting a sheet metal journeyman's license shall make application for that subcategory exam as given by an independent, nationally recognized testing agency approved by the development services director.

Section 30. That Chapter 30, Article XV of The Code of the City of Topeka, Kansas, is hereby amended to by adding a section, to be numbered 30-530, which said section reads as follows:

Display of all contractor's licenses and business names.

(a) All contractors licensed pursuant to this code shall display or post the required license in their place of business. All licensed masters and journeymen shall carry their licenses on their persons and exhibit the license on the demand of the inspector, his assistants or any officer of the city.

(b) The name of contractor or his or her business name shall be displayed on any work or service vehicle operated by the contractor or his or her employees during the course of business operations. The name of the contractor or his or her business shall be posted on each side of the service or work vehicle by paint, decal or magnet in letters and or numbers not less than two (2) inches high.

Section 31. That Chapter 30, Article XV of The Code of the City of Topeka,

Kansas, is hereby amended to by adding a section, to be numbered 30-531, which said section reads as follows:

Boards.

(a) Boards for each trade created.

There is hereby created a board for each of the licensed trades: Board of electrical appeals, Board of plumbing appeals, and Board of mechanical appeals. Such boards shall have five (5) members and shall be comprised of two (2) masters licensed in the particular trade, two (2) journeymen licensed in the particular trade, and an engineer, practicing in the particular trade, appointed in accordance with City of Topeka Code § 2-181 and Charter Ordinance codified at § A2-72. Provided however the two (2) positions designated to be filled by journeymen may be filled by licensed journeymen, licensed masters, or engineers practicing in that particular trade. The purpose of the boards shall be to hear appeals from administrative decisions and upon request from the administration to review applicants in accordance with this Article.

(b) Terms of members.

The terms of office for the members of the trade licensing boards shall be two years

(c) Chairpersons.

The chairpersons of the trade licensing boards shall be selected by a majority vote of the members thereof.

(d) Licensing authority.

The board shall have the final authority to determine the experience and competency to take the examination for the for the particular license. The development services director shall review all initial applications prior to testing to determine eligibility

and shall notify the applicant of the test results within seven working days after receipt of the test results. Any appeals from the licensing determination of the development services director shall be made to the board.

(e) Authority to hear appeals, permit exceptions and grant variances or waivers.

(1) The board shall have authority to hear and determine appeals from interpretations or other determinations by the development services director of the code.

(2) The board shall also have the authority to grant exceptions, variances or waivers from the code provisions in cases or situations which meet the purpose and intent of the code. An exception, variance or waiver shall only be granted in those situations that will not endanger life or limb, health, property, or public welfare. All requests for appeals from interpretation of the code by the development services director, exceptions, variances or waivers shall be written. Such application shall be accompanied by a full written explanation of the rationale and reasoning for such request.

(3) Procedure for appeal and granting exceptions, variances or waivers shall be in accordance with City Code § 2-486, et seq. Provided however, appeals under this article shall be to the board and not to a hearing officer. Further, the decision of the board shall constitute the final determination by the city.

(f) Authority to suspend or revoke license.

(1) The board shall be empowered to suspend a license for infractions

927 including but not limited to the following:

928 a. Failure to obtain a permit prior to initiating work on the
929 project.

930 b. Creating a hazardous situation which endangers life and/or
931 property.

932 c. Failure to correct a written violation notice within the allotted
933 time.

934 (2) The board shall be empowered to revoke a license for infractions
935 including but not limited to the following:

936 a. Loaning of his license to another individual or company.

937 b. Creating a hazardous situation which endangers life and/or
938 property.

939 c. Subsequent violations of failure to obtain a permit prior to
940 initiating work on the project, creating a hazardous situation which
941 endangers life and/or property, or failure to correct written violation
942 notice within the allotted time after having been previously
943 suspended for such violation.

944 (3) The development services director shall send written notice to the
945 license holder setting forth the alleged infraction(s) and setting forth a time and
946 place at which the proposed suspension or revocation will be heard by the board.
947 Procedure for administrative hearings related to suspension or revocation shall
948 be in accordance with City Code § 2-486, et seq. to the extent applicable.
949 Provided however, appeals under this article shall be to the board and not to a

950 hearing officer. Further, the decision of the board shall constitute the final
951 determination by the city. During the course of suspension or revocation, all
952 work shall cease except that work necessary to correct a hazardous situation or
953 correct a written violation notice.

954 Section 32. This ordinance shall take effect and be in force from and after its
955 passage, approval and publication in the official City newspaper.

956 PASSED AND APPROVED by the City Council _____.

957
958 CITY OF TOPEKA, KANSAS
959

960
961
962 _____
963 William W. Buntin, Mayor

964 ATTEST:

965
966
967 _____
968 Brenda Younger, City Clerk
969



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 21, 2009

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

DATE: November 3, 2009
CONTACT PERSON: Jim Langford and Braxton Copley **DOCUMENT #:**
SECOND PARTY/SUBJECT: Downtown Topeka Inc **PROJECT #:**
CATEGORY/SUBCATEGORY 007 Contracts and Amendments / 018 Other
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

APPROVAL of an agreement between the City of Topeka and Downtown Topeka Incorporated for the Downtown Topeka Redevelopment Incentive Grant Program for 2009.

(Approval of the master agreement would establish the parameters for the evaluation of grant applications and award of incentive grant funds.)

POLICY ISSUE:

Whether to approve the contract as presented.

STAFF RECOMMENDATION:

Approve the contract.

BACKGROUND:

The City of Topeka has provided downtown development grants administered by Downtown Topeka, Inc. (DTI) for several years. This establishes the master agreement between the City and DTI to administer the Downtown Redevelopment Incentive Grant program. The contract outlines the process used by the Grant Review Committee of DTI; how the City will provide the grant funds; provides for a 5% administrative fee to DTI to be paid from the grant funds; requires a financial review to be done each year by an independent licensed accountant; and provides for the ability to audit documents and financial relating to the grant program.

BUDGETARY IMPACT:

\$125,000 appropriated in the 2009 Adopted Budget.

SOURCE OF FUNDING:

General Fund

ATTACHMENTS:

Item #11

[Contract](#)

[Grant Participation Agreement](#)

[Grant Exhibit A](#)

CITY OF TOPEKA CONTRACT NO. _____

THIS AGREEMENT entered into this _____ day of _____, 2009,
by and between the City of Topeka, Kansas, a duly organized municipal corporation
hereinafter referred to as the "City" and Downtown Topeka, Inc., hereinafter referred to
as "DTI."

WHEREAS, the City has contracted with DTI to promote the development of the
downtown central business district, specifically defined by the boundaries of the
Downtown Topeka Business Improvement District (BID), for seven of the past eight
years beginning in 2001 and wishes to proceed with Phase VIII as part of the Downtown
Topeka Redevelopment Incentive Grant Program, and the City desires that DTI provide
assistance in the award of incentive grants for this program for the current year; and

WHEREAS, DTI in cooperation with the City's Business Improvement District
(BID) advisory board has appointed a committee known as the Grant Review
Committee consisting of three members of DTI's board of directors and three members
of the BID advisory board; and

WHEREAS, the Grant Review Committee has the responsibility to review grant
applications and award grants; and

WHEREAS, the City and DTI desire to enter into a contractual relationship
establishing the parameters for the evaluation of grant applications and award of
incentive grant funds.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS
CONTAINED HEREIN THE PARTIES AGREE AS FOLLOWS:

1. The City agrees, subject to the terms and conditions contained in this

Agreement, to provide total funding from the City's general fund in the amount of one hundred twenty-five thousand dollars (\$125,000.00) to DTI, hereinafter referred to as "Grant Funds", for the purpose of assisting with Phase VIII of the Downtown Topeka Redevelopment Incentive Grant Program as outlined in the Application and Guidelines which are attached hereto as Exhibit A and incorporated by reference as if fully set forth herein. The parties agree that the City initially shall retain all Grant Funds approved by the City Council in its 2009 budget and shall establish a special project or account for the Grant Funds. The City will distribute funds to DTI pursuant to this Agreement as Grant Funds are awarded by the Grant Review Committee to each grant recipient and after DTI has obtained a grant agreement executed by the grant recipient. Upon receipt of such funds, DTI will distribute monies to the grant recipients only when DTI is satisfied that all conditions of the grant agreement are satisfied. No Grant Funds will be distributed until such time as DTI provides the City evidence that all previous downtown redevelopment incentive grants distributed by the City of Topeka have either been awarded or returned to the City, except for funds awarded to grant recipients whose projects have not been completed and to whom funds have not yet been paid.

2. The term of this Agreement shall commence with its execution and end on December 31, 2009, it being understood that this Agreement will be extended in order to pay grants for projects which have been approved prior to December 31, 2009, from Grant Funds previously authorized by the City. This Agreement may be extended by written agreement of the parties for successive one (1) year periods; provided, however, in no event will DTI authorize grants which exceed the authorized Grant Funds without the express approval of the City.

3. Applications for Grant Funds shall be evaluated by the Grant Review Committee, pursuant to the criteria contained in Exhibit A. Following its evaluation, the Grant Review Committee will make the grant award and DTI shall require the grant recipient to execute a grant agreement in substantially the same form as Exhibit B, which is attached hereto and incorporated herein by reference as if fully set forth herein. DTI shall have the responsibility to provide staffing for the Grant Review Committee, to review all grant awards and grant agreements and to take reasonable steps to ensure all grants are awarded and paid consistent with the provisions of this Agreement.

4. While nothing in this Agreement shall prohibit the award of grants to business and property owners in the downtown central business district who are also directors, officers or members of DTI or the BID Advisory Board, DTI shall establish procedures which require full disclosure of any such relationship and shall administer the program to ensure that no preferential treatment is given to any such applicants. DTI shall implement the following safeguards and procedures to be followed by DTI and the Grant Review Committee in reviewing each application:

a. Any applicant for a downtown redevelopment grant shall disclose fully any relationship between the applicant and either DTI or the City of Topeka or any of its boards or agencies.

b. Grant applications will be considered in the order that they are submitted to DTI, and DTI shall advise the Grant Review Committee of the order of each application. In the event that an application fails to provide information which is material and necessary for consideration by the Grant Review Committee, such application shall be returned to the applicant for completion,

and such application will not be considered submitted until all such deficiencies are corrected.

c. DTI shall ensure that each applicant provides thorough documentation to allow for convenient tracking of grant proceeds so that DTI and an independent licensed accountant can easily identify the nature of each expenditure of the applicant's funds as well as the Grant Funds required for each project.

d. Should any director, officer or member of DTI or the BID Advisory Board make application for Grant Funds, such person shall not take part in any discussions with other directors and officers or with any other member of the Grant Review Committee regarding the application and shall abstain from any vote on any such application.

5. The applications for Grant Funds shall be submitted to and maintained by DTI. Upon request by the City, DTI will provide copies of application materials to the City Manager or designee. DTI will also require and maintain appropriate documentation which describes the proposed use of the Grant Funds, the nature of the project to be funded and the benefit to the City's downtown redevelopment.

6. DTI shall provide financial and program reports in the form and manner specified by the City. All program reports and correspondence regarding any provision of this Agreement shall be directed to the City Manager or designee. The City Manager or designee shall have the right, upon reasonable notice, to inspect the books and records in DTI's possession relating to the Redevelopment Incentive Grant Program.

7. The parties agree that the City shall have the right and authority to either terminate or suspend this Agreement and to reduce payments to DTI at any time during the term or authorized extension of this Agreement for the reasons and in the manner hereafter provided:

a. If the Grant Funds are being used improperly by DTI as a result of malfeasance, fraud, theft, embezzlement or the misappropriation of funds or other such unjustified and wrongful acts committed by DTI, its agents, employees, officers, directors or members, then the City, after reasonable investigation, may terminate this Agreement by delivering written notice of termination to DTI, and, upon DTI's receipt thereof, all rights of DTI hereunder shall terminate immediately and all unawarded funds remaining in DTI's possession shall be returned forthwith to the City.

b. If the Grant Funds are being used improperly by a *bona fide* grant recipient as a result of malfeasance, fraud, theft, embezzlement or misappropriation of funds or other such unjustified and wrongful acts committed by such grant recipient, its agents, employees, officers, directors or owners, then the City, after reasonable investigation, may suspend this Agreement by delivering a written notice of suspension to DTI, and, upon DTI's receipt thereof, all rights of DTI hereunder shall be suspended immediately until DTI provides evidence to the City that DTI has taken every reasonable step to correct such improper use of Grant Funds, and, if the City is satisfied with DTI's response, the City shall reinstate this Agreement within ten (10) days after receipt of such response. If DTI fails to take action satisfactory to the City to correct the

improper use of Grant Funds by a grant recipient, then the City may terminate this Agreement under the procedures in Paragraph 7a above.

c. If DTI breaches this Agreement by failing to adhere to the provisions hereof or by administering the Agreement in a manner which gives the City cause to believe that Grant Program is not fulfilling the objectives intended by the parties, then the City shall deliver notice to DTI specifying each such breach and directing DTI to suspend all further activity performing under this Agreement and awarding Grant Funds hereunder; such suspension shall continue until such time as DTI satisfies the City that DTI has cured any such breach, provided that DTI shall take such corrective action within thirty (30) days upon receipt of such notice, and if DTI has failed to remedy such breach within such thirty (30) day period, the City may terminate this Agreement under the procedures provided in Paragraph 7a above.

d. If, after appropriating funds for the Grant Program, the City determines that DTI has either not taken steps to implement the Grant Program or has not taken sufficient action to distribute the appropriated funds according to the terms of this Agreement, the City shall have the right to terminate this Agreement by delivering to DTI advance written notice ninety (90) days prior to such termination and providing to DTI an opportunity within those ninety (90) days to submit an explanation to the City for such inaction and to submit a plan for fulfilling the purpose of this Agreement and the distribution of the funds appropriated herein. The City shall review this explanation and plan, and if the City reasonably determines that the Grant Program should continue, then the

parties will proceed to operate under this Agreement according to the terms of such plan. If, after a reasonable review of this plan, the City determines that DTI is unable to fulfill the terms of this Agreement, or if DTI fails to provide the City with an acceptable plan, then the City may terminate this Agreement under the procedures provided in Paragraph 7a above.

8. DTI agrees and understands that if there are not sufficient funds appropriated or available for the City to continue to make grant payments hereunder, the City may terminate this Agreement with written notice of termination to DTI at least thirty (30) days prior to the date specified to terminate this Agreement. This Agreement shall not be construed as requiring the City to appropriate Grant Funds in future years.

9. DTI shall annually provide a report by an independent licensed accountant of grant awards and disbursements of Grant Funds. Said accountant report shall be in a form acceptable to the City of Topeka Director of Finance and Budget and shall be forwarded to the City immediately upon receipt from the licensed accountant. The cost of the accountant's report shall be paid out of Grant Funds. Provided, however, the total amount of grants awarded by the Grant Review Committee, administrative fees and accountant review fees shall not exceed the total grant amount specified in Paragraph 1. .

10. In carrying out the terms and provisions of this Agreement, DTI shall treat applicants for funding equally and fairly without regard to race, religion, creed, color, sex, disability, familial status, national origin, ancestry, or age. All solicitations or advertisements seeking applications for funding, placed by or on behalf of DTI, shall state the following:

a. All qualified applicants shall receive consideration for funding without regard to race, color, religion, sex, age, disability or national origin.

b. The funding is furnished in whole or in part by the City.

c. No monies appropriated may be assigned by an applicant or used for any purpose contrary to that set forth in the application.

11. All meetings of the Grant Review Committee relating to grant selection and award shall be open meetings. The City Manager, any member of the City Council and the public at large may attend any of Grant Review Committee's meetings. The City Manager shall be provided prior notice of meetings and copies of the official minutes of said meetings.

12. DTI shall be entitled to an amount equal to five percent (5%) of the total grant amount specified in Paragraph 1 as its fee for administering the Grant Funds. This fee will be paid to DTI out of the appropriated funds in no more than four (4) periodic installments during the fiscal year for which the Grant Funds were appropriated. The fee shall be compensation for administering the grant award program described herein and shall be used by DTI to help pay its overhead and other administrative expenses. In no event shall the total amount of the administrative fee and the grants awarded by the Grant Review Committee exceed the total amount of Grant Funds appropriated by the Council as set forth in Paragraph 1.

13. This Agreement may only be amended by mutual, written agreement of the parties.

14. DTI is an independent contractor of the City, and not an officer, agent, servant or employee of the City. Nothing in this Agreement shall be considered to

create the relationship of employer and employee or master/servant between the parties hereto. All persons engaged in work on behalf of DTI shall be subject to the direction of DTI and shall not be considered to be employees of the City.

15. This Agreement constitutes the entire agreement of the parties and supersedes any and all prior oral or written agreements between the parties. Neither party shall rely upon any verbal representations, either express or implied, not specifically stated herein. This Agreement shall not be amended, modified, or assigned except by written agreement of both parties.

16. None of the monies funded by the City to DTI or the recipients of Grant Funds shall be assigned.

17. DTI shall hold harmless and indemnify the City, and its agents or employees from any and all liability for claims or causes of action of any person, firm or corporation or of any entity for damages that might be sustained or are alleged to be sustained directly arising from breach of this Agreement or the negligent or intentional acts or omissions of DTI, its employees or agents, or the Grant Review Committee.

18. Additionally, DTI will, in awarding Grant Funds pursuant to this Agreement, require that the grant recipients it recommends be compliant with Topeka City Resolution No. 7580 that requires contracting parties to not be indebted to the City, and that the agencies and organizations be current on their property taxes.

19. By signing this Agreement, DTI representative thereby represents that he or she is duly authorized by the organization to execute this Agreement on behalf of DTI, and that DTI agrees to be bound by the provisions of this Agreement.

IN WITNESS WHEREOF, the parties have hereto executed this Agreement as of
the day and year first above written.

CITY OF TOPEKA, KANSAS

Norton N. Bonaparte, Jr., City Manager

ATTEST:

Brenda Younger, City Clerk

DOWNTOWN TOPEKA, INC.



Mark Kossler, Board President

APPROVED AS TO FORM AND LEGALITY

DATE _____ BY _____

Grant Participation Agreement

This Agreement, entered on this _____ day of _____, 20____, by and between **Downtown Topeka, Inc.**, 515 South Kansas Avenue, Topeka, Kansas 66603, a corporation duly organized under the laws of the State of Kansas (“DTI”), and, _____, _____, Topeka, Kansas, (“Grantee”) provides for good and valuable consideration to each party, the adequacy of which hereby is acknowledged by both parties.

WHEREAS, the City of Topeka authorized and appropriated Grant Funds as part of the Phase _____ Implementation of the Downtown Topeka Redevelopment Incentive Grant Program (“Grant Program”) for the purpose of promoting the development of the downtown business district, and

WHEREAS, the City of Topeka desires that the Grant Funds described above be distributed to qualified new and existing businesses in downtown Topeka as provided in City of Topeka Contract No. _____, and

WHEREAS, the City of Topeka requested that DTI develop a program of administering and granting redevelopment funds (“Grant Funds”) to qualified businesses, and DTI has undertaken to do so, and

WHEREAS, DTI has developed certain Program Criteria for the Downtown Topeka Redevelopment Incentive Grant Program as contained in the “Description of the Application Process” and the “Grant Application” both of which are attached hereto (“Program Criteria”), and

WHEREAS, DTI has established a “Grant Review Committee” to review grant applications, recommend the award of grants to qualified applicants, and recommend extensions and make other decisions necessary to administer the Grant Program, and

WHEREAS, Grantee has submitted a Grant Application, and Grantee has been selected by the Grant Review Committee as a recipient of Grant Funds in an amount not to exceed \$_____, conditioned upon Grantee’s adherence to the Program Criteria and the provisions of this Agreement.

NOW THEREFORE, DTI and Grantee hereby agree as follows:

1. DTI hereby grants to Grantee a sum not to exceed \$_____ to be disbursed to and used by Grantee as specified in this Agreement and as outlined in Grantee’s Grant Application received by DTI on _____ and approved as of _____ (hereinafter described as the “Project”).
2. Grant Funds shall be disbursed on the basis of reimbursement for qualifying expenditures made by Grantee. Grantee shall supply copies of invoices and checks or other proof of payment of those invoices showing in detail the nature of each expenditure and specifying how each expenditure applies to the Project. DTI shall have sole discretion in determining the amount of reimbursement of invoices submitted based on DTI’s evaluation of Grantee’s progress in completing the approved Project it being understood that the total reimbursement shall not exceed the amount approved by the Grant Review Committee and allowed under the Program Criteria.

3. Grantee acknowledges the Program Criteria attached to this Agreement, and agrees to also be bound thereby.
4. The term of this Agreement shall be for a period of one year from the date hereof or until such time as the Project is complete and the Grant Funds have been disbursed to Grantee, whichever occurs first. In the event Grantee needs additional time beyond the maximum one year term of this Agreement, Grantee shall make application to DTI for an extension, and DTI shall have the sole discretion of whether or not to extend the term. In the event this Agreement terminates prior to Grantee's receipt of all of the Grant Funds authorized in Paragraph No. 1 above, and no extension has been granted, Grantee's grant shall lapse, and neither DTI nor the City of Topeka shall have any further responsibility to pay over to Grantee any additional Grant Funds authorized by this Agreement.
5. As a specific condition for the receipt of the grant specified in Paragraph No. 1 above, Grantee agrees to complete the Project.
6. As a specific condition for the payment of any Grant Funds from DTI to Grantee, Grantee must return a completed Topeka and Shawnee County Treasury Information Request Form to be provided by DTI to verify that neither the Grantee nor the property owner, if different, owe any delinquent real estate, personal property or Business Improvement District taxes.
7. As set forth in the Program Criteria, Grantee shall ensure that all of the work done on the Project is performed by Grantee or under Grantee's supervision. All personnel engaged in the work shall be authorized under state and local law to perform such work.
8. Grantee shall not unlawfully discriminate against any employee, applicant for employment, recipient of service or applicant to receive services because of race, color, religion, sex, age, disability, national origin or other status protected by federal or state law or City ordinance.
9. As set forth in the Program Criteria, Grantee shall be required to provide proof that all contractors retained to work on the Project have proper insurance including general liability insurance and workers compensation insurance as required by state law.
10. As a specific condition for the payment of Grant Funds from DTI to Grantee, Grantee acknowledges that it must operate the business improved by the Grant Funds disbursed for the Project for three years. Should Grantee fail to do so for the minimum 3-year period, Grantee shall be required to reimburse to DTI the full amount of the grant awarded herein. However, DTI shall have the discretion to reduce the amount required to be reimbursed by Grantee, in part or in whole, depending upon the permanency of improvements made by Grantee in downtown property.
11. As a specific condition to accepting the Grant Funds described herein, Grantee shall, within a period of 30 days from the date of this Agreement, demonstrate measurable progress to initiate completion of the improvements described in Grantee's Grant Application, the sufficiency of which shall be determined at the sole discretion of DTI.

Grantee may apply to DTI for an extension of this 30-day period. However, if Grantee has not demonstrated significant, measurable progress within 90 days from the date of this Agreement and no extension has been granted, the grant provided herein may be revoked, and any Grant Funds paid to Grantee as provided herein shall be refunded immediately by Grantee to DTI.

12. Grantee acknowledges and agrees that DTI shall have final authority over all provisions of the Agreement, and there shall be no appeal by Grantee to the City of Topeka or any other governmental or non-governmental entity.
13. Grantee has previously disclosed to DTI any relationship between the Grantee and any director, officer or member of DTI, the Business Improvement District Advisory Board, the City of Topeka or any of its boards or agencies. Neither Grantee, nor any of its employees or contractors will be considered as employees or contractors of the City of Topeka or of DTI in the completion of the Project described herein.
14. Grantee acknowledges and agrees that DTI reserves the right to amend and modify any Program Criteria applicable to future grants, provided that the amendment of such criteria shall have no direct bearing on the grant described herein or Grantee's obligations set forth herein.
15. As a specific condition to accepting the Grant Funds described herein, Grantee shall allow DTI reasonable access to the location of the improvements for the purpose of inspection, verification of work, program promotion or public relations while Grant Funds are being expended on the Project. If such access is required outside of ordinary business hours, reasonable notification will be given to Grantee. In the event of the Grantee's failure to provide reasonable access as required by this Agreement or Grantee's failure to comply with any other requirement of this Agreement, DTI may revoke the Grant in whole or in part.

Downtown Topeka, Inc.

By: _____
Susan Mahoney
Executive Director

By: _____

Date signed: _____

Downtown Topeka Redevelopment Incentive Grant Program

Description of the Application Process

**Administered by Downtown Topeka, Inc.
(for and on behalf of the City of Topeka)**

Introduction

The Downtown Topeka Redevelopment Incentive Grant Program is a financial incentive that is designed to encourage residential and commercial improvements of buildings for future use in the Capital City Business Improvement District. Grants are awarded as reimbursement for actual monies spent up to the limits provided below. Grant applications will be considered on a first come, first serve basis according to the date and time of application until funds are exhausted. The amount of funds available may change during the duration of this program. Funding for this program is provided by the City of Topeka and administered by Downtown Topeka, Inc. Applications will be reviewed by the Downtown Topeka Redevelopment Grant Committee (Grant Committee). The Grant Committee consists of members appointed by Downtown Topeka, Inc. and by the Downtown Topeka Business Improvement District Advisory Board.

Eligible Applicants

Any person who owns or leases real property located in the Program Boundaries described below is eligible to apply for grants to improve real estate (the Project) under Grant Program. Such person or persons (including tenants and owners of real estate) hereafter will be denoted as Applicant. However, if the Applicant does not have an ownership interest in the real property other than that of a tenant, then the owner of the property must join in the application and execute all documents required here for grant approval.

Guidelines and Limitations

For residential units, grants will be limited to 25% of the Project costs up to a maximum of \$10,000 for each residential unit. Further, no more than three grants for residential units will be allowed for each individual building project or address. The Grant Committee reserves the right to determine if the Project is subject to this limitation. For commercial project, grants will be limited to 25% of the Project costs up to a maximum of \$50,000 per project or address. The Grant Committee reserves the right to determine if the Project is subject to this limitation.

The Grant Committee, in its discretion, may allow the funding of certain building improvements and may disallow certain building improvements submitted in an application depending on its evaluation of the condition of the property and the effect of the proposed improvements on the surrounding area.

Generally, applications for grants must be submitted and approved before the Applicant commences work on the Project. However, the Grant Committee may approve grant funding for a part or all of an ongoing project provided the application is submitted at least 30 days before the Project is completed.

*Funding for this program is provided by the City of Topeka and administered by
Downtown Topeka, Inc.*

This Grant Program will be administered as a reimbursement program unless the Grant Committee approves a different procedure. Generally, grant payments will be made upon receipt from the Applicant of an application for payment itemizing the improvements for which reimbursement is requested.

An Applicant whose Project includes a commercial business and who have received grants must remain in business at the property where grant money was invested for a minimum period of three years in order to complete the Applicant's eligibility. An Applicant whose Project includes a residential living unit must make every reasonable effort to rent the unit, and until doing so, must maintain the unit in good, tenantable condition and available for occupancy at reasonable rental rates during this 3-year period. If an Applicant fails to comply with this 3-year requirement, the Applicant will be required to reimburse the City of Topeka for the full amount of all grants received for the Project.

This program is not intended to award grants for maintenance of existing businesses unless specifically approved by the Grant Committee.

Program Boundaries

The Grant Program is offered for redevelopment projects within the Capital City Business Improvement District (BID), which is bound by the intersection of Southwest 12th Street and the alley between Topeka Boulevard and Tyler Street, thence northerly in a meander along the alley between Topeka Boulevard and Tyler Street to its intersection with Southwest 2nd Street, thence easterly along Southwest 2nd Street to its intersection with South Kansas Avenue, thence northerly along South Kansas Avenue and North Kansas Avenue to its intersection with the Kansas River, thence easterly in a meander along the river to its intersection with Adams Street extended, thence southerly along Adams Street to its intersection with the Missouri Pacific Railroad right-of-way, thence southwesterly to its intersection with Southeast 13th Street, thence westerly in a meander along Southeast 13th Street and Southwest 13th Street to its intersection with Southwest Jackson Street, thence northerly along Southwest Jackson Street to its intersection with Southwest 12th Street, thence westerly along Southwest 12th to the point of beginning.

Basic Eligibility Requirements

- To be eligible for the Grant Program, the building renovations and site improvements must be permanent in nature.
- The Grant Committee will generally not approve projects for routine on-going building maintenance (including roof repairs) to buildings, which contain operating business operations and those, which are fully occupied. However, the Grant Committee will consider applications for façade repair or replacement in buildings, which either contain on-going businesses or otherwise are occupied. In no event will the Grant Committee approve grants for personal property, furniture, trade fixtures or equipment such as kitchen

equipment, and the Grant Committee will have the discretion to determine if certain fixtures and trade fixtures are considered eligible for grant funding.

- Other items may be allowed at the discretion of the Grant Committee.
- No application will be approved and no Applicant will be eligible to receive grant funds unless all Shawnee County real estate, personal property or Business Improvement District taxes associated with the property to be improved are current as of the date the grant payments are made, and the Applicant has no other outstanding obligations to the City of Topeka.

Other Requirements:

- Generally, applications must be submitted before work on the Project is started. The Grant Committee will have the discretion to review an application and award a grant after construction has begun, provided the application is submitted no later than 30 days before the end of construction.
- Applicants whose Project includes a commercial business and who have received grants must remain in business at the property where grant money was invested for a minimum period of three years in order to complete the Applicant's eligibility. Applicants whose Project includes a residential living unit must make every reasonable effort to rent the unit, and until doing so, must maintain the unit in good, tenantable condition and available for occupancy at reasonable rental rates during this 3-year period. If an Applicant fails to comply with this 3-year requirement, the Applicant will be required to reimburse the City of Topeka for the full amount of all grants received for the Project.
- An Applicant who is awarded a grant from this program will have 30 days from the date the grant is awarded to agree to the terms and conditions of the program, demonstrate his or her financial capability to complete the project and sign a Grant Participation Contract. This deadline may be extended by the Grant Committee upon written request of the Applicant.
- If a business or building owner agrees to accept the incentive grant, the Applicant is required to demonstrate measurable progress toward completion of the renovation within 30 days from the date of the Grant Participation Contract is fully executed by all parties. If no significant progress of the renovation can be demonstrated by the 90th day following the date of full execution of this contract, the grant may be revoked, unless suitable arrangements have been made and approved by the Grant Committee.
-
- Applicants must provide proof that all contractors retained to work on the project have appropriate licenses and insurance including general liability and workers compensation insurance.
- Grant applicant must sign and comply with the terms of the ADA Compliance Certification (see attached sheet).

- Any departure from the criteria set forth in this Grant Program description must be approved by the Grant Committee and ratified by the Downtown Topeka, Inc. Executive Committee.

Downtown Topeka Redevelopment Incentive Grant Program Grant Application

1. State the name, address, and telephone number of the applying entity and, if different, of the owner of the real property to be improved.

Provide the name(s) of the applying entity's representatives and any other financial guarantors of the Project and their addresses and telephone numbers if different from above.

2. Provide background information about the applicant and guarantors, including development experience, if any, and all other relevant information the Grant Committee may need to consider while reviewing the application. Describe the corporate or partnership structure as applicable.

3. Briefly describe the proposed Project. Include in this section:

- a) Intended usage.
- b) Economic and environmental impact.
- c) The square footage of the building / land area to be renovated.
- d) All other information needed to fully explain the project.
- e) Attach architectural plans and renderings and any available history on the subject.

4. State the marketing plans for the project identifying the intended market. What types of lessees are anticipated? How much time is expected before full occupancy is achieved, and who will manage the project?

5. State the location of the proposed project by street address and legal description and indicate the following:

- a) Name the property owner at the time of application submittal.
- b) If the Applicant does not presently own the property, does the Applicant have a written consent of property owner to do the project?
- c) Describe any and all existing financing, options and liens on the property.

6. Provide an estimate of the total project cost broken down by general categories (e.g., land, building, equipment, soft costs, specialty costs, etc.). Where possible provide actual bids for these components. This will provide the Grant Committee an estimate of the total investment being made in the project. Next, provide a list of items eligible for grant funds, the cost of these items and the amount of grant funding requested for each item. Be sure and apply the appropriate percentage of reimbursement depending on the geographical location of the project.

7. State the source of financing for the Project including any loans and equity being contributed. Provide the name of the lender and the amount of loans requested for the Project.

8. State the proposed time schedule for the project including the dates anticipated for the following:

- a) Closing of the loan or contributing financing availability.
- b) First expenditure of funds with regard to the project.
- c) Anticipated date construction will begin.
- d) Anticipated completion date.
- e) Building Permits and permission of Landmarks Commission if necessary.

9. Name any of the following professionals who will be involved with the project (with address and phone numbers):

- a) Legal counsel for the Applicant
- b) Architects and engineers
- c) Contractor for project
- d) Other professionals

10. Please disclose whether any applicant, guarantor or any other person involved with the project is currently engaged in any civil or criminal proceeding. Also disclose whether any individual involved with the project has ever been charged or convicted of any felony or currently is under indictment. Please supply detailed information.

11. Attach the following:

- a) Photos of current conditions.
- b) Photos of all exposed elevations.
- c) Existing floor plan.
- d) Bids containing itemized pricing for all phases of proposed renovation.

12. Are any permanent jobs anticipated as a result of the Project?

13. Has any portion of the project been leased or currently under lease? If so, what is the income from the lease and to whom is the property leased?

The following statement must be included along with a dated signature of the applicant or applicant's representatives.

This application is made in order to induce the Grant Committee to grant financial incentives to the Applicant. The Applicant hereby represents that all statements contained herein are true and correct. Failure to disclose may be grounds for revocation of grant and full repayment of any grant funds expended. All information materially significant to the Grant Committee in its consideration of the application is included. The Applicant acknowledges that it has reviewed the descriptions of the Grant Program for which it is applying and agrees to comply with those policies.

Applicant Signature

Date

ADA Compliance Certification

As a grant recipient of the Downtown Redevelopment Incentive Grant Program funded by the City of Topeka, Applicant understands and agrees to comply with Title II of the Americans with Disabilities Act (ADA) and the implementing regulations 28 C.R.F. Part 35, depending on the scope of the Project. This will be reviewed with Applicant during the planning and permit process with the City of Topeka. Recipient also understands that any subcontractors must also comply with the ADA provisions. If at any time during the term of the grant the city determines the recipient is not in compliance, 30-days written notice of non-compliance will be provided. If after that notice the recipient is not in compliance, the grant will terminate and no further funds will be disbursed.

Questions regarding this should be directed to:

City of Topeka
Public Works Department
Attn: ADA Coordinator
620 SE Madison
Topeka, KS 66607

The undersigned hereby certifies that Applicant has read the ADA requirements set forth above and will comply with these requirements as a condition to the receipt of grant funds under this Program recipient complies with the ADA as described above.

Signature

Date

SCORE SHEET SUMMARY (Office Use Only)

Documentation Attached:

- Intended Usage
- Economic Impact
- Bids for proposed renovation
- Signed lease or proof of ownership
- Signed grant application form

CRITERIA	AMOUNT	NOTES
Primary Use:		
Secondary Use:		
Location:		
Total Applicant Investment:		
Economic Impact:		
Total Amount of Grant Awarded:		

Grant Program Highlights and Facts

May 8, 2006

- Through the years 2001, 2002, 2003 and 2005, the city invested \$1,150,000.00 into the grant program.
- That \$1.15 million has produced a return of \$9,548,142 million in private investment.
- Property valuations have increased an average of 73.73% in grants awarded in 2005.
- 27 new residential places have been created directly tied to the grant program.
- 19 new projects for dining, entertainment and retail appropriate space.
- 10 new offices
- 8 roof, façade and sidewalk projects
- Grants are awarded for infrastructure improvements only.
- 100% of monies given by the city go to grants.

Additional notes:

On the spread sheet, those showing either no increase or a small increase were probably not completed at the time they did the valuation and will show up next year. Or, they were completed before 2005 and the increase valuation was reflected in a previous year.

This spreadsheet is tied only to grants awarded, however other benefits can be directly tied to it, such as the construction of Room 302 at the Palace. Last year it had no valuation and this year it is valued at \$243,800. These should continue to increase as more condo's are built.



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 19, 2009

+ Back Print

DATE: November 3, 2009
CONTACT PERSON: JIM LANGFORD/KEJ **DOCUMENT #:**
SECOND PARTY/SUBJECT: WEEKLY EXPENDITURES **PROJECT #:**
CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of October 12, 2009, through October 18, 2009, and enumerating said expenditures therein. First and Final Reading.

POLICY ISSUE:

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

STAFF RECOMMENDATION:

Adopt as presented.

BACKGROUND:

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

BUDGETARY IMPACT:

Approves expenditures for the period October 12, 2009 through October 18, 2009, in the amount of \$352,016.89.

SOURCE OF FUNDING:

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

ATTACHMENTS:

[Ordinance](#)

[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 October 12, 2009, through October 18, 2009, 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 55 vendor checks written in this period	\$16,847.20
	Total vendor checks voided in this period (net)	(1,056.76)
	Total electronic transfers to vendors in this period	336,226.45
	Total net payroll to employees this period	000,000.00
	Total payroll related electronic transfers this period	<u>000,000.00</u>
	Total for expenditures in this period	<u>\$352,016.89</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

RECEIVED
CITY CLERK

2009 OCT 19 P 12: 26

TOPEKA, KANSAS

PREPARED 10/19/2009, 9:37:24				A/P CHECKS BY PERIOD AND YEAR				PAGE 1	
PROGRAM: GM3501SPCL				FROM 10/12/2009 TO 10/18/2009				*ALL*	
City of Topeka									
CHECK DATE	CHECK NUMBER	VENDOR NAME	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	BANK CODE	CHECK AMOUNT
ACCOUNT #									TRN AMOUNT
10/16/2009	666994	AAA ALLIED GROUP INC		1115210					770.00
101-1820-520.29-00		MISCELLANEOUS SERVICES		257972		555081	10/2009		38.50
101-1820-520.29-00		MISCELLANEOUS SERVICES		258005		555081	10/2009		38.50
101-1820-520.29-00		MISCELLANEOUS SERVICES		258252		555081	10/2009		38.50
101-1820-520.29-00		MISCELLANEOUS SERVICES		258253		555081	10/2009		38.50
101-1820-520.29-00		MISCELLANEOUS SERVICES		257776		555081	10/2009		38.50
101-1820-520.29-00		MISCELLANEOUS SERVICES		257777		555081	10/2009		38.50
101-1820-520.29-00		MISCELLANEOUS SERVICES		257918		555081	10/2009		38.50
101-1820-520.29-00		MISCELLANEOUS SERVICES		258254		555081	10/2009		38.50
101-1820-520.29-00		MISCELLANEOUS SERVICES		257730		555081	10/2009		38.50
101-1820-520.29-00		MISCELLANEOUS SERVICES		257919		555081	10/2009		38.50
101-1820-520.29-00		MISCELLANEOUS SERVICES		257973		555081	10/2009		38.50
101-1820-520.29-00		MISCELLANEOUS SERVICES		258008		555081	10/2009		38.50
101-1820-520.29-00		MISCELLANEOUS SERVICES		258122		555081	10/2009		38.50
101-1820-520.29-00		MISCELLANEOUS SERVICES		258160		555081	10/2009		38.50
101-1820-520.29-00		MISCELLANEOUS SERVICES		257549		555081	10/2009		38.50
101-1820-520.29-00		MISCELLANEOUS SERVICES		257717		555081	10/2009		38.50
101-1820-520.29-00		MISCELLANEOUS SERVICES		257772		555081	10/2009		38.50
101-1820-520.29-00		MISCELLANEOUS SERVICES		258108		555081	10/2009		38.50
101-1820-520.29-00		MISCELLANEOUS SERVICES		258251		555081	10/2009		38.50
101-1820-520.29-00		MISCELLANEOUS SERVICES		258126		555086	10/2009		38.50
614-0435-510.99-99		AUTO & TRUCK MAINT. ITEMS							
10/16/2009	666993	AAA ALLIED GROUP INC		1115210					.00
614-0435-510.99-99		AUTO & TRUCK MAINT. ITEMS		258126		555086	10/2009		.00
10/16/2009	666992	AAA ALLIED GROUP INC		1115210					.00
614-0435-510.99-99		AUTO & TRUCK MAINT. ITEMS		258126		555086	10/2009		.00
10/16/2009	666991	AAA ALLIED GROUP INC		1115210					.00
614-0435-510.99-99		AUTO & TRUCK MAINT. ITEMS		258126		555086	10/2009		.00
10/16/2009	666995	ALEX J HARRINGTON		88					2.33
621-0000-221.10-10		OVERPAYMENT REFUND		HARRINGTON ALEX			10/2009		2.33
10/16/2009	666996	CONFIDENTIAL-HIPAA REG		13					126.00
530-0000-227.00-00		MUNI COURT OVERPMT (BOND)		HIPPA REG			10/2009		126.00
10/16/2009	666997	AUDREY M LEE		88					57.16
621-0000-221.10-10		OVERPAYMENT REFUND		LEE AUDREY M			10/2009		57.16
10/16/2009	666998	BELFOR USA GROUP		88					28.00
621-0000-221.10-10		OVERPAYMENT REFUND		BELFOR USA GROU			10/2009		28.00
10/16/2009	666999	CONFIDENTIAL-HIPAA REG		13					500.00
530-0000-227.00-00		MUNI COURT OVERPMT (BOND)		HIPPA REG			10/2009		500.00
10/16/2009	667000	BRIDGESTONE FIRESTONE NORTH		1006114					95.00
614-0435-510.99-99		AUTO & TRUCK MAINT. ITEMS		6297		555096	10/2009		95.00
10/13/2009	666989	BURNS BURNS WALSH & WALSH PA		9004887					745.10
501-0000-227.72-00		GOGIAN CASE# 091004684		GOGIAN BRANDON			10/2009		276.55

PREPARED 10/19/2009, 9:37:24				A/P CHECKS BY PERIOD AND YEAR				PAGE 3	
PROGRAM: GM350LSPLC City of Topeka				FROM 10/12/2009 TO 10/18/2009				*ALL*	
CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	DESCRIPTION	INVOICE	PO #	PER/YEAR	BANK CODE	CHECK AMOUNT
ACCOUNT #	TRN DATE	TRN AMOUNT							
10/16/2009 667016	KANSAS DEPT OF REVENUE	1110407							4,463.52
265-4191-540.32-01	09/30/2009	HELEN HOCKER THEATER		SEPTEMBER 2009		F36365	10/2009		70.40
265-4195-540.32-01	09/30/2009	WARD MEADE		SEPTEMBER 2009		F36365	10/2009		289.34
265-4181-540.32-01	09/30/2009	TRAIN/CAROUSEL ADMISSIONS		SEPTEMBER 2009		F36365	10/2009		1,055.80
265-4231-540.32-01	09/30/2009	POOL CONCESSION		SEPTEMBER 2009		F36365	10/2009		12.17
265-4231-540.32-01	09/30/2009	FELKER PARK CONCESSIONS		SEPTEMBER 2009		F36365	10/2009		199.46
265-4232-540.32-01	09/30/2009	TRAIN/CAROUSEL CONCESSION		SEPTEMBER 2009		F36365	10/2009		201.42
265-4012-540.32-01	09/30/2009	BANDSHELL RENTAL		SEPTEMBER 2009		F36365	10/2009		17.33
268-4046-540.32-01	09/30/2009	MONTHLY SALES TAX-ZOO		SEPT 2009		F36382	10/2009		2,617.60
10/16/2009 667015	KANSAS DEPT OF REVENUE	1110407							.00
268-4046-540.32-01	09/30/2009	MONTHLY SALES TAX-ZOO		SEPT 2009		F36382	10/2009		.00
10/16/2009 667018	KANSAS GAS SERVICE INC	1114963							1,283.13
101-2010-520.20-02	09/30/2009	FIRE/FLEET		100310191 AUG09			10/2009		52.23
101-2030-520.20-02	09/30/2009	FIRE/FLEET		100310191 AUG09			10/2009		897.96
614-0435-510.20-02	09/30/2009	FIRE/FLEET		100310191 AUG09			10/2009		17.12
101-1820-520.20-02	10/05/2009	CODE COMPLIANCE		100310145 AUG09			10/2009		56.22
686-2185-572.20-02	10/01/2009	WATER POLLUTION CONTROL		100310164 AUG09			10/2009		155.43
265-4136-540.20-02	10/02/2009	RECREATION CENTER		155014700 SEP09			10/2009		25.34
686-2170-571.20-02	10/01/2009	WATER POLLUTION CONTROL		100310164 AUG09			10/2009		78.83
10/16/2009 667017	KANSAS GAS SERVICE INC	1114963							.00
686-2170-571.20-02	10/01/2009	WATER POLLUTION CONTROL		100310164 AUG09			10/2009		.00
10/16/2009 667019	CONFIDENTIAL-HIPAA REG	13							25.00
101-0000-227.83-00	10/07/2009	PARTIAL RESTITUTION		HIPPA REG			10/2009		25.00
10/16/2009 667020	CONFIDENTIAL-HIPAA REG	13							25.00
101-0000-227.83-00	10/07/2009	PARTIAL RESTITUTION		HIPPA REG			10/2009		25.00
10/16/2009 667021	CONFIDENTIAL-HIPAA REG	13							100.00
530-0000-227.00-00	10/06/2009	MUNI COURT OVERPMT (BOND)		HIPPA REG			10/2009		100.00
10/16/2009 667022	CONFIDENTIAL-HIPAA REG	13							359.00
530-0000-227.00-00	10/08/2009	MUNI COURT OVERPMT (BOND)		HIPPA REG			10/2009		359.00
10/16/2009 667023	CONFIDENTIAL-HIPAA REG	13							100.00
101-0000-227.83-00	10/07/2009	PARTIAL RESTITUTION		HIPPA REG			10/2009		100.00
10/16/2009 667024	CONFIDENTIAL-HIPAA REG	13							100.00
101-0000-227.83-00	10/07/2009	PARTIAL RESTITUTION		HIPPA REG			10/2009		100.00
10/16/2009 667025	LEWIS TOYOTA	44							50.00
265-0000-227.40-00	09/28/2009	BALL DIAMOND DEPOSIT		LEWIS TOYOTA			10/2009		50.00
10/16/2009 667026	LORENA JUAREZ	44							50.00
265-0000-227.40-00	09/28/2009	SHELTER HOUSE DEPOSIT		JUAREZ LORENA			10/2009		50.00
10/16/2009 667027	MACVICAR 21 APARTMENTS	5001566							506.00
750-6565-560.28-90	10/08/2009	DEPOSIT		SHELTER & CARE		F36400	10/2009		200.00

PREPARED 10/19/2009, 9:37:24				A/P CHECKS BY PERIOD AND YEAR				PAGE	5
PROGRAM: GM350LSPCL				FROM 10/12/2009 TO 10/18/2009				BANK CODE	
City of Topeka								*ALL*	
CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN	CHECK AMOUNT
ACCOUNT #									
10/16/2009	667043	SILVIA DONALD	44	SHELTER HOUSE DEPOSIT	DONALD SILVIA		10/2009		50.00
265-0000-227.40-00		09/28/2009							50.00
10/16/2009	667044	STACEY A HOWELL	88	OVERPAYMENT REFUND	HOWELL STACEY A		10/2009		130.65
621-0000-221.10-10		10/07/2009							130.65
10/16/2009	667045	UNITED WAY OF GREATER TOPEKA	44	SHELTER HOUSE DEPOSIT	UNITED WAY OF G		10/2009		50.00
265-0000-227.40-00		10/05/2009							50.00
10/16/2009	667046	CONFIDENTIAL-HIPAA REG	13	PARTIAL RESTITUTION	HIPPA REG		10/2009		25.00
101-0000-227.83-00		10/07/2009							25.00
10/16/2009	667047	CONFIDENTIAL-HIPAA REG	13	PARTIAL RESTITUTION	HIPPA REG		10/2009		25.00
101-0000-227.83-00		10/07/2009							25.00
10/16/2009	667048	WIBW AM/FM RADIO	44	SHELTER HOUSE DEPOSIT	WIBW AM/FM RADI		10/2009		50.00
265-0000-227.40-00		10/06/2009							50.00
NUMBER OF CHECKS-	55			DATE RANGE TOTAL *					16,847.20 *



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 16, 2009

+ Back Print

DATE: November 3, 2009

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

SECOND PARTY/SUBJECT: B. Kent Garlinghouse **PROJECT #:** CU09/4

CATEGORY/SUBCATEGORY 020 Resolutions / 001 Special Permits

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., in accordance with Section 48-4.02(c)(6) of the Code of the City of Topeka, approving a Conditional Use Permit to allow for a cultural facility on property currently zoned "R-1" Single Family Dwelling District and located at SW 10th Street and Rock Garden Drive (SW corner of Gage Park) in the City of Topeka, Kansas. (CU09/4) (Council District No. 9)

Voting Requirement: Majority vote of the Governing Body, including the Mayor.

(Approval would allow use of the site for the Kansas Children's Discovery Center cultural facility.)

POLICY ISSUE:

Request is consistent with the land use principles of the Comprehensive Plan. See attached Planning Commission and minutes for a detailed discussion of the issues.

STAFF RECOMMENDATION:

The Planning Commission recommended this proposal be conditionally **APPROVED** by a vote of **5-2-0** at their **September 28, 2009** meeting as referenced in their attached minutes. The Planning Department recommended that this request be **APPROVED** as referenced in the attached staff report dated September 21, 2009.

BACKGROUND:

- See Staff Report.

Governing Body options:

- **Adopt** the recommendation of the Planning Commission by Resolution (6 votes);
- **Override** the Planning Commission's recommendation by a two-thirds majority (7 votes) of the Governing Body membership; or,
- **Return** such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove.

Item #13

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Resolution](#)

[Staff Report](#)

[Aerial](#)

[Aerial](#)

[Zoning Map](#)

[Application 5 pages](#)

[Site Plan](#)

[Planning Commission Minutes](#)

RESOLUTION _____

CONDITIONAL USE PERMIT

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr. in accordance with Section 48-4.02(c)(6) of the Code of the City of Topeka, approving a Conditional Use Permit to allow for a cultural facility on property currently zoned "R-1" Single Family Dwelling District and located at SW 10th Street and Rock Garden Drive (SW corner of Gage Park) in the City of Topeka, Kansas. **(CU09/4) (Council District No. 9)**

BE IT RESOLVED by the Governing Body of the City of Topeka, Kansas, that the application of City of Topeka under the provisions of Section 48-4.02(c)(6) of the Code of the City of Topeka, approving a Conditional Use Permit to allow for a cultural facility on property currently zoned "R-1" Single Family Dwelling District and located at SW 10th Street and Rock Garden Drive (SW corner of Gage Park) in the City of Topeka, Kansas and legally described as follows:

A tract of land in Lots K and J, Westlake, According to the recorded plat thereof, in the City of Topeka, Shawnee County, Kansas, described as follows:

Begin at the southwest corner of said Lot K; thence on an assumed north azimuth of 359 degrees 38 minutes 17 seconds, 587.25 feet along the west line of said Lots K and J; thence on azimuth 89 degrees 52 minutes 47 seconds, 679.69 feet; thence on azimuth 180 degrees 37 minutes 08 seconds, 579.81 feet to the south line of said Lot K; thence on azimuth 269 degrees 13 minutes 36 seconds, 516.99 feet along said south line; thence on azimuth 269 degrees 16 minutes 52 seconds, 152.79 feet along said south line to the point of beginning.

The above described tract contains 9.04 acres, more or less.

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

- 1. Use and development of the site in accordance with the approved Conditional Use Permit site plan for Kansas Children's Discovery Center.**

ADOPTED AND APPROVED by the Governing Body of the City of Topeka, _____, 2009.

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

September 21, 2009
Agenda Item #E-2

CONDITIONAL USE PERMIT REPORT

TOPEKA PLANNING DEPARTMENT

CASE NO: CU09/4 Kansas Children's Discovery Center

by: B. Kent Garlinghouse

PROPOSAL: Requesting a Conditional Use Permit "CUP" to establish a *Cultural Facility*, on property currently zoned "R-1" Single-Family Dwelling District.

LOCATION: A tract of land at the northeast corner of SW 10th Avenue and SW Winchester Drive being bound on the north by SW Conservatory Drive and on the east by SW Rock Garden Drive.

PRESENT USE: The area comprises approximately 9.04 acres with the northeast portion of the subject property having historically, (60+ years), been used as a model airplane takeoff and landing area with the remainder of the site being the vacant southwest corner of the Gage Park complex.

PROPOSED USE: In accordance with Section 48-4.02(c)(6) of the Comprehensive Zoning Regulations, the applicant seeks a Conditional Use Permit to operate a *cultural facility* on the site to be known as the Kansas Children's Discovery Center. The Kansas Children's Discovery Center web site states: *"The Discovery Center will be about discovery and exploration. Children learn best by "doing" in a hands-on environment. The Discovery Center will be colorful, magical and fun, with a primary focus of education. Exhibit areas will emphasize math, science and the arts, encouraging both critical and creative thinking, as well as promoting physical and gross-motor activity. With programming and exhibits that align with the Kansas curriculum objectives, the Discovery Center will be a resource for educators and provide an economical field trip for students in northeast Kansas. The Discovery Center's educational exhibit areas will create an immersive environment filled with opportunities for a variety of unique learning experiences."*

CHARACTER OF NEIGHBORHOOD: The character of the neighborhood is a mix of public and residential uses, as the site comprises the extreme southwest corner of the 160+ acre Gage Park complex. Gage Park is "the" primary urban park facility within the City of Topeka and is home to the Topeka Zoo and the Blaisdell Pool and Aquatic Center. The site is located east of the Mount Calvary Cemetery and north, across SW 10th Street, (arterial), from the McFarland Farm Subdivision which is a single-family residential subdivision.

September 21, 2009
Agenda Item #E-2

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	"R-1" Single-Family Dwelling District	Gage Park
South:	"R-1" Single-Family Dwelling District	Residential
	"PUD" ("R-1" use group)	Residential
East:	"R-1" Single-Family Dwelling District	Gage Park
West:	"R-1" Single-Family Dwelling District	Mount Calvary Cemetery

GUIDELINES FOR EVALUATION: In considering an application for a conditional use permit, the Planning Commission and Governing Body will give consideration to the following criteria in order to protect the integrity and character of the zoning district in which the proposed use is located; and to minimize adverse effects on surrounding properties and neighborhoods. All conditional use permit applications shall be evaluated in accordance with the guidelines established in Section 48-25 of the City of Topeka, Comprehensive Zoning Regulations.

1. **The conformance of the proposed use to the Comprehensive Plan and other adopted planning policies:** The site's present classification is consistent with the established pattern of zoning and land use in this area. The *Comprehensive Plan* designates this area for *Parks and Open Space* land use. The proposed cultural facility is permitted by conditional use permit under both the current "R-1" Single-Family Dwelling District zoning classification of the property and the *Comprehensive Plan's* future land use designation for the area as *Parks and Open Space*. Use of the site for a children's cultural facility to promote a child's development across a broad spectrum of recreational and educational experiences by providing a fun hands-on environment is seen as commensurate with one of the main purposes for which Parks are established.
2. **The character of the neighborhood including but not limited to: land use, zoning, density, architectural style, building materials, height, structural mass, sitting, open space and floor-to area ratio:** The neighborhood consists of a mixture of public and residential uses consisting of a public park, cemetery, low density residential, and some commercial uses to the east. The proposed facility is to be positioned internally to the sight and will be not have a great visual impact upon the adjacent areas located outside the park to the south or west. The architectural style proposed for the structure promotes and projects an atmosphere of discovery with its sloping roof design and glass curtain walls. The outdoor education exhibits will make use of the wooded landscape through interconnecting paths between exhibits. The center is viewed as being another exciting attraction and asset provided by the Gage Park complex to the people of the community and surrounding areas.
3. **The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning and uses:** The area within close proximity is a mixture of uses ranging from public to residential. With exception of the area to the south across SW 10th Street and the cemetery adjacent to the west, the area has for the last 100-years been developed predominately as a public park. The proposed use as conditioned is not expected to adversely

September 21, 2009
Agenda Item #E-2

affect any of the surrounding uses with exception of the existing on-site model airplane landing area and is otherwise anticipated to blend nicely within the established park setting.

4. **The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations:** The site's present classification is consistent with the established pattern of zoning and land uses in the area and is therefore viewed as being suitable for the uses to which it has been restricted.
5. **The length of time the property has remained vacant as zoned:** The area has remained virtually unimproved during the Park's existence with exception of the model airplane landing area, which has been in use for the last 60+ years located in the northeast corner of the site. The interior portion of the site, (screened by the tree cover), has in recent years served as a depository, (composting), site for organic matter generated by the zoo.
6. **The extent to which the approval of the application would detrimentally affect nearby properties:** The operating characteristics of the cultural facility are not anticipated to have any detrimental effects on surrounding properties or the neighborhood character with the exception of the fact that the functionality of the model airplane landing area will be greatly diminished. The facility's hours of operation will be from 9:00 a.m. to 5:00 p.m. which is within the time frame the Park is normally open to the public and therefore, the facility should be complementary with the Park's general operation.
7. **The extent to which the proposed use would substantially harm the value of nearby properties:** Although the site plan indicates the model airplane landing area is to remain, the functionality of the landing area will be greatly diminished. However, with the implementation of staff recommended changes to the proposed site plan, effects on the value of other nearby properties and uses should be mitigated. As previously indicated the proposed cultural facility should act as an enhancement to the existing park facilities and attractions.
8. **The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property:** Parking requirements call for 53 spaces with the proposal indicating 76 spaces are to be provided onsite, therefore, parking should be adequate. Staff recommends that pursuant to Section 48-30.01(b)(5) additional screening be provided along the south side of the south parking lot in order to mitigate any possible adverse impact automobile headlights might have on properties south of the subject site. No adverse affects are anticipated provided staff's recommendations are implemented.
9. **The extent to which the proposed use would create excessive air pollution, water pollution, noise pollution or other environmental harm:** None anticipated.
10. **The economic impact of the proposed use on the community:** A positive economic impact to the community is anticipated.

September 21, 2009
Agenda Item #E-2

11. **The gain, if any, to the public health, safety and welfare due to denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application:** There appears to be no particular public gain in respect to health, safety and welfare by denying the requested application providing staff recommendations are implemented.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

Application: **Complete**

Minimum Lot Area: **Compliant.**

Setbacks: **Compliant.**

Platting: **Compliant** – Westlake Subdivision.

CONCERNS OF STAFF AND REVIEWING AGENCIES: All essential public utilities, services and facilities are presently available to the site and will not be overburdened by this proposal. This request has been submitted to all applicable reviewing agency staff for consideration and comment. No significant issues or concerns, (other than those stated herein), were expressed by reviewing staff relative to code compliance or the provisions of public services.

ADDITIONAL FACTORS:

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

STAFF RECOMMENDATION:

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

1. Use and development of the site in accordance with the site development plan approved by the Planning Commission.
2. Under GENERAL NOTES add the following: *"The total parking spaces required based on a 15,900 square foot facility at a ratio of 1 space per 300 S.F is 53 spaces, the total number of parking spaces proposed is 76."*
3. Under GENERAL NOTES note #4 is to read as follows: *"Pedestrian sidewalk connections shall be provided from off street parking areas to facility entrance, per the site plan. Future sidewalk connections will be made by the City of Topeka Parks Department."*

September 21, 2009
Agenda Item #E-2

4. On the LANDSCAPE PLAN sheet under NOTES add the following: *"Pursuant to Section 48-30.01(b)(5) of the Comprehensive Zoning Regulations appropriate parking lot screening is to be provided along the south side of the south parking lot."*

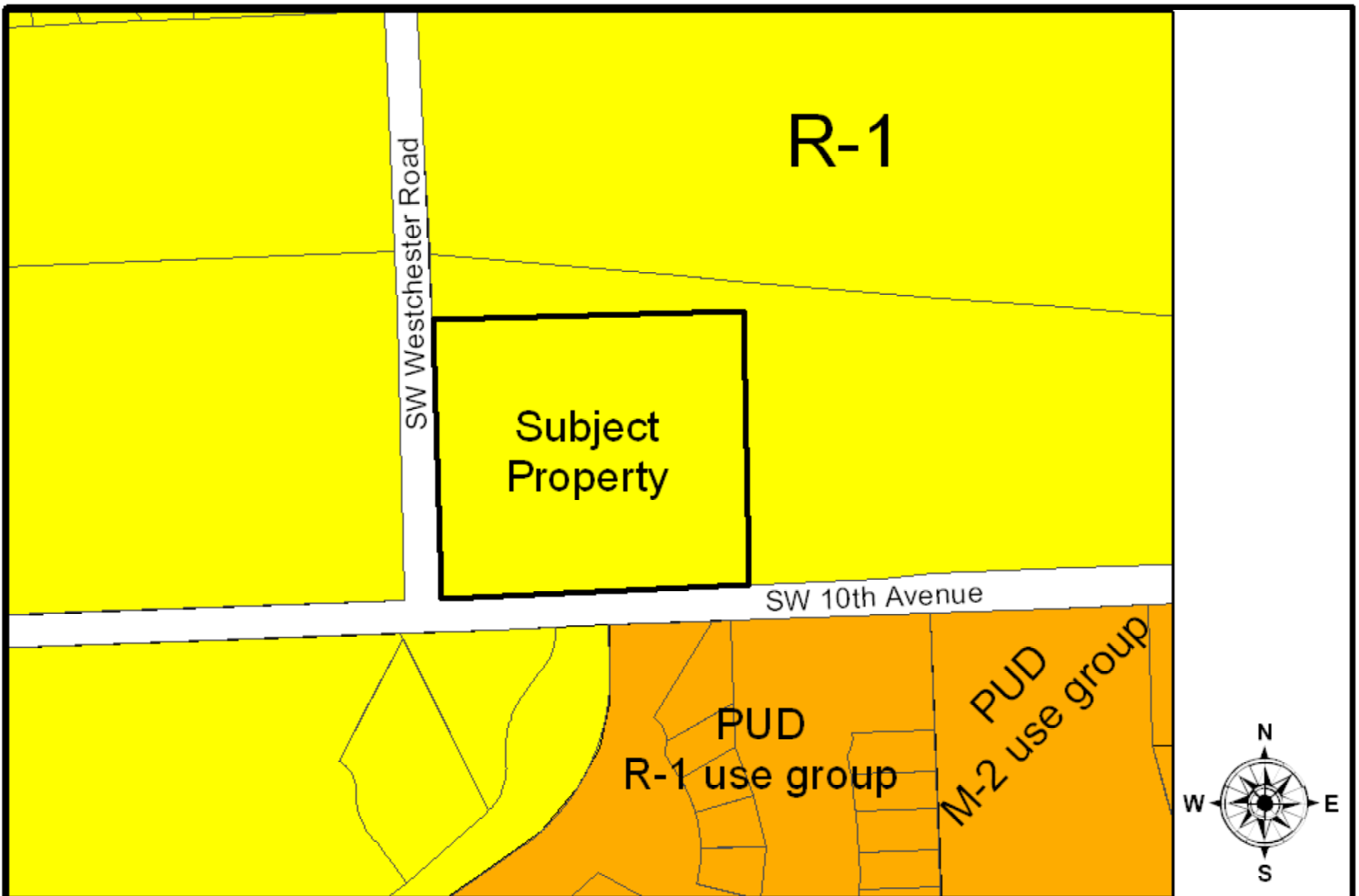
Prepared by: Dean W. Diediker
Planner II



CU09/4 Kansas Children's Discovery Center
by B. Kent Garlinghouse



CU09/4 Kansas Children's Discovery Center
by B. Kent Garlinghouse



CU09/4 Kansas Children's Discovery Center
by B. Kent Garlinghouse



Zoning Application Form

(including PUDs and CUPs)

City of Topeka Planning Department
620 SE Madison, 3rd Floor (Unit #11)
Topeka, KS 66607-1118
Phone 785-368-3728 Fax 785-368-2535
www.topeka.org/planning

Applicant Information

Property Owner(s): City of Topeka, Kansas

(Note: Site is owned by the city and leased to the developer)

Street Address: 620 S.E. Madison

City: Topeka State: KS Zip: 66603 E-mail: _____

Work phone: 785-368-3838 Home phone: _____ Fax: 785-368-3980

Authorized Owner Representative (if any): B. Kent Garlinghouse

Kansas Children's Discovery Center, Inc.

Street Address: 3601 SW 29th Street, Suite 250

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

Work phone: 785-273-3990 Home phone: _____ Fax: 785-273-6503

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

Gould Evans Associates

Street Address: 706 Massachusetts Street

City: Lawrence State: KS Zip: 66044 E-mail: _____

Work phone: 785-842-3800 Home phone: _____ Fax: 785-842-3830

Authorization

I (we) am (are) the owner(s) of record for the subject property and hereby authorize filing of this application and any agent listed in this application to represent the owner(s). I (we) allow posting of signage on the property by the City of Topeka for the requested zoning change. I (we) declare that all submitted information is complete and accurate. I (we) hereby acknowledge that all zoning application procedures have been reviewed and understood as part of this submittal.

Owner 1 Name: [Signature]

Owner 1 Signature: Terry L. BENTLEY Date: 8/19/09

Owner 2 Name: _____

Owner 2 Signature: _____ Date: _____

Requested Action and Site Information

Address or Location of Property to be Re-Zoned: SW 10th Street and Rock Garden Drive - SW corner of Gage Park

Legal Description of Property*: lot(s) _____ block _____ subdivision Attached - Appendix A

lot(s) _____ block _____ subdivision _____

*if unplatted, attach metes and bounds description

Total Area (acres/square feet): 9.04 Acres

Type of Application:

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

2. Planned Unit Development (PUD) zoning use group(s): _____

3. Conditional Use Permit (CUP) proposed use: Children's Discovery Center

Existing Use(s) on the property: model plane flying facility and vacant land

How long has the existing use been active on the property? n/a

Proposed Use(s), if known (please describe to ensure conformity to the proposed zoning):

Kansas Children's Discovery Center - an educational facility for children that includes a new building and related site development with interactive exhibits, and new surface parking.

Was a Pre-Application Meeting or Zoning Inquiry completed with Staff? yes If Yes, when? 7/23/2009

FOR OFFICE USE ONLY

Date submitted: 8/7/09

Application no.: CU09/4

Filing fee: 700⁰⁰ Receipt no.: 11948

Date notice sent: 8/28/09

Date advertised: 8/28/09

Date of hearing: 9/21/09

Council district: #9

NIA/NA: none

Items Missing? Yes ___ No ___ List any incomplete items:

Applicant Justification

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 or proposed conditional use is appropriate. Please attach additional sheets if necessary.

1. **How is the land more suitable for the uses allowed under your proposed zoning vs. the uses allowed under the current zoning?**

The proposed park site is suitable for the proposed use with either zoning. The City of Topeka requires a C.U.P. for a cultural facility of this type.

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

This site, and most of the adjacent land, is public park land. The proposed use is ideal for a public park, and will have no negative impacts on surrounding properties.

3. **If known, how does the proposed zoning conform to the City's Comprehensive Plan?**

Because the zoning (R-1) doesn't change, and because the proposed facility is for public use, this proposal is consistent with the City's Comprehensive Plan.

Real Property Tax Status

As part of the official application for a zoning amendment, the Zoning Regulations of the City of Topeka require:

"Proof that all real property taxes are paid to date and are current for the subject property. In the event real property taxes including any special assessments are delinquent, the application shall not be scheduled for public hearing until such time all taxes are paid or satisfactory escrow arrangements for the payment of such taxes or special assessment have been made and presented to the City Attorney's Office for approval."

There are two ways to provide proof with this application:

1. Submit a copy of the property's tax status found on-line at the Shawnee County Appraiser's web-site (<http://www.co.shawnee.ks.us/Apl/>). Click on "residential search" or "commercial search", input the address, and follow the links to the property's tax information. Print off the Shawnee County Treasurer's page indicating the amount of any unpaid property tax.

OR

2. Complete the information below at the Shawnee County Register of Deeds and the Shawnee County Treasurer for verification of real property tax/special assessment status. Both offices must sign the form below for it to be complete. The Register of Deeds and Treasurer of Shawnee County, Kansas, are located in the Shawnee County Courthouse, 200 S.E. 7th Street, Topeka, Kansas, Rooms 108 and 101, respectively

Applicant

Property Address: SW 10th Street and Rock Garden Drive - NW corner of Gage Park

Owner of Record Name(s): City of Topeka, Kansas

(Note: Site is owned by the city and leased to the developer)

Legal Description: attached - Appendix A

Shawnee County Register of Deeds

Property Identification Number (PIN): _____

X _____
Shawnee County Register of Deeds

Date

Shawnee County Treasurer

As of this date, I hereby certify that the real property tax liabilities and special assessments applicable to the property described and identified above, to be of the following status:

Paid in Full _____ Current _____ Delinquent _____ In Dispute _____ Exempt _____

X _____
Shawnee County Treasurer

Date

City property exempt.
A. M. ... Planning.
8/1/09

Infrastructure Availability (optional)

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

1. Water

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

There is an existing 18" DIP water main along the north side of 10th St. A proposed 10" or 12" main extension is planned to tee from this 18" main to service the proposed site.

- b. Does the current system have adequate capacity?

Yes.

2. Sanitary Sewer

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

Currently there is a sanitary sewer main located north of our project site. The main will need to be extended approximately 600'. The extension will require the installation of three (3) 5' manholes.

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

The current system does have adequate capacity, but its location is not accessible from the proposed site and therefore will need to be extended. The main extension will be approximately 600' and will include three (3) 5' manholes.

3. Storm Drainage

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

The storm water run-off will be partially collected on site utilizing three bio-swales. The remaining and uncollected water will be deposited to an existing storm water ditch located to the south and the east of the site. The water will exit the site from the southeast corner.

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

Per city requirements, it will be necessary to examine culvert at the southeast corner of the site to ensure it has sufficient capacity.

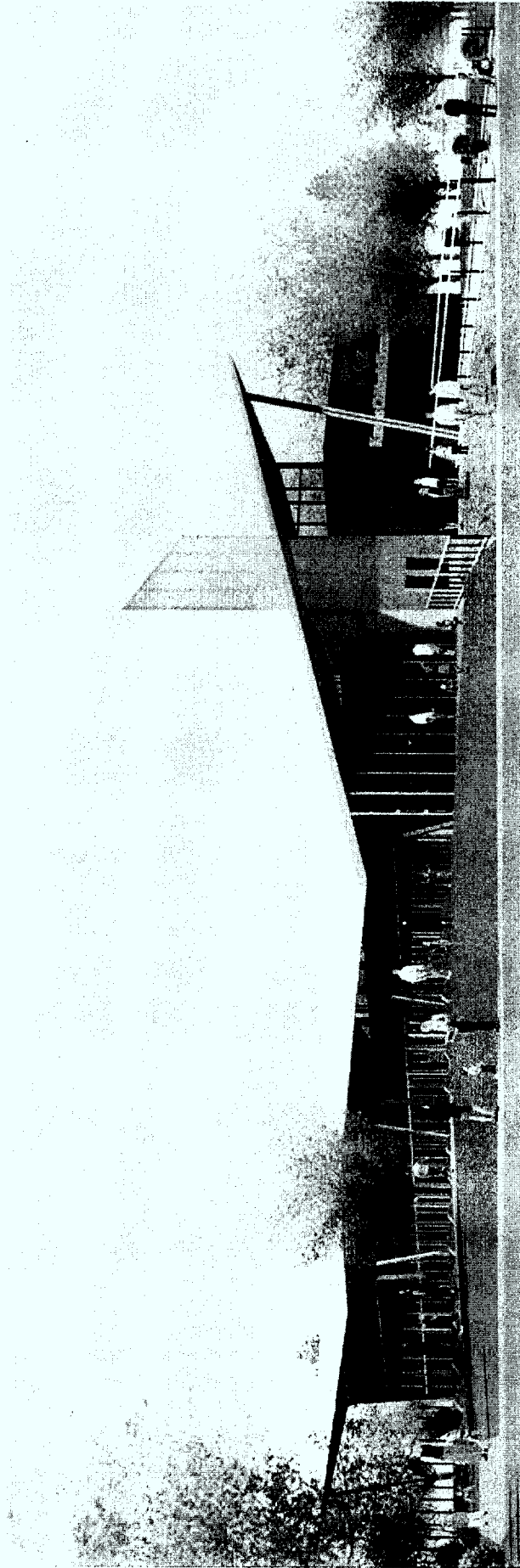
4. Traffic Circulation

- a. What are the site's existing and proposed access points?

Currently the site is accessed from the north from SW Conservatory Dr. The proposed site will be accessed from the north via a new access point off SW Conservatory Dr and from the east via a new access point off Rock Garden Dr.

- b. Are any street or traffic control improvements proposed?

No.



Kansas Children's Discovery Center Gage Park

PROJECT ADDRESS

A000

Cover Sheet

October 16, 2009

Project Team:

Owner:
Kansas Children's Discovery Center
1534 SW Corporate
Inverness, KS 66204
783.221.7092 Voice
www.kansaskidcenter.org
Jeanne Axtell

Architect:
Gould Evans Associates, LLC
706 Massachusetts Street
Lawrence, Kansas 66044
785.842.4600 Voice
785.842.3633 Fax
www.gould-evans.com
Jerro Hesterman

Sheet Index

SP100 SITE PLAN
L100 LANDSCAPE PLAN
A201 BUILDING ELEVATIONS
A202 BUILDING ELEVATIONS

Mechanical & Electrical Engineer
BGR Consulting Engineers
908 Broadway, Suite 203
Kansas City, MO 64105
816.842.2800 Voice
816.842.4531 Fax

Structural Engineer
Heidi Overholser & Company
4378 Bellview
Kansas City, MO 64111
816.531.4144 Voice
816.531.6922 Fax

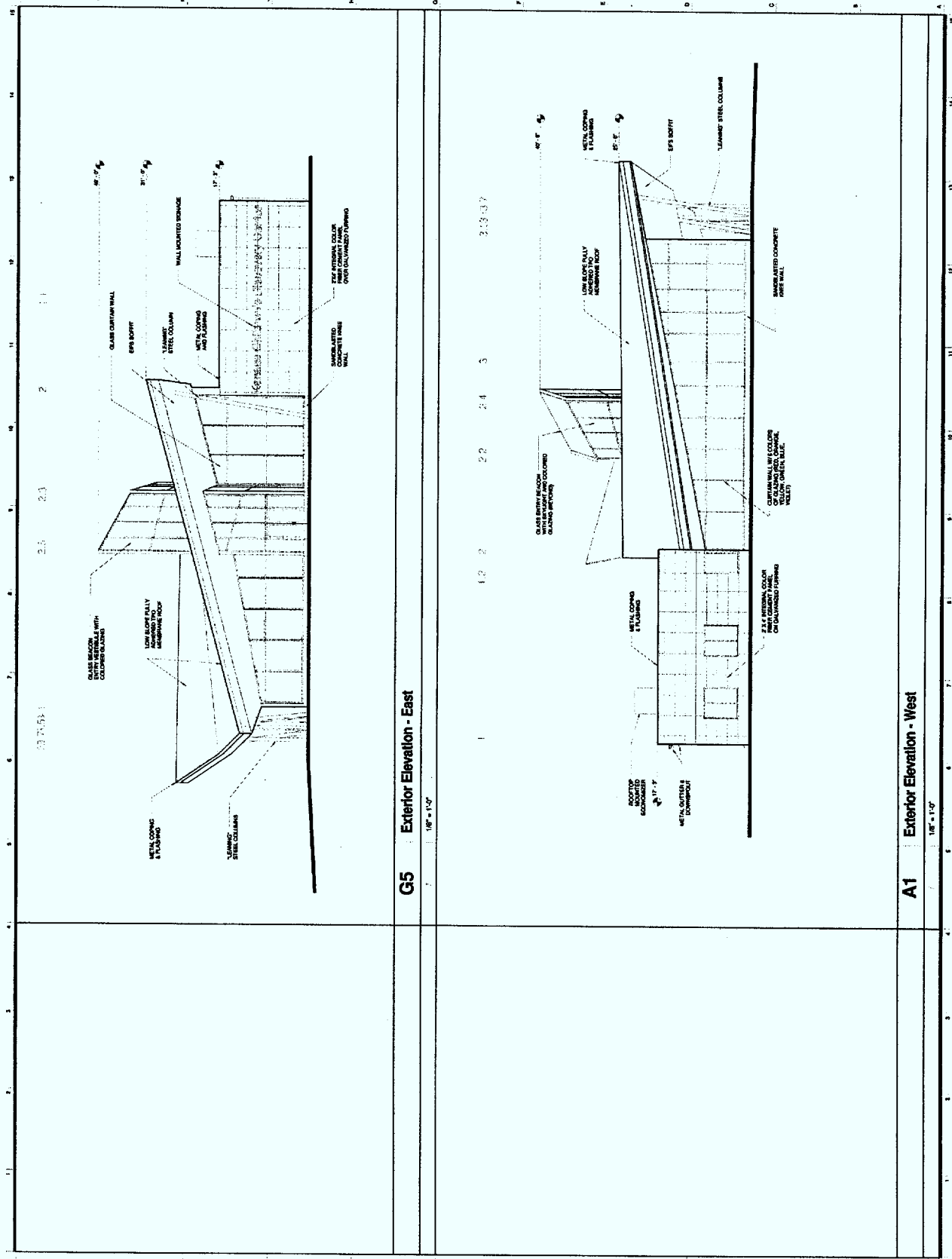
Civil Engineer
Linsman Engineering PA
1020 Genessee, Suite 400
Kansas City, MO 64102
816.221.2234 Voice
816.221.2844 Fax

Landscape Architect
Gould Evans Associates
4941 Mt. St. Louis
Kansas City, MO 64111
816.931.6755 Voice
316.531.9540 Fax

Acoustic Engineer
Acoustic Engineering
4101 E. 91st Street
Kansas City, MO 64111
816.931.6755 Voice
316.531.9540 Fax

GouldEvans
2220 G. Street, Suite 100
Kansas City, MO 64102
816.842.4600 Voice
816.842.3633 Fax

CONDITIONAL USE
PERMIT
C097-0020.01



ARCHITECTURAL FIRM
750 Massachusetts Street
Boston, MA 02118
Tel: 617.452.2000
Fax: 617.452.2001
www.gould-evans.com

GouldEvans

© 2009 Gould Evans Architects, LLC
750 Massachusetts Street
Boston, MA 02118
Tel: 617.452.2000
Fax: 617.452.2001
www.gould-evans.com

Kansas City • Memphis • Phoenix
Boston • San Francisco • Tampa

**Kansas Children's
Discovery Center
Gage Park**

PROJECT ADDRESS

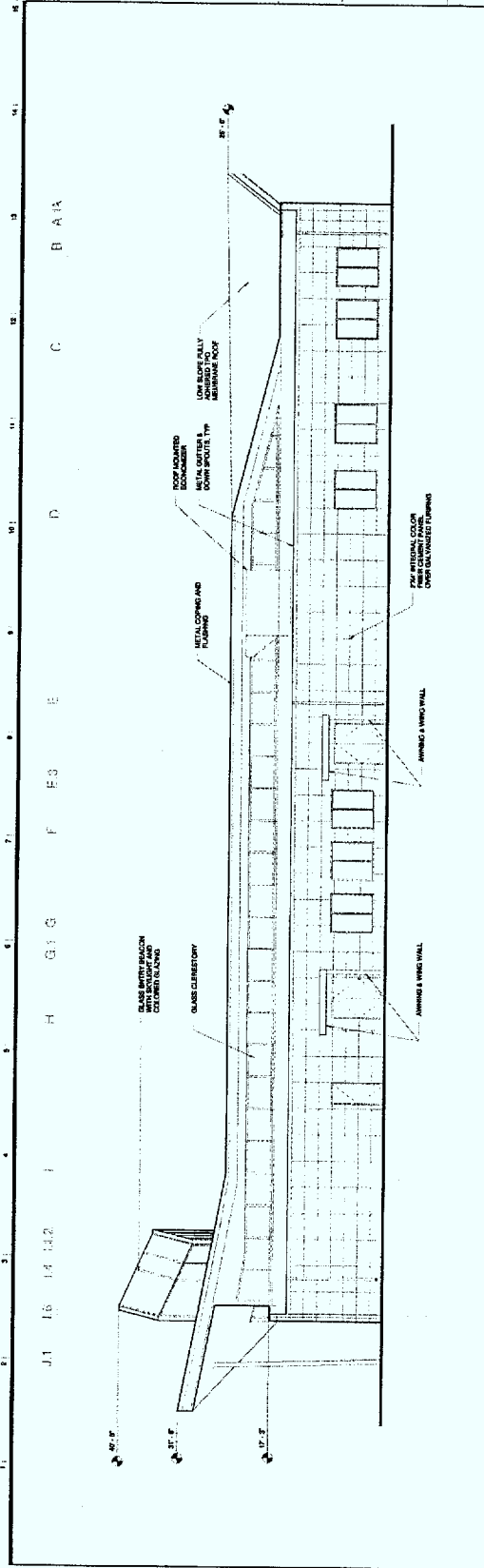
Number: Revision: Description: Date:

Project No: 0107-0001-01
Date: October 16, 2009
Sheet:

Building Elevations

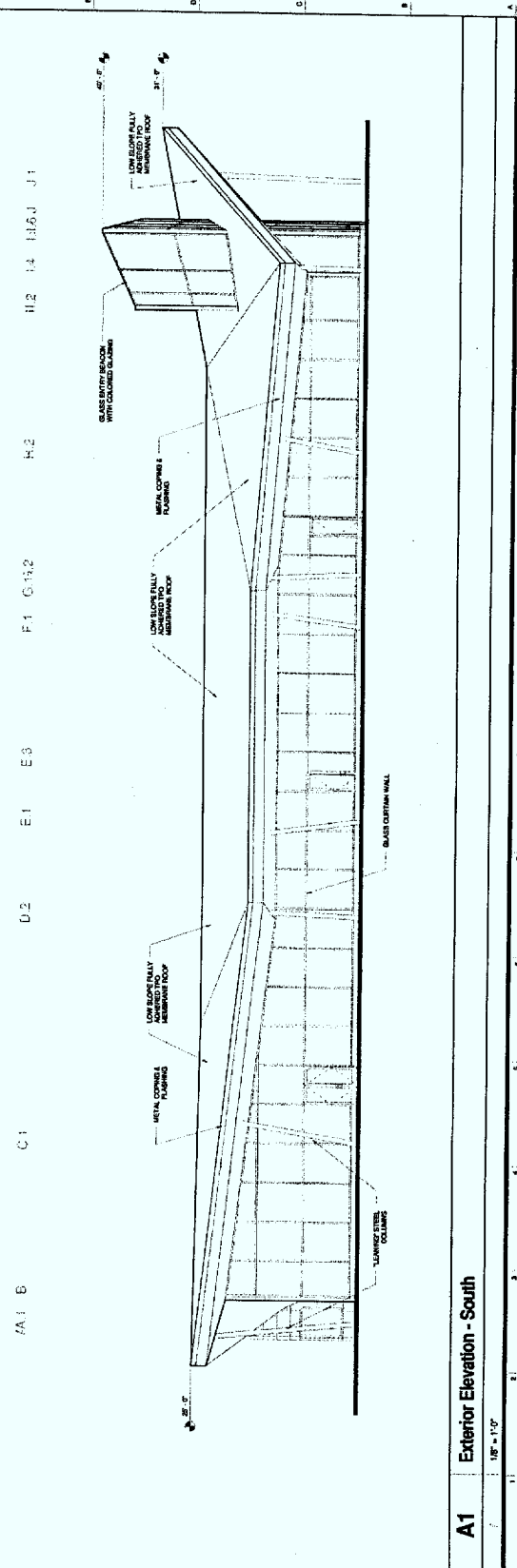
A202

CONDITIONAL USE PERMIT



G1 Exterior Elevation - North

1/8" = 1'-0"



A1 Exterior Elevation - South

1/8" = 1'-0"

**Minutes of the
Topeka Planning Commission
September 28, 2009**

CU09/4 Kansas Children's Discovery Center by the City of Topeka and B. Kent Garlinghouse requesting a Conditional Use Permit to allow for a cultural facility on property currently zoned "R-1" Single Family Dwelling District and located at SW 10th Street and Rock Garden Drive (SW corner of Gage Park). **(Diediker)** Dean Diediker summarized the staff report.

Discussion by members:

John Federico asked what is parking situation on Rock Garden Drive? Mr. Diediker replied there is parallel parking along street, no designated parking at this time.

Howard Blackmon asked if the center will be open on the weekends. Mr. Diediker said that will be a question for the applicant.

Proponents:

Kent Garlinghouse, Chairman of the Board for the Children's Discover Center, spoke in favor of the proposal. He stated that was a very complete summary by staff of what we plan to do. He said we have entered into a 99 year lease with the city for the land. We are about ready to break ground. He said the center will be open on the weekends. Howard Blackmon asked what activities would be going on during the week when the kids are in school? Mr. Garlinghouse replied this is a set of interactive exhibits for children up to 10 years old. There will be many children attending that aren't in school yet. He added we will also have programs in coordination with area schools for field trips.

Joann Morrell, Executive Director of the Children's Discovery Center, spoke in favor of the proposal. She stated we have historical data from other children discovery museums throughout the United States. She said the average attendance numbers are huge. She said this will be great being near our zoo. There is nothing in a 60 mile radius like this. She said she has interviewed superintendents in the schools and she said she has their support to attend the center every year. There will be parties, mom clubs and preschools. She said summer numbers will be higher than the school year.

Mr. Blackmon asked how this will be financially funded? Is the school districts going to support this or taxpayers? Ms. Morrell replied our operating budget will come from admission, parties and room rentals. She said we have also factored in free passes for those who can not afford the \$5 admission fee. Ms. Morrell said we have visited 80 children's museums to get ideas. We have raised \$5.8 million dollars we only have \$64,000 to raise. We want to break ground this year. We have been working with the city throughout this process. This fits into the 20 year plan for the zoo property. We are overwhelmed by the support of everyone. She stated McFarland Farm property owners have expressed their support of the project.

Mr. Federico said the reason he questioned the parking is because he wants to be sure there is extra parking for big events. Is there enough parking or are we creating a bottle neck? Ms. Morrell referred the question to the architect.

John Reeves, Gould Evans Associates, spoke in favor of the project. He said 54 spaces are required and we have planned for 74 parking spaces. He said there are two entrances/exits to the

parking lot. He said there are also other areas where parking is available but it is not designated at this time.

Matt Murphy, Gould Evans Associations, spoke in favor of the project. He said in addition to onsite parking the site has been developed with vision of expansion. There is additional parking to the north of the site. There is also parallel parking along the streets. Mr. Federico asked if there will be problems with the parallel parking, will there be enough room with cars on both sides of the road? Mr. Murphy said most customers will use parking lot. There will be many buses and large groups which we have separate area for. He said we do not anticipate a large number of people parking along the streets.

Ms. Morrell said on peak attendance days most will be bused in. Mr. Federico said on special event days and there is parking along the streets will there be enough room for buses to go through? Ms. Morrell said currently there is parking on both sides of street which makes it pretty tight but with planned parking we don't see the need for on street parking.

Michelle Hoferer asked if anyone did traffic counts and affect on 10th Street. Mr. Diediker stated the traffic engineer reviewed the proposal and had no concerns. Ms. Hoferer said currently it is difficult to get on 10th Street. She said she is concerned the traffic engineer hasn't studied this enough. She added we may need to put 10th Street in the CIP. Ms. Hoferer said I assume the city buses will be re-routed to go by here. She said currently, she believes, there are 24 buses running through the park. Ms. Hoferer said the streets within the zoo had to be resurfaced due to the buses. She said she is concerned with all the traffic going through and the effect on the roads.

Opponents:

Melvin Schuette, Topeka Control Line Association model airplane club, spoke in opposition of the project. He said this has been a model airplane flying field since 1947. We have had championships at this site. This is the only paved sight for flying in 125 miles. The paved circle is only a part of what this club uses. He said the grassy area that we also use is planned to be a parking lot. He said the airplane club won't be the only ones impacted. He said it will affect anyone flying a kite, playing ball and other family activities. This is one of a very few flying sites in Topeka. In 1920 there was a letter stating the city didn't have interest in the whole site. In 1948 the American Legion designated the field as a flying site. We would like to retain this as a flying field.

Mr. Federico asked how big is the flying circle? Mr. Schuette replied 80 feet in radius or 160 feet diameter. Mr. Federico said is the city helping to relocate the club? Mr. Schuette replied they said they would mo 21st and Urish Road but it would cost the tax payers \$70,000.

Ms. Hoferer said if the circle was to remain would they be able to fly? Mr. Schuette replied the turbulence created by the building would make the site almost unusable. He said a road is being built too close to circle. Ms. Hoferer asked how many tournaments are held at this site per year? Mr. Schuette replied there are two a year and they bring in people from all over the world. He said Memorial Day weekend draws about 50 people and their families. That is our major contest.

Jack Valliere, American Legion Post 1, spoke in opposition of the project. He said our primary concern is our Veterans. This is a dedicated field for them. This field is a memorial to the veterans. The Discovery Center is a good idea but at another location. It will create a lot of traffic. There is no reason to force the control flyers out. Ms. Hoferer asked about the Veteran's plaque that is in the park. Mr. Valliere said it was dedicated in 1941 by Post 1. He said the whole flying field is a Veteran's memorial.

James Lee, Topeka Control Line Association model airplane club, spoke in opposition to the project. He said he has been flying since 1971 when he moved to Topeka. He said he is the contest director for most of the contest held by the club. This is one of the last open areas available at the park. We don't need another multi-million dollar monument to go in this park. There are many Discovery Centers in the U.S that are doing well. Many use existing buildings which doesn't necessarily need a park setting. Most would already have parking lots. The Helping Hands Humane Society showed how an existing building can be reused. Locating in an existing building would teach kids how to be green. We fly year round but not as much in the winter. We have a New Year's Eve fun fly. He said the Discovery Center would be better in an existing building rather than creating a new one. He said a worry he has is the economy and \$5 per child may not be affordable.

Neil Bachman, Topeka Control Line Association model airplane club, spoke in opposition to the project. He said the Discovery Center is a commercial venture, by rule no commercial interest can operate in the park unless it is by the city. He said the club works with the boy-scout troops to raise money and the city denied us having a fund raiser in the park. This is a duplication of services in the city. He said we have the historical society, boy scouts, girl scouts and big brothers/sisters to name a few. All of these entities teach children of all ages whereas the Discover Center is limited to 10 year old and younger. The asphalt circle is still there but we need grass as well. He said on the plans presented tonight the circle has been removed completely. Mr. Bachman said the airplane club contributes about \$60,000 to the City of Topeka. He suggested an existing building should be used to help bring in two streams of income for the city. Doug Bassett asked if the airplane club has an agreement with the city for this site? Mr. Bachman said he doesn't know.

Bruce Reick, Topeka Control Line Association model airplane club, spoke in opposition to the project. He said he has been a member for 7 years. He said he is worried about the club losing the flying circle and grassy area. He said the grass area is needed to land the planes so not to damage the planes. He said we all depend on public parks to play. Many people do different activities at the park. Topeka is a city of trees. Center will put a street right through the plane field. He said he doesn't think people understand what impact this will have on the park. He said he has never seen a parking lot made back into open space. Mr. Reich added developing parkland into commercial isn't good. He asked the commission to keep this an unrestricted use area.

Sandra Dickison, concerned citizen, spoke in opposition of the proposal. She passed out a copy of the project budget. She said she isn't against the project but feels it should be located in an existing building. She said she has no link to the airplane club. She said this space is being used by families and it is used for free. In this economic environment don't think it is 9.5 acres for \$1 year is enough income for this property. Ms. Dickinson said there have been budget cuts for many services for the elderly. Money is needed for other things in our community. Many people have donated but there are many that can't afford to give their money for this and won't be able to afford \$5 admission. The last budget was revised in April 2008. There should be an updated budget. She said on the budget sheet year 3 calls for \$273,000 from federal state/local grants. She asked is this realistic, fair or right? We can be a green city and keep this as our park.

Brenda Schuette, Topeka Control Line Association model airplane club, spoke in opposition to the project. She said she has been a member of the control line for 26 years. Ms. Schuette said there is a clouded title on this property. She said her whole family is involved in flying. She said there are two organized flying competitions a year. This land is used every Sunday for flying. People come to watch us fly. When there are people that want to fly we let them. Ms. Schuette said the club found out about this project due to a company taking soil samples at the site. She said she has talked with Mr. Bertels in Parks and Recreation about moving the club to 21st and Urish area.

She said the center wants to break ground next month, where will the club go? The club does not have a lease on the current location. It is a shared public space. She said she hasn't heard any complaints about noise on this property. We aren't against the center. We asked to be relocated somewhere else in the park and we were told no. Ms. Schuette added why not put the center closer to the zoo since they will take down trees. We would like to continue our club at this location. It is for all ages.

Terry Bertels, City of Topeka Parks and Recreation, Director. Mr. Boyd asked if the title is clouded for this property? Mr. Bertels replied the property was purchased in two transactions. The west 80 acres has no deed restrictions. City legal department has done their due diligence and has put together the lease with the center. Ms. Schuette spoke of locating the center in an area around the zoo. This area has deed restrictions with the Gage family.

Mr. Boyd asked about the war memorial, is there rights granted to it? Mr. Bertels replied the memorial pre-dates him. He said there is a designated space for the war memorial. He said we would like the memorial to stay on site with the center. He said he has talked with the airplane club about relocated the flying field. Mr. Boyd said he just wanted to know if the club had some agreement with the city for use of the property. Mr. Bertels said there is no but they have been there for years.

Mr. Blackmon asked why the boy scouts weren't allowed to sell goods? Mr. Bertels said he doesn't know about that situation. He added if a group asked to come in and sell hot dogs and pop we would say no because it would be in competition with our concession stand. Mr. Blackmon said he doesn't feel the city has talked to everyone involved. There is a group that has been located there for 60 years, it isn't fair. Mr. Bertels said the group did find out about this through the soil tester. The reason the group wasn't approached from the beginning is this is a \$6 million dollar campaign in this economy and we took the wait and see approach. We wanted to see if they could even come close to raising all the money. He said when it was evident they would be able to raise the money I talked with the airplane flyers. Mr. Blackmon said it seems we are overlooking the war memorial. He said I am a veteran and I don't think we are doing the right thing here. This is something the city should have talked about long before now. Mr. Boyd said this project has followed proper application procedure.

Mr. Blackmon said the Brown vs. Board site also expected many buses which haven't happened. Who is going to pay for this center? He said it is difficult for retirees when their taxes go up. When you are retired it is hard when your taxes go up.

Ms. Hoferer asked if there were other sites looked at? Mr. Bertels replied this was the best site. He said another reasonable site was along Westchester. This site was chosen due to its proximity to 10th Street. Ms. Hoferer asked, knowing it was in the CIP, why not 6th Street since it is planned to be widened. Ms. Hoferer asked why not the northwest corner of Gage Park? Mr. Bertels replied the trees are pretty dense over there. He said on 10th Street the vegetation will be more limited as apposed to the mature walnut and oak trees in the northwest corner of the park. Ms. Hoferer asked if anyone had looked at the impact on summer camps that are conducted in the park? Mr. Bertels said we feel the impact will be positive on the park in general. It will most likely bring in more people to the carousel and train. Can't see how it would adversely impact the camps.

Mr. Thurbon asked if the deterioration of the streets within the zoo is due to the buses? Mr. Bertels said the buses come off of 10th Street turn left on Rock Garden Lane and left again at the ball diamonds. Mr. Bertels said he thinks it is the trash/recycling trucks are causing the deterioration of the roads. Ms. Hoferer said she thinks it is the buses because they travel the roads more than the

trash trucks. I have been in the park when there are cars parked on both sides of the street and a large vehicle won't be able to fit. Is there a plan to limit the parking on the streets? Mr. Bertels said it does get pretty tight. We will monitor the situation and fix it as we go if needed. He said it may help to prohibit parking on one side of the street. Ms. Hoferer asked if a traffic signal is proposed at 10th and West Chester? Mr. Bertels said that would have to be addressed through the CIP.

Mr. Thurbon stated the airplane club has been offered to stay at this location. Mr. Bertels said the reason the club isn't in agreement is the turbulence/safety for patrons. Mr. Boyd said this location fits the planes quite well. Mr. Bertels said he feels the airplane club has been offered a reasonable alternative.

Ms. Schuette said she has done extensive research regarding the deed of the land. She said the deed states the city owns 8/10ths of the property. Mr. Bassett said this board doesn't decide land ownership. That is not this forum. Mr. Boyd said we have no basis to settle this tonight. That would be a legal obligation that would be decided outside this forum. She said Mr. Bertels said he contacted us but it was only after I sent a letter to city council and the Chamber of Commerce.

Mr. Valliere said he feels this has been slid under the rug. The American Legion was never contacted regarding the war memorial.

Mr. Murphy said we had to prepare a storm water plan for this property and it has been approved. We have also provided trip generation numbers to be sure they weren't over limits.

Chairman Boyd closed the public hearing.

Mr. Blackman said the list of children museums was interesting. There are many empty buildings throughout the city and he thinks there will be more that come vacant. Looking at the different cities, they are all different. He said he thinks it is a good location but doesn't think uprooting an entity that has been there for 70 years. He said he has concerns this will raise taxes due to the city's involvement.

Mr. Bassett said he believes it is a great project. He said he has visited other children's museums in St. Louis and Louisville, Kentucky. He said he disagrees with Mr. Blackmon and doesn't see his opposition to this. He said he didn't know groups could take over an area without any compensation to the city. He said he hopes if this does go through they are grateful for the city allowing them to use this property and helping to them relocate. He said he isn't sure if there is enough information regarding the war memorial. He said he feels it should remain where it is and it would be complimentary to the center. Mr. Bassett added they aren't asking for any tax breaks. He said he doesn't understand where the worry of raising taxes comes from. He said he believes this site is appropriate for the proposed use.

John Federico said he had similar thoughts as Mr. Bassett. On this board we don't decide about admission, taxes, etc. He said the opponents did a good job of stating their case. He said we all need to work to be sure both of these projects work in the city.

Jim Brown said he has also been to several children museums throughout the country. He said you can see the impact in some of these areas. This is something many kids don't have the chance to experience. I have tried to fly planes at the circle. It is a great area that has been there for years. I hope the city can take care of both projects. He said he will be supporting the museum.

Mr. Boyd stated a conditional use permit does not carry a protest procedure. The council would

need 2/3 vote of council which would be 7 or remand back to this commission. After a remand and back before the council it would take a simple majority of the governing body to override the commission. Mr. Thurbon stated 6 votes would be majority.

Ms. Hoferer said she has some problems with this site. She said she has seen the changes in the park over the years. She said there is a problem with the 10th Street traffic situation. Which she feels should be in the CIP. Ms. Hoferer said she doesn't feel the alternative spot in the park was looked at enough. I think it is a great project and I look forward to visiting it. The flying club should have been included earlier in the process. I don't support this because I don't think it is the best location.

Mr. Blackmon said the budget shows total public funds and grants per year at \$35,000 for the 1st year \$75,000 for 2nd year and \$85,000 for the 3rd year. Mr. Bassett stated we aren't voting on that tonight. No matter where they locate they will receive the grant money. We are deciding if this is the right location. Mr. Boyd stated a conditional use permit allows us to get a broader view of how something may fit into an area. We go in a little deeper than a standard rezoning. Mr. Thurbon added we look at previous court cases to apply to these applications. The court says other factors like economics can be looked at. We usually don't go into the viability of the property but we do when there is a major impact on surrounding properties.

John Federico moved approval as written by staff, seconded by Jim Brown.

Mr. Boyd asked if the public will be able to speak at the city council? Mr. Thurbon replied no but the council will receive a copy of the minutes from this meeting. He added a conditional use permit follows same process as zoning.

Mr. Thurbon stated the operating hours on their plan is 8-5, do you really want to restrict hours? He added staff didn't make this recommendation of limiting hours.

Mr. Federico said he would make a friendly amendment to the motion to strike the hours of operation off of the site plan. Jim Brown agreed.

Mr. Boyd asked at what point will council suggest changes? Mr. Thurbon replied the first time the item is before them they must vote yes, no or if they have changes it must be remanded to the planning commission. The second time the item is before them they can make any changes they want.

Mr. Federico said maybe we should put in wording stating reasonable business hours. Mr. Bassett said he doesn't feel they should be limited. There may be events after normal hours.

Restated motion:

John Federico moved approval with one change, strike the hours of operation off of the site plan, seconded by Jim Brown. **APPROVAL. (5-2-0) Commissioner Beardmore was out of the room.**



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 21, 2009

+ Back Print

DATE: November 3, 2009

CONTACT PERSON: Bill Hoover/David Thurbon **DOCUMENT #:** Z09/6

SECOND PARTY/SUBJECT: Topeka Housing Authority **PROJECT #:** N/A

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

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located approximately 500 feet east of SE California Avenue lying between SE 13th and SE 21st streets from “R-1” Single Family Dwelling District TO “M-1” Two Family Dwelling District. Final Reading. (Z09/6) (Council District No. 3)

Voting Requirement: Majority vote of the Governing Body, including the Mayor.

(Approval would allow for a 64 dwelling unit duplex housing development using the low income housing tax credit Green Communities Program.)

POLICY ISSUE:

The request is consistent with the Topeka Land Use and Growth Management Plan - 2025.

STAFF RECOMMENDATION:

The Planning Commission recommended this proposal be **APPROVED** by a vote of **7-0-0** at their September 28, 2009 meeting as referenced in their attached minutes. The Planning Department recommended that this request be **APPROVED** as referenced in the attached staff report.

BACKGROUND:

- See staff report.
- Governing Body options:
- **Adopt** the recommendation of the Planning Commission by a simple majority (6 votes) of the Governing Body;
- **Override** the Planning Commission's recommendation by a two-thirds's majority (7 votes) of the Governing Body;
- or,
- **Return** such recommendation to the Planning Commission with a statement specifying the basis for Governing Body failure to approve or disapprove.

Item #14

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[ordinance](#)

[staff report](#)

[zoning map](#)

[aerial map](#)

[rezoning application](#)

[PC Minutes](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located approximately 500 feet east of SE California Avenue lying between SE 13th and SE 21st streets from "R-1" Single Family Dwelling District **TO** "M-1" Two Family Dwelling District. **(Z09/6) (Council District No. 3)**

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

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

The East 795 feet of Lot 1, California Acres Shopping Center Subdivision, Shawnee County, Kansas.

AND

The west 96 feet of the east half of the north half of the north half of the southwest quarter of the southwest quarter (E1/2N1/2N1/2SW1/4SW1/4) of Section 4, Township 12 south, Range 16 east of the 6th P.M., Shawnee County, Kansas.

from "R-1" Single Family Dwelling District **TO** "M-1" Two Family Dwelling District.

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

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

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

PASSED AND APPROVED by the Governing Body of the City of Topeka,
_____, 2009.

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified _____
Not To Be Codified X

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z09/6

By: Topeka Housing Authority

PROPOSAL: Zone change from “R-1” Single-Family Dwelling District TO “M-1” Two-Family Dwelling on property located approximately 500 feet east of SE California Avenue lying between SE 13th and SE 21st streets.

BACKGROUND: A previous proposal (Z89/17) was a request to rezone this property from “G” Commercial District with a Shopping Center District Unit Plan TO “D & O” Multiple Family Dwelling and Office Park District. The Topeka Planning Commission considered this proposal on April 17, 1989, and approved this reclassification (8-0-1) conditional to the replatting and submission of a revised Shopping Center Unit Site Plan. On May 9, 1989, the Topeka City Council approved the Resolution of Intent (9-0-0). The project never materialized and the property has remained vacant.

In 2005, this property was one of the remaining outstanding Resolution of Intent (ROI) that were referred to the Planning Department and Commission by the Topeka City Council for further study, public hearing, and recommendation for potential amendments to the District Map in the effort to eliminate all ROIs in order to depict an updated and accurate zoning map. At that time, the Planning Department recommended the property be rezoned to “M-1” Two-Family Dwelling District to accommodate a duplex housing proposal for 48 dwelling units (3.9 DU/acre) and to provide flexibility to the owner in order to develop a denser development (Z05/37). The Planning Commission instead recommended the property be rezoned to “R-1” Single-Family Dwelling District at its November 21, 2005 public hearing by a vote of 6-3-0 and stated the property owner could apply themselves for rezoning later once their plans became more definitive. The City Council approved this zone change on December 21, 2005.

PRESENT USE: A vacant 12.35 acre tract (unplatted).

PROPOSED USE: A proposed 64 dwelling unit (5.2 DU/acre) duplex housing development using the low income housing tax credit “Green Communities” program.

CHARACTER OF NEIGHBORHOOD: The majority of the surrounding properties in the neighborhood are low-density single-family residences in an area that lacks basic infrastructure needs; such as sidewalks, curbs, and gutters. There is a limited amount of sporadic commercial development to the west along SE California; including a restaurant, gas station, cellular tower, Housing Authority maintenance building (4,800 sq. ft), and a boarded up commercial building along property’s western boundary. Despite the modest nature of the neighborhood, housing conditions remain favorable along SE 21st Street. Some residences north of the site are deteriorating, including one boarded up residence.

ZONING CLASSIFICATIONS AND USE OF SURROUNDING PROPERTIES:

ZONING CLASSIFICATION		PRESENTED LAND USE
North	“M-3”- Multiple Family Dwelling District	Single-family residence

	“PUD” Planned Unit Development (M-1 use)	Duplex Housing– 20 DUs at 7.13 DU/acre (under construction)
South:	“R-1” Single-Family Dwelling District	Church and large lot single-family residential
East:	“R-1” Single Family Dwelling District	Large lot single-family residential
West:	“PUD” Planned Unit Development (C-4 uses)	Topeka Housing Authority, gas station, restaurant, cellular tower, Topeka Housing Authority maintenance building, boarded up commercial building

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATIONS: This property has remained vacant since being re-zoned to “G” Commercial with Shopping Center Unit Plan in 1959. The shopping center never materialized and the property has remained vacant ever since. The ROI, approved in 1989, allowed for a multiple family and office park development, which also never materialized. The property has remained zoned for single-family residential since 2005 when the ROI was eliminated.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: This property is located amidst low density single-family residential uses that front on to the surrounding rural type roads. The property may still be suitable for single-family residential uses as this is the predominant development pattern within the surrounding area. However, two-family residential may be more appropriate for this property considering the length of time it has been vacant and the similar development on adjacent property to the north, the cellular tower, maintenance building and boarded up commercial building. Infrastructure upgrades to the area may be necessary whether this property is eventually built out for two-family residential or single-family residential.

CONFORMANCE TO COMPREHENSIVE PLAN: As proposed, the project would permit 64 DUs (5.2 DUs/acre). This is within the realm of a medium density urban development. The Comprehensive Plan allows for some medium density residential to be used carefully as infill development in older neighborhoods. Considering the significant amount of time this property has remained vacant and the need for new housing construction in the area, slightly higher density development (5.2 DUs/acre) would be suitable for this property.

EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY: The surrounding neighborhood of the subject property is classified as an “*Out-Patient*” area by the City of Topeka’s 2007 Neighborhood Health Map. Planning principles indicate that concentrating subsidized multiple-family housing units in an area that is primarily low-income and with a lack of basic infrastructure has the potential to push the neighborhood into more unfavorable conditions. However, staff does not think this proposal, which would allow 64 additional units in addition to the 20 units already under construction as over concentrating the area with multi-family residential uses, as both developments are intended for duplexes. New housing construction could potentially lead to further investment in this area and should have positive impacts on surrounding properties and the overall neighborhood.

RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY, AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE LANDOWNER'S PROPERTY AS COMPARED TO HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER: The proposed reclassification should not impinge upon public health, safety, and welfare as it would allow for an increased opportunity to develop a property that has been always been vacant and would also provide needed new housing construction in this neighborhood. The M-1 District allows more flexibility for the owner to develop the property as it would allow for two-family, as well as single-family uses. Therefore, the reclassification appears to present no hardship upon the individual landowner.

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are presently available to the surrounding area and would be extended to this property at developer expense. Improvements to streets and storm drainage may be necessary prior to development on the site, but this will be reviewed at the time the property is platted. A street extension to SE Market up to SE 13th would be likely prior to site development.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

Minimum Lot Area: **Compliant** – (12.35 acres) – The minimum lot area for a two-family dwelling buildings is 4,500 sq. ft. per building.

Setbacks: **Compliant** – (No existing structures) – All duplex buildings will have to comply with setbacks for the “M-1” District (25’ front, 5’ side, 25’ rear). The “M-1” Two-Family Dwelling District currently does not provide for an interior zero lot line setback to accommodate the common walls/lot line of attached dwelling units on separate lots that would be necessary to accommodate eventual homeownership of each unit. *(However, the “M” Districts in the Zoning Code are currently undergoing a review with potential revisions.)*

Platting: **Non-Compliant** – The property will have to be platted prior to site development.

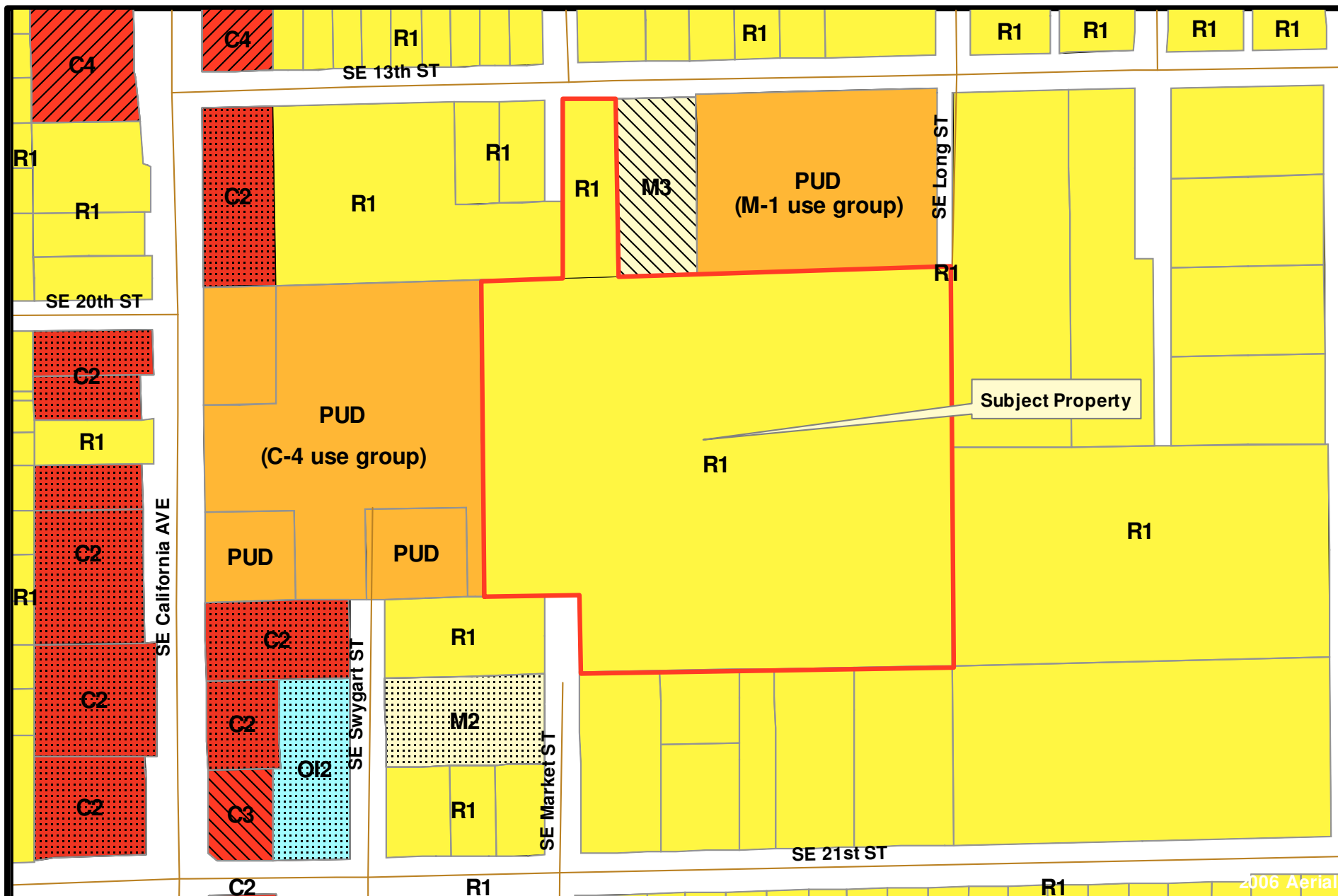
CONCERNS OF STAFF AND REVIEWING AGENCIES: All issues or concerns that were expressed by reviewing staff relative to code compliance or provisions of public service have been addressed or will be addressed at the platting and site development stages.

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: N/A

STAFF RECOMMENDATIONS: Based upon the above findings and analysis, the planning staff recommends **APPROVAL** of this proposal.

Prepared by:
Annie Driver, Planner I



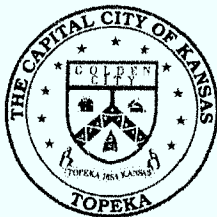
Z09/6 by: Topeka Housing Authority



Z09/6 by: Topeka Housing Authority



City of Topeka Planning Department



Zoning Application Form

(including PUDs and CUPs)

City of Topeka Planning Department
620 SE Madison, 3rd Floor (Unit #11)
Topeka, KS 66607-1118
Phone 785-368-3728 Fax 785-368-2535
www.topeka.org/planning

Applicant Information

Property Owner(s): THA, Inc.

Street Address: 2010 SE California Ave.

City: Topeka, KS State: Topeka, KS Zip: 66607 E-mail: jjohnston@tha.gov

Work phone: 785-357-8842 Home phone: _____ Fax: 785-357-2648

Authorized Owner Representative (if any): John Johnston, Executive Director, Topeka Housing Authority

Street Address: 2010 SE California Ave.

City: Topeka State: KS Zip: 66607 E-mail: jjohnston@tha.gov

Work phone: 785-357-8842 Home phone: _____ Fax: 785-357-2648

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

Tim Schaller, Architect

Street Address: Larned Industrial Park

City: Larned State: KS Zip: 67550 E-mail: tim@kans.com

Work phone: 620-285-2950 Home phone: _____ Fax: 620-285-2940

Authorization

I (we) am (are) the owner(s) of record for the subject property and hereby authorize filing of this application and any agent listed in this application to represent the owner(s). I (we) allow posting of signage on the property by the City of Topeka for the requested zoning change. I (we) declare that all submitted information is complete and accurate. I (we) hereby acknowledge that all zoning application procedures have been reviewed and understood as part of this submittal.

Owner 1 Name: John Johnston

Owner 1 Signature: John Johnston Date: 07/28/09

Owner 2 Name: _____

Owner 2 Signature: _____

Date: _____

Requested Action and Site Information

Address or Location of Property to be Re-Zoned: SE 13th Street, Neighborhood 315, South Central Topeka Area

Legal Description of Property*: lot(s) _____ block _____ subdivision _____ *See attached legal descriptions

lot(s) _____ block _____ subdivision _____

*if unplatted, attach metes and bounds description

Total Area (acres/square feet): 12.35 / 537,966

Type of Application:

1. Re-zoning from: R-1

to: M-1

2. Planned Unit Development (PUD) zoning use group(s): _____

3. Conditional Use Permit (CUP) proposed use: _____

Existing Use(s) on the property: Vacant Land, Zoned Residential

How long has the existing use been active on the property? Unknown

Proposed Use(s), if known (please describe to ensure conformity to the proposed zoning):

New construction, low income housing tax credit "Green Communities" project, consisting of 64 two bedroom apartments in duplex ~~apartments~~ attached single car garage, one story, slab on grade design. Each unit has about 1,100 square of living area. management office / community bldg / leasing

Was a Pre-Application Meeting or Zoning Inquiry completed with Staff? YES If Yes, when? 7/24/2009

FOR OFFICE USE ONLY

Date submitted: 9/7/09

Application no.: 2091

Filing fee: 1267.50 Receipt no.: 11950

Date notice sent: 8/28/09

Date advertised: 8/28/09

Date of hearing: 9/21/09

Council district: #3

NIA/NA: none

Items Missing? Yes ___ No ___ List any incomplete items:

Applicant Justification

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 or proposed conditional use is appropriate. Please attach additional sheets if necessary.

1. How is the land more suitable for the uses allowed under your proposed zoning vs. the uses allowed under the current zoning?

The property is currently zoned R-1 Residential which permits detached single family buildings. The M-1 designation provides for two-family (duplex) ~~city family units~~. The land is suitable as multi-family and the Topeka Housing Authority has the need for, experience and opportunity to develop duplex/tri-plex housing to serve low income persons.

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

The neighborhood is already zoned residential and the zoning change would improve the character of the surrounding area as the design of this project looks like a neighborhood of homes and will fit in nicely into any residential area.

3. If known, how does the proposed zoning conform to the City's Comprehensive Plan?

The City's Comprehensive Plan regarding the zoning of the property is unknown to the applicant.

Real Property Tax Status

As part of the official application for a zoning amendment, the Zoning Regulations of the City of Topeka require:

"Proof that all real property taxes are paid to date and are current for the subject property. In the event real property taxes including any special assessments are delinquent, the application shall not be scheduled for public hearing until such time all taxes are paid or satisfactory escrow arrangements for the payment of such taxes or special assessment have been made and presented to the City Attorney's Office for approval."

There are two ways to provide proof with this application:

1. Submit a copy of the property's tax status found on-line at the Shawnee County Appraiser's web-site (<http://www.co.shawnee.ks.us/Api/>). Click on "residential search" or "commercial search", input the address, and follow the links to the property's tax information. Print off the Shawnee County Treasurer's page indicating the amount of any unpaid property tax.

OR

2. Complete the information below at the Shawnee County Register of Deeds and the Shawnee County Treasurer for verification of real property tax/special assessment status. Both offices must sign the form below for it to be complete. The Register of Deeds and Treasurer of Shawnee County, Kansas, are located in the Shawnee County Courthouse, 200 S.E. 7th Street, Topeka, Kansas, Rooms 108 and 101, respectively

Applicant

Property Address: SE 13th Street, Neighborhood 315, South Central Topeka Area

Owner of Record Name(s): THA, Inc.

Legal Description: _____

Shawnee County Register of Deeds

Property Identification Number (PIN): _____

☒

Shawnee County Register of Deeds

Date _____

Shawnee County Treasurer

As of this date, I hereby certify that the real property tax liabilities and special assessments applicable to the property described and identified above, to be of the following status:

Paid in Full _____ Current _____ Delinquent _____ In Dispute _____ Exempt _____

☒

Shawnee County Treasurer

Date _____

*Taxes current 8/7/09
Amiree Planning*

Infrastructure Availability (optional)

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:

See attached utility maps from the Topeka Public Works Department.

- b. Does the current system have adequate capacity?

2. Sanitary Sewer

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

See attached utility maps from the Topeka Public Works Department.

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

3. Storm Drainage

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

See attached utility maps from the Topeka Public Works Department.

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

4. Traffic Circulation

- a. What are the site's existing and proposed access points?

See attached utility maps from the Topeka Public Works Department.

- b. Are any street or traffic control improvements proposed?

DRAFT

**Minutes of the
Topeka Planning Commission
September 28, 2009**

Z09/6 by Topeka Housing Authority requesting to amend the District Zoning Classification from “R-1” Single-Family Dwelling District **TO** “M-1” Two-Family Dwelling on property located approximately 500 feet east of SE California Avenue lying between SE 13th and SE 21st streets. **(Driver)** Annie Driver summarized the staff report.

Proponents:

John Johnston, Director of the Topeka Housing Authority, said his company wants what is best for the neighborhood. He said we work in the neighborhood therefore it is in our best interest. Wish we would have bought the daycare center because it is a bar that we don’t want in our neighborhood. He said the plan is to build duplexes that will cost approximately \$160,000. They are all energy efficient.

Doug Bassett asked if it is \$160,000 per unit or per building? Mr. Johnston replied per unit. He added there is approximately \$30,000 in green upgrades and that is the reason for the higher price. The price would be \$110,000-\$120,000 if not for the green upgrades.

Exparte communications – none

No one spoke in opposition to the proposal.

Howard Blackmon moved approval as written by staff, seconded by Jim Brown. **APPROVAL. (7-0-0) Richard Beardmore was out of the room.**



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 6, 2009

+ Back Print

DATE: November 3, 2009

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 6, 2009

+ Back Print

DATE: November 3, 2009

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 6, 2009

+ Back Print

DATE: November 3, 2009

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 6, 2009

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

DATE: November 3, 2009

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available