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City Council Agenda

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

September 24, 2013

6:00 PM

Mayor: Larry E. Wolgast

Councilmembers

Karen A. Hiller	District No. 1	Chad Manspeaker	District No. 6
John Campos II	District No. 2	Elaine Schwartz	District No. 7
Sylvia E. Ortiz	District No. 3	Nathan Schmidt	District No. 8
Denise Everhart	District No. 4	Richard Harmon	District No. 9
Michelle De La Isla	District No. 5		

City Manager: Jim Colson

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) consecutive 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

☐ Back ☐ Print

INVOCATION:

PLEDGE OF ALLEGIANCE:

1. PROCLAMATIONS:

2. PRESENTATIONS:

"None scheduled at this time."

3. ROLL CALL:

4. CONSENT AGENDA:

A. Board Appointment - Topeka Americans with Disabilities Act Advisory Council

☐

[ATTACHMENTS](#)

BOARD APPOINTMENT recommending the appointment of Marie Carter to the City of Topeka ADA Advisory Council for an unexpired term ending January 31, 2015. (Council District No. 1)

B. Board Appointment - Topeka Americans with Disabilities Act Advisory Council

☐

[ATTACHMENTS](#)

BOARD APPOINTMENT recommending the appointment of Theresa Packard to the City of Topeka ADA Advisory Council for a term ending September 30, 2015. (Council District No. 9)

C. Board Appointment - Topeka Americans with Disabilities Act Advisory Council

☐

[ATTACHMENTS](#)

BOARD APPOINTMENT recommending the appointment of Sherry McGowan to the City of Topeka ADA Advisory Council for a term ending September 30, 2015. (Council District No. 1)

D. Board Appointment - Topeka Americans with Disabilities Act Advisory Council

☐

[ATTACHMENTS](#)

BOARD APPOINTMENT recommending the appointment of Marijo Mastroianni to the City of Topeka ADA Advisory Council for a term ending September 30, 2015. (Council District No. 5)

E. Board Appointment - Topeka Americans with Disabilities Act Advisory Council

☐

[ATTACHMENTS](#)

BOARD APPOINTMENT recommending the appointment of Don Moses to the City of Topeka ADA Advisory Council for a term ending September 30, 2015. (Council District No. 5)

F. Board Appointment - Topeka Americans with Disabilities Act Advisory Council

☐

[ATTACHMENTS](#)

BOARD APPOINTMENT recommending the appointment of Keri Strahler to the City of Topeka ADA Advisory Council for a term ending September 30, 2015. (Council District No. 2)

G. Board Appointment - Topeka Sustainability Advisory Board

☐

[ATTACHMENTS](#)

BOARD APPOINTMENT recommending the appointment of Carrie Ridley to the Topeka Sustainability Advisory Board for a term ending September 30, 2015. (Council District No. 6)

H. Resolution - Tonantzin Society - Noise Exception

☐ [ATTACHMENTS](#)

A RESOLUTION introduced by Councilmember John Campos II granting Tonantzin Society an exception to the provisions of City of Topeka Code Section 9.45.150., et seq., concerning noise prohibitions. *(Council District No. 2)*

(City of Topeka Code Section 9.45.170, et seq., authorizes the Council to grant noise exceptions. Approval would allow for amplified music and sound during the hours of 11:00 a.m. and 5:00 p.m. on October 19, 2013, between the 800 and 900 blocks of North Kansas Avenue.)

I. Resolution - April Ervin - Noise Exception

☐ [ATTACHMENTS](#)

A RESOLUTION introduced by Councilmember John Campos II granting April Ervin an exception to the provisions of City of Topeka Code Section 9.45.150., et seq., concerning noise prohibitions. *(Council District No. 2)*

(City of Topeka Code Section 9.45.170, et seq., authorizes the Council to grant noise exceptions. Approval would allow for amplified music and sound during the hours of 5:00 p.m. and 11:00 p.m. on September 28, 2013, at 925 NE Monroe Street.)

J. Tort Claim - Mike Provence

DENIAL of claim by Mike Provence seeking \$3,252.87 to cover the cost of repairing damage to the body of his truck.

K. Tort Claim - Phillip Cheatham

DENIAL of claim by Phillip Cheatham seeking \$800,000,000 in damages for alleged constitutional violations.

L. Tort Claim - Milton Lee

DENIAL of claim by Milton Lee seeking \$2,000,000 in damages for alleged constitutional violations and the infliction of mental harms.

M. Tort Claim - Michelle and Melissa Eklund

DENIAL of claim by Michelle and Melissa Eklund in the amount of \$6,854.51 for alleged damage to their property due to a water main break located near 307 SW Elmwood.

N. MINUTES of the regular meeting of September 17, 2013

O. APPLICATIONS:

5. PUBLIC HEARINGS:

A. Public Hearing and Ordinance - Reser's Fine Foods (V13RA/1)

☐ [ATTACHMENTS](#)

A PUBLIC HEARING in conjunction with vacation request V13RA/1 by Reser's Fine Foods requesting to vacate a platted access restriction located along the east property line of 3167 SE 10th Avenue, City of Topeka, Shawnee County, Kansas.

AN ORDINANCE introduced by City Manager Jim Colson, relating to the vacation of platted access restriction on the east line of property at 3167 SE 10th Avenue, City of Topeka, Shawnee County, Kansas. Final Reading. *(V13RA/1) (Council District No. 3)*

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

(Approval of the vacation would allow a driveway entrance on the east side of the

property to eliminate a dead-end parking lot in front of the building at 3167 SE 10th.)

6. UNFINISHED BUSINESS:

A. Ordinance - Temporary Signs (ACZR12/2)

☐ [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Jim Colson, amending City of Topeka Code Sections 18.10.010, 18.10.020, 18.15.030, 18.15.060, 18.25.060, 18.25.220, 18.25.230 and 18.25.260, specifically repealing said original sections, as well as, creating Section 18.25.215, all concerning the regulation of temporary signs. **Final Reading.** (ACZR12/2) (Remanded back to the Planning Commission from the meeting of July 16, 2013.)

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

(Approval would clarify definitions and standards for temporary signs that were originally established in 2007.)

B. Ordinance - Topeka Metropolitan Transit Authority Franchise

☐ [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Jim Colson, relating to Topeka Metropolitan Transit Authority; granting a franchise to operate a bus system within the limits of the City of Topeka, prescribing the terms thereof and relating thereto, pursuant to the provisions of K.S.A. 12-2001 et seq., and specifically repealing Ordinance No. 16640. **Final Reading.**

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

(Approval would extend the franchise agreement for twenty years. The current agreement expires on October 6, 2013.)

7. NEW BUSINESS:

A. Labor Agreement - AFSCME Local 1294 - Water Division

☐ [ATTACHMENTS](#)

APPROVAL of a one-year Labor Agreement between the City of Topeka and the Water Division, Council 72, Local 1294, Kansas Public Employees Union, AFSCME, AFLO-CIO.

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

(Approval would provide bargaining unit members with a one-step increase; a \$250 one-time lump sum payment for the 12 employees who are at the top level of the wage schedule; and all members will receive one additional personal leave day for 2014. The increased wage cost for the 2014 wage package is estimated to be \$75,966.63 or 2.26%. The total impact to the 2014 budget including benefit costs is an increase of 3.44%.)

B. Resolution - Riverfront Park

☐ [ATTACHMENTS](#)

A RESOLUTION introduced by Councilmember Richard Harmon amending Resolution No. 7253 to remove funding for the development of the Riverfront Park.

(Approval would discontinue funding allocations to the Riverfront Park in the amount of \$106,000 for FY2014 and \$159,462 in FY2015.)

C. Applications - Retail Cereal Malt Beverage and Scrap Metal Dealers License

APPROVAL of Retail Cereal Malt Beverage and Scrap Metal Dealers License Applications.

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

(Retail Cereal Malt Beverage License applications and Scrap Metal Dealer applications must be approved by the governing body prior to issuance of the licenses.)

8. ZONING:

A. Ordinance - Walmart Commercial Center (PUD13/1)

☐ [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Jim Colson, amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code, by providing for certain changes in zoning on property located between SE 25th Street and SE 27th Street, east of SE California Avenue from “C-2” Commercial District, “C-4” Commercial District, “M-2” Multiple-Family Dwelling District, “R-1” Single-Family Dwelling District, “PUD” Planned Unit Development District (“M-2” use group) ALL TO “PUD” Planned Unit Development District (“C-2” Commercial and “C-4” Commercial use groups). Final Reading. (PUD13/1) (Council District No. 4)

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

(Approval would allow for the construction of a 160,000 square foot Walmart Super Center located near SE 25th Street and SE California Avenue.)

9. FIRST READINGS:

A. Ordinance - Westar Energy Franchise Agreement

☐ [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Jim Colson, granting to Westar Energy, Inc., an electric franchise including the right to construct, operate and maintain electric transmission, distribution and street lighting facilities within the corporate limits of the City of Topeka, Kansas, and specifically repealing Ordinance No.18297. First Reading.

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

(Approval of the 20-year agreement would increase the Westar Energy franchise fee payable to the City from 5% to 6% increasing the City's annual revenue by \$600,000.)

B. Ordinance - Topeka Zoo

☐ [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Jim Colson, concerning concessions and admission fees at the Topeka Zoo, amending City of Topeka Code Sections 11.35.010, 11.35.040, 11.35.050, 11.35.060 and 11.35.080 and specifically repealing said original sections, as well as, repealing Section 11.35.070. First Reading.

(Approval would authorize the City Manager to enter into an agreement with a third party to operate admissions and concessions at the Topeka Zoological Park. The City would realize a savings of \$120,964 in Zoo operating expenses.)

10. MISCELLANEOUS:

-

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

-

12. PUBLIC COMMENT:

-

13. ADJOURNMENT:

-



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 4, 2013

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DATE:	September 24, 2013	
CONTACT PERSON:		DOCUMENT #:
SECOND PARTY/SUBJECT:		PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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		PAGE #:

DOCUMENT DESCRIPTION:

"None scheduled at this time."

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

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SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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ATTACHMENTS:

No Attachments Available



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Topeka, Kansas 66603

September 4, 2013

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DATE: September 24, 2013
CONTACT PERSON: Mayor Larry Wolgast **DOCUMENT #:**
SECOND PARTY/SUBJECT: Appointment **PROJECT #:**
American with
Disabilities Act
Advisory Council
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the appointment of Marie Carter to the City of Topeka ADA Advisory Council for an unexpired term ending January 31, 2015. *(Council District No. 1)*

POLICY ISSUE:

The ADA council seeks to enhance the community by the contributions of persons with disabilities; to make a positive difference in their relationship with the community by working toward providing full access to facilities, programs, services, activities.

STAFF RECOMMENDATION:

Councilmember Hiller nominates and Mayor Wolgast recommends the appointment of Marie Carter to the City of Topeka ADA Advisory Council for an unexpired term ending January 31, 2015. This will be Ms. Carter's first term to serve and she will be filling an at-large position on the board. Her personal interest statement is attached.

BACKGROUND:

The mission of the Topeka ADA Advisory Council is to support the civil rights of and full integration into Topeka community life for all people with disabilities. The ADA Council will be comprised of 10 members. At least six of the members must be individuals with disabilities, representing the six major life functions as much as possible. Members will serve a two-year term and shall not be eligible to serve more than four consecutive terms pursuant to Topeka Municipal Code Section 2.80.010.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

Item #6

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

[MCareter_background](#)

Please provide the following information:

Name: Marie Carter

Home Address:

1118 SW 2nd St.
Topeka '06

Mailing Address (if different):

Council District #1

Phone contacts:

Contact preference:

TOPEKA PUBLIC SCHOOLS
Unified School District No. 501**Marie Elaine Carter**
Certified Personnel Manager624 SW 24th Street • Topeka, Kansas 66611
(785) 295-3027 • Fax (785) 438-5980
mcarter@topeka.k12.ks.us

Check one:

 I have read the above statement and believe I would qualify as one of the six members with a disability and would like to be considered for appointment.X I have read the above statement and do not qualify as a member with a disability but would like to be considered for an at-large appointment.

All applicants:

Would you be available to meet at the above listed meeting times? Yes X No IF NO, would you be able to attend if transportation was provided to the meeting?
Yes No

Please write a brief statement regarding your interest in being appointed to this board and what experience or other attributes you believe you can contribute should you be appointed to serve. I took care of a brother who was a 4 limb amputee and am now caring for a brother who is confined to a wheel chair - I understand the importance of having a functional ADA council - as I also work with Affirmative Action in Human Resources at my current job -

Signed Marie CarterDate July 8, 2013

Marie Elaine Carter
 Certified Personnel Manager
 Topeka Public Schools
 624 SW 24th St.
 Topeka, Kansas 66611
 785.295.3027 mcarter@topeka.k12.ks.us

FEDERAL GUIDELINES:

- Affirmative Action
 - Establish a district committee and hold quarterly meetings to ensure the district is abreast of Affirmative Action guidelines
- Benefit Fair
 - Notify Executive/General Directors of dates, times and venue for Benefits Fair
 - Contact vendors inviting them and informing them of dates etc.
 - Contact IT to order labels for benefit eligible employees
 - Order from IT, enrollment forms for employees (disregard if we go online)
 - Mail information letters to employees (disregard if we go online)
 - Offer a Wellness corner, shots, take HRA online, BMI, donate blood etc.
- Benefits (oversee)
 - Contacted Insurance Commissioner Sandy Praeger's office to set up a seminar for our dept/payroll to educate us on changes under the new Health Care Reform
 - Keep HR associate who enters benefit information abreast of any changes regarding entries
 - Work closely with HR associate(s) offering benefits to our employees of new forms and changes in procedures
- Building Assignments
 - Type or insure information is given to employee of new assignments for upcoming school year base off of movement of resignations, retirements, transfers
 - Notify all administrators connected with employee
- Cafeteria Plan Participation
 - Worked closely with Executive Director of Operations in implementing this new wellness program to all benefit eligible employees who take advantage of health benefits
 - Monitor activity of employees with the help of "Wellness" Captains (WC)
 - Hold necessary meetings with WC to inform and answer questions
- COBRA
 - Send out to any employee whose position has terminated with the district
 - Stay abreast of governmental updates on COBRA
 - Keep a notebook of all COBRA eligible employees and Verification of mailings
- EEOC
- International Teachers

- Licensures
- Minority Leadership Candidates – as part of the districts' recruitment and retention program minority candidates are offered an opportunity to enhance their leadership skills.
- Recruitment
 - Register district to attend recruitment fairs in order to interview for possible placements
 - Attend or schedule an administrator to attend
 - Create data base of all candidates by school and certification
- Retirement
 - Schedule general information meeting in February – these meetings are a schedule for any employee considering retirement and it's purpose is to inform employees of what they can expect pending and during their retirement.
 - Schedule paperwork meetings for those retiring – these meeting are scheduled for employees who have made the decision to retire. With personnel from the payroll department numbers are gathered for each individual employee, paperwork is signed and exit interviews are scheduled.
- Staffing
 - Work closely with the General Director of Human Resources to staff buildings as vacancies become available
 - Work closely with Building Administrators to staff for upcoming school year. The Building Administrators will notify Human Resources of an impending vacancy. They ask for a posting, review and interview viable candidates.
 - Certifications must be viewed for correct placement
- Staffing Reports
 - Maintain notebooks
 - Use information to staff building
- Strategic Planning
 - Recruitment Video
 - Recruitment Publications
 - Updating Marketing Strategies for Recruiting
- Student Teachers (payment authorization)
- Student Teachers (coordinates placements)
- Supervises
 - Front Desk Operations
 - Intern (HR,)



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SECOND PARTY/SUBJECT: **PROJECT #:**
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the appointment of Theresa Packard to the City of Topeka ADA Advisory Council for a term ending September 30, 2015. (Council District No. 9)

POLICY ISSUE:

The ADA council seeks to enhance the community by the contributions of persons with disabilities; to make a positive difference in their relationship with the community by working toward providing full access to facilities, programs, services, activities.

STAFF RECOMMENDATION:

Councilmember Harmon nominates and Mayor Wolgast recommends the appointment of Theresa Packard to the City of Topeka ADA Advisory Council for a two-year term ending September 30, 2015. This will be her first term to serve and she will be filling an at-large position on the board. Her personal statement is attached.

BACKGROUND:

The mission of the Topeka ADA Advisory Council is to support the civil rights of and full integration into Topeka community life for all people with disabilities. The ADA Council will be comprised of 10 members. At least six of the members must be individuals with disabilities, representing the six major life functions as much as possible. Members will serve a two-year term and shall not be eligible to serve more than four consecutive terms pursuant to Topeka Municipal Code Section 2.80.010.

BUDGETARY IMPACT:

There will be no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

[TPackard_statement](#)

members shall not serve beyond their appointed terms.

Authority: Ordinance 18920. **Term:** Two years **Term Limits:** Four consecutive terms

Meetings: Monthly, 2nd Thursday of the month; from 1:30—3:30 PM at the Holliday Bldg.

Current Board members and term end dates: Chair: Sharon Joseph, 4/30/14; Scott Spacek, 3/31/14; Open, 4/30/14; Marilyn Lind, 9/30/14; Amanda Smith, 1/31/15

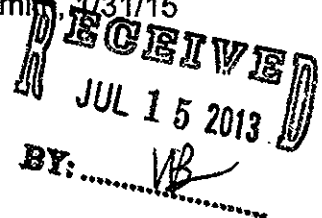
Please provide the following information:

Name: ~~Theresa Packard~~ Theresa Packard

Home Address: 4408 SW Timor Drive, Topeka, KS 66604-1923

District #9

Mailing Address (if different): P O Box 4105, Topeka, KS 66604-0105



Check one:

☐ I have read the above statement and believe I would qualify as one of the six members with a disability and would like to be considered for appointment.

☒ I have read the above statement and do not qualify as a member with a disability but would like to be considered for an at-large appointment.

All applicants:

Would you be available to meet at the above listed meeting times? Yes ☒ No ☐

IF NO, would you be able to attend if transportation was provided to the meeting?
Yes ☐ No ☐

Please write a brief statement regarding your interest in being appointed to this board and what experience or other attributes you believe you can contribute should you be appointed to serve.

Please see attached

Signed Theresa Packard

Date 7-11-13

**STATEMENT IN SUPPORT OF APPLICATION FOR APPOINTMENT TO THE
TOPEKA AMERICANS WITH DISABILITIES ACT ADVISORY COUNCIL**

NAME: Theresa Packard

HOME ADDRESS: 4408 SW Timor Drive, Topeka, KS 66604-1923

MAILING ADDRESS: P O Box 4105, Topeka, KS 66604-0105

I

STATEMENT

By way of introduction, I am a resident of Topeka, semi-retired and have been looking for ways to be of service to the community. When I read about the need for volunteers to serve on the Topeka ADA Advisory Council I thought it could be a good fit and I spoke with Mike McGee who invited me to attend the July 11th meeting. After attending the meeting I believe participation on the Council would be a mutually beneficial relationship. On a personal level, I have been diagnosed with Post Polio Syndrome. While I currently do not experience any impairments of daily living, I bring a sincere concern for those who do.

I hold a Masters degree in Educational Psychology and held a Marriage Family Therapist license in California (inactive). I worked as an intern throughout my graduate studies in a Day Treatment mental health program. After completion of my M.A. and becoming licensed as an MFT I worked as the Director of Client Services for a program providing services to developmentally disabled adults. This program, with locations in Santa Barbara and Woodland Hills, CA, provided pre-vocational, vocational and independent living skills to adults 18 and over.

I believe that my experience in the social services field in addition organizational and management skills acquired in both social service and business environments will enable me to contribute to serving the needs of the Topeka ADA Advisory Council and the community.

Thank you for your consideration.



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SECOND PARTY/SUBJECT: **PROJECT #:**
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the appointment of Sherry McGowan to the City of Topeka ADA Advisory Council for a term ending September 30, 2015. (Council District No. 1)

POLICY ISSUE:

The ADA council seeks to enhance the community by the contributions of persons with disabilities; to make a positive difference in their relationship with the community by working toward providing full access to facilities, programs, services, activities.

STAFF RECOMMENDATION:

Councilmember Hiller nominates and Mayor Wolgast recommends the appointment of Sherry McGowan to the City of Topeka ADA Advisory Council for a two-term ending September 30, 2015. This will be her first term to serve and she will be filling a position representing individuals with disabilities. Her background information is attached.

BACKGROUND:

The mission of the Topeka ADA Advisory Council is to support the civil rights of and full integration into Topeka community life for all people with disabilities. The ADA Council will be comprised of 10 members. At least six of the members must be individuals with disabilities, representing the six major life functions as much as possible. Members will serve a two-year term and shall not be eligible to serve more than four consecutive terms pursuant to Topeka Municipal Code Section 2.80.010.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

[SMcGowan_background](#)

July 5, 2013

Sherry A. McGowan
 Apartment 606 at the Kansan
 100 SE 9th Street
 Topeka, KS 66612

BOARD SERVICE RÉSUMÉ

Sherry A. McGowan is totally and permanently disabled, and has been since 2006. Or so says the Social Security Administration. She has been hospitalized repeatedly. She has been hospitalized for months at a time. She has been confined in bed in a nursing home for months at a time. After more than a year bed-ridden, Sherry began getting around a bit by wheelchair. Finally, she graduated to a rollator; a fold-up walker with wheels, brakes, a basket for carrying things, and a built-in chair. She still uses the rollator today. In 2007, a catastrophic illness resulted in an intentional, hospital-induced paralysis that could be likened to a coma that lasted for about one month. As a consequence of pain, for perhaps three or four years after that she was made to take the maximum possible doses of morphine, oxycontin, and hydrocodone, all concurrently. Eventually she rebelled, choosing to live with extreme pain, rather than live with avoidable cognitive impairment. Her cognition has dramatically improved, but some of her memory has not yet come back. Even through the entire period of her illness and on through to the present day, McGowan has served actively as an alternate member of the Community Action, Inc. Board of Directors.

Some of Sherry A. McGowan's Board Service Prior to Her Catastrophic Illness.
 (In no particular order.)

Topeka Board of REALTORS®, INC.
 Housing Needs Task Force, Chair

National Association of REALTORS®
 Housing Needs Task Force, Member

Shawnee Community Mental Health Center, Inc.
Board of Directors, Member

Parkview Hospital
Board of Trustees, Member

Topeka YWCA
Board Member

Midwest Association of Psychosocial Rehabilitation Services
Board Member

Ottawa University
Alumni Board of Directors, Member

City of Topeka
Mayor's Commission on the Status of Women, Member

City of Topeka
Mayor's Commission on Affordable Housing, Member

The University of Kansas
Spanish Club, President

MANY MORE —AND MUCH FURTHER DETAIL— UPON REQUEST.



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 4, 2013

☐ Back ☐ Print

DATE: September 24, 2013
CONTACT PERSON: Mayor Larry Wolgast **DOCUMENT #:**
SECOND PARTY/SUBJECT: **PROJECT #:**
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the appointment of Marijo Mastroianni to the City of Topeka ADA Advisory Council for a term ending September 30, 2015. (Council District No. 5)

POLICY ISSUE:

The ADA council seeks to enhance the community by the contributions of persons with disabilities; to make a positive difference in their relationship with the community by working toward providing full access to facilities, programs, services, activities.

STAFF RECOMMENDATION:

Councilmember De La Isla nominates and Mayor Wolgast recommends the appointment of Marijo Mastroianni to the City of Topeka ADA Advisory Council for a two-year term ending September 30, 2015. This will be her first term to serve and she will be filling a position representing individuals with disabilities. Her personal statement is attached.

BACKGROUND:

The mission of the Topeka ADA Advisory Council is to support the civil rights of and full integration into Topeka community life for all people with disabilities. The ADA Council will be comprised of 10 members. At least six of the members must be individuals with disabilities, representing the six major life functions as much as possible. Members will serve a two-year term and shall not be eligible to serve more than four consecutive terms pursuant to Topeka Municipal Code Section 2.80.010.

BUDGETARY IMPACT:

There will be no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable.

ATTACHMENTS:

[MMastroianni_statement](#)

- expiration of a term the position shall remain vacant until a successor is appointed; members shall not serve beyond their appointed terms.

Authority: Ordinance 18920. **Term:** Two years **Term Limits:** Four consecutive terms

Meetings: Monthly, 2nd Thursday of the month; from 1:30—3:30 PM at the Holliday Bldg.

Current Board members and term end dates: Chair: Sharon Joseph, 4/30/14; Scott Spacek, 3/31/14; Open, 4/30/14; Marilyn Lind, 9/30/14; Amanda Smith, 1/31/15

Please provide the following information:

Name: Marijo Mastrolanni

Home Address: 3021 SW Randolph Avenue, Apt. 205
Topeka, KS 66611

Council District #5

Mailing Address (if different): _____

RECEIVED
JUL 12 2013
BY: _____

Contact preference: Letter in mail to my address of where I live.
On home phone number

Check one:

☒ I have read the above statement and believe I would qualify as one of the six members with a disability and would like to be considered for appointment.

☐ I have read the above statement and do not qualify as a member with a disability but would like to be considered for an at-large appointment.

All applicants:

Would you be available to meet at the above listed meeting times? Yes ☒ No ☐

IF NO, would you be able to attend if transportation was provided to the meeting?
Yes ☐ No ☐

Please write a brief statement regarding your interest in being appointed to this board and what experience or other attributes you believe you can contribute should you be appointed to serve. Having both physical and mental illnesses, or as some prefer, disabilities they be called, I know what it feels like to try and get a job, insurance, really just about anything, without being given a "label" instead of just being called one's birth name. Here are some papers I wrote on what exactly is a disability and what draws the line between not being treated fairly and not just understanding what the law is. Having a sense of humor when I write seems to make it forthcoming. At least, I think it does.

Signed _____ **Date** 7/11/2013



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 4, 2013

☐ Back ☐ Print

DATE: September 24, 2013
CONTACT PERSON: Mayor Larry Wolgast **DOCUMENT #:**
SECOND PARTY/SUBJECT: **PROJECT #:**
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the appointment of Don Moses to the City of Topeka ADA Advisory Council for a term ending September 30, 2015. (Council District No. 5)

POLICY ISSUE:

The ADA council seeks to enhance the community by the contributions of persons with disabilities; to make a positive difference in their relationship with the community by working toward providing full access to facilities, programs, services, activities.

STAFF RECOMMENDATION:

Councilmember Richard Harmon nominates and Mayor Wolgast recommends the appointment of Don Moses to the City of Topeka ADA Advisory Council for a two-year term ending September 30, 2015. This will be his first term to serve and he will be filling an at-large position representing individuals with disabilities. His personal statement is attached.

BACKGROUND:

The mission of the Topeka ADA Advisory Council is to support the civil rights of and full integration into Topeka community life for all people with disabilities. The ADA Council will be comprised of 10 members. At least six of the members must be individuals with disabilities, representing the six major life functions as much as possible. Members will serve a two-year term and shall not be eligible to serve more than four consecutive terms pursuant to Topeka Municipal Code Section 2.80.010.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

[DMoses_statement](#)

Item #10

Membership: In accordance with City Code 2.80.10, the ADA Council shall be comprised of ten (10) members. At least six (6) members will be individuals with disabilities, with each of the six (6) major life functions represented by these members, for example, speaking, learning, walking or breathing. Hearing, walking and vision disabilities are currently represented on the board. All efforts will be made to ensure cross-disability representation in the selection of ADA council members. Terms shall be for two years. Members may not serve more than four (4) consecutive terms. Upon expiration of a term the position shall remain vacant until a successor is appointed; members shall not serve beyond their appointed terms.

Authority: Ordinance 18920. **Term:** Two years **Term Limits:** Four consecutive terms

Meetings: Monthly, 2nd Thursday of the month; from 1:30—3:30 PM at the Holliday Bldg.

Current Board members and term end dates: Chair: Sharon Joseph, 4/30/14; Scott Spacek, 3/31/14; Open, 4/30/14; Marilyn Lind, 9/30/14; Amanda Smith, 1/31/15

Please provide the following information:

Name: *The Rev'd DONALD H Moses*

Home Address: *2201 SW 30th St
Topeka, KS 66611*

Mailing Address (if different):

District #5

RECEIVED
JUL 15 2013
BY: *VB*

Email:

Contact preference. *A*

Check one:

☒ I have read the above statement and believe I would qualify as one of the six members with a disability and would like to be considered for appointment.

☐ I have read the above statement and do not qualify as a member with a disability but would like to be considered for an at-large appointment.

All applicants:

Would you be available to meet at the above listed meeting times? Yes ☒ No ☐

IF NO, would you be able to attend if transportation was provided to the meeting?
Yes ☐ No ☐

Please write a brief statement regarding your interest in being appointed to this board and what experience or other attributes you believe you can contribute should you be appointed to serve.

I suffered a major disability in June 1954. I was working a summer job at a grain elevator in North Topeka and was caught in a "faulty" piece of equipment resulting in a laceration severing my right arm. As a result, several reconstructive

Signed

Dorothy Mason

Date

July 10, 1993

07/01/2013 Mayor's Office ADA Advisory

* Surgeries, I was able to become
 less ~~wanted~~ and complete my college degree.
 I experienced a lot of difficulty, because
 of my disability in obtaining employment. Several
 months following my graduation I was hired
 as an insurance adjuster. Approximately
 8 years later I went to seminary and was
 in the Episcopal Church ministry.
 Through my life experience, both insurance
 and ministry along with my disability,
 I believe that I have a real interest in
 this area.



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 4, 2013

☐ Back ☐ Print

DATE: September 24, 2013
CONTACT PERSON: Mayor Larry Wolgast **DOCUMENT #:**
SECOND PARTY/SUBJECT: **PROJECT #:**
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the appointment of Keri Strahler to the City of Topeka ADA Advisory Council for a term ending September 30, 2015. (Council District No. 2)

POLICY ISSUE:

The ADA council seeks to enhance the community by the contributions of persons with disabilities; to make a positive difference in their relationship with the community by working toward providing full access to facilities, programs, services, activities.

STAFF RECOMMENDATION:

Councilmember Campos II nominates and Mayor Wolgast recommends the appointment of Keri Strahler to the City of Topeka ADA Advisory Council for a two-year term ending September 30, 2015. This will be her first term to serve and she will be filling a position representing individuals with disabilities. Her personal statement is attached.

BACKGROUND:

The mission of the Topeka ADA Advisory Council is to support the civil rights of and full integration into Topeka community life for all people with disabilities. The ADA Council will be comprised of 10 members. At least six of the members must be individuals with disabilities, representing the six major life functions as much as possible. Members will serve a two-year term and shall not be eligible to serve more than four consecutive terms pursuant to Topeka Municipal Code Section 2.80.010.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

[KStrahler_statement](#)

members shall not serve beyond their appointed terms.

Authority: Ordinance 18920. **Term:** Two years **Term Limits:** Four consecutive terms

Meetings: Monthly, 2nd Thursday of the month; from 1:30—3:30 PM at the Holliday Bldg.

Current Board members and term end dates: Chair: Sharon Joseph, 4/30/14; Scott Spacek, 3/31/14; Open, 4/30/14; Marilyn Lind, 9/30/14; Amanda Smith, 1/31/15

Please provide the following information:

Name: KEIR STRAUER

Home Address: 1015 NE KEHAM AVE.
TOPEKA, KS 66616

District 2 # John Campos

Mailing Address (if different):
SAME

Contact preference:

Check one:

☒ I have read the above statement and believe I would qualify as one of the six members with a disability and would like to be considered for appointment.

☐ I have read the above statement and do not qualify as a member with a disability but would like to be considered for an at-large appointment.

All applicants:

Would you be available to meet at the above listed meeting times? Yes ☒ No ☐

IF NO, would you be able to attend if transportation was provided to the meeting?
Yes ☐ No ☐

Please write a brief statement regarding your interest in being appointed to this board and what experience or other attributes you believe you can contribute should you be appointed to serve. As an advocate for mental health and having been in outpatient services @ Valeo for a year now, I've noticed that in communications with other patients, such as myself that as mental health folks, including those in our homeless communities that are getting services need some representation for our disabilities.

Signed Keir Strahler

Date 7/24/13



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 6, 2013

☐ Back ☐ Print

DATE: September 24, 2013
CONTACT PERSON: Mayor Larry Wolgast **DOCUMENT #:**
SECOND PARTY/SUBJECT: Appointment to the Topeka Sustainability Advisory Board **PROJECT #:**
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the appointment of Carrie Ridley to the Topeka Sustainability Advisory Board for a term ending September 30, 2015. (Council District No. 6)

POLICY ISSUE:

The purpose of the board is to promote environmental awareness and to advocate for policies which support sustainability

STAFF RECOMMENDATION:

Councilmember Chad Manspeaker nominates and Mayor Wolgast recommends the appointment of Carrie Ridley for a term ending September 30, 2015. Ms. Ridley's biographical information is attached to support her professional qualifications to serve on the board. She also meets the residency requirement to live in the City of Topeka.

BACKGROUND:

The Board is mandated by City of Topeka Ordinance No. 19165. The purpose of the Sustainability Advisory Board is to promote environmental assessment and advocate for policies which support sustainability specifically including but not limited to environmental assessment, waste education, recycling, energy conservation and natural resource conservation in the City of Topeka and to enhance the quality of life by improving the City's efforts in these areas.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

[CRidley_background](#)

CARRIE RIDLEY: Biographical information /personal statement for service on Topeka Sustainability Advisory Board.

Home Address: 1817 SW Oakley Ave Topeka, KS 66604

Professional Statement: I have been serving the State of Kansas for 11 years. I began my career at the Kansas Department of Transportation in 2002 in the Geology Section of the Bureau of Materials and Research. I worked as a Geologist and later a Professional Licensed Geologist (License No. 658) for KDOT for 10 years prior to taking my current position with the Kansas Department of Health and Environment as an Environmental Scientist in the Hazardous Waste Permits Section of the Bureau of Waste Management. I hold a BS in Geology from St. Lawrence University and a MS in Geology from Kansas State University.

I want to see our city continue to improve and become more attractive to both businesses and families; however, you can't just hope for change, you need to take action. The opening on the Sustainability Board seems like a way for me to get involved in my community and a good fit; given my professional background and my families commitment to greener living. Some of the ideas we incorporate into our home could be suggested to others and possibly adapted to business and other commercial applications.



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 4, 2013

☐ Back ☐ Print

DATE: September 24, 2013
CONTACT PERSON: John Campos II **DOCUMENT #:**
SECOND PARTY/SUBJECT: Christina Valdivia-Alcala **PROJECT #:**
CATEGORY/SUBCATEGORY 020 Resolutions / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by Councilmember John Campos II granting Tonantzin Society an exception to the provisions of City of Topeka Code Section 9.45.150., et seq., concerning noise prohibitions.
(Council District No. 2)

(City of Topeka Code Section 9.45.170, et seq., authorizes the Council to grant noise exceptions. Approval would allow for amplified music and sound during the hours of 11:00 a.m. and 5:00 p.m. on October 19, 2013, between the 800 and 900 blocks of North Kansas Avenue.)

POLICY ISSUE:

The Tonantzin Society has requested a noise exception be granted for a Street Fair to take place during the specified date and time.

STAFF RECOMMENDATION:

Staff recommends the Council move to approve the resolution.

BACKGROUND:

The Tonantzin Society is requesting the exception due to amplified music and sound at the event.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

[Resolution](#)

1 RESOLUTION NO. _____
2

3 A RESOLUTION introduced by Councilmember John Campos II, granting
4 Tonantzin Society an exception to the provisions of City of
5 Topeka Code Section 9.45.150. et seq. concerning noise
6 prohibitions.
7

8 WHEREAS, City of Topeka Code Section 9.45.150, et seq. makes it
9 unlawful for any person to make, continue or cause to be made or continued any
10 loud, unnecessary or unusual noise or any noise which either annoys, disturbs,
11 injures or endangers the comfort, repose, health or safety or others within the
12 limits of the city; and

13 WHEREAS, City of Topeka Code Section 9.45.170, et seq. authorizes the
14 City Council to grant exceptions to the prohibitions of this code section upon
15 request and a showing that the proposed activity does not offend the spirit of the
16 findings of City of Topeka Code Section 9.45.150, et seq., and

17 WHEREAS, Tonantzin Society has requested that they be granted an
18 exception to the provisions of City of Topeka Code Section 9.45.150, et seq. for
19 the purposes, dates and times described herein, and

20 WHEREAS, upon review of the application of Tonantzin Society, the
21 Council of the City of Topeka does hereby find that the requested activity does
22 not offend the spirit of the findings of City of Topeka Code Section 9.45.150, et
23 seq.

24 NOW, THEREFORE, BE IT RESOLVED by the Council of the City of
25 Topeka that Tonantzin Society is hereby granted an exception from the
26 provisions of City of Topeka Code Section 9.45.150, et seq. for amplified music

and sound during its Dia de los Muertos Street Fair located in the 800-900 blocks of North Kansas Avenue during the hours of 11:00 a.m. and 5:00 p.m. on October 19, 2013.

ADOPTED and APPROVED by the City Council _____.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 10, 2013

☐ Back ☐ Print

DATE: September 24, 2013
CONTACT PERSON: John Campos II DOCUMENT #:
SECOND PARTY/SUBJECT: April Ervin PROJECT #:
CATEGORY/SUBCATEGORY 020 Resolutions / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by Councilmember John Campos II granting April Ervin an exception to the provisions of City of Topeka Code Section 9.45.150., et seq., concerning noise prohibitions. (*Council District No. 2*)

(*City of Topeka Code Section 9.45.170, et seq., authorizes the Council to grant noise exceptions. Approval would allow for amplified music and sound during the hours of 5:00 p.m. and 11:00 p.m. on September 28, 2013, at 925 NE Monroe Street.*)

POLICY ISSUE:

April Ervin is requesting a noise exception be granted for a Wedding Reception to take place during the specified date and time.

STAFF RECOMMENDATION:

Staff recommends the Council move to approve the resolution.

BACKGROUND:

April Ervin is requesting the noise exception due to amplified music and sound at the event.

BUDGETARY IMPACT:

No budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

[Resolution](#)

Item #14

1 RESOLUTION NO. _____

2
3 A RESOLUTION introduced by Councilmember John Campos II, granting April
4 Ervin an exception to the provisions of City of Topeka Code
5 Section 9.45.150. et seq. concerning noise prohibitions.
6

7 WHEREAS, City of Topeka Code Section 9.45.150, et seq. makes it
8 unlawful for any person to make, continue or cause to be made or continued any
9 loud, unnecessary or unusual noise or any noise which either annoys, disturbs,
10 injures or endangers the comfort, repose, health or safety or others within the
11 limits of the city; and

12 WHEREAS, City of Topeka Code Section 9.45.170, et seq. authorizes the
13 City Council to grant exceptions to the prohibitions of this code section upon
14 request and a showing that the proposed activity does not offend the spirit of the
15 findings of City of Topeka Code Section 9.45.150, et seq., and

16 WHEREAS, April Ervin has requested that she be granted an exception to
17 the provisions of City of Topeka Code Section 9.45.150, et seq. for the purposes,
18 dates and times described herein, and

19 WHEREAS, upon review of the application of April Ervin, the Council of
20 the City of Topeka does hereby find that the requested activity does not offend
21 the spirit of the findings of City of Topeka Code Section 9.45.150, et seq.

22 NOW, THEREFORE, BE IT RESOLVED by the Council of the City of
23 Topeka that April Ervin is hereby granted an exception from the provisions of City
24 of Topeka Code Section 9.45.150, et seq. for amplified music and sound during a
25 Wedding Reception located at 925 NE Monroe Street during the hours of 5:00
26 p.m. and 11:00 p.m. on September 28, 2013.

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ADOPTED and APPROVED by the City Council _____.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 10, 2013

☐ Back ☐ Print

DATE:	September 24, 2013	
CONTACT PERSON:	Seth Lowry, Assistant City Attorney	DOCUMENT #:
SECOND PARTY/SUBJECT:	Mike Provence, Claim 13-014	PROJECT #:
CATEGORY/SUBCATEGORY	005 Claims / 006 Appeals	
CIP PROJECT:	No	
ACTION OF COUNCIL:	JOURNAL #:	PAGE #:

DOCUMENT DESCRIPTION:

DENIAL of claim by Mike Provence seeking \$3,252.87 to cover the cost of repairing damage to the body of his truck.

POLICY ISSUE:

The recommendation to deny the claim is based upon the fact there is no substantial evidence indicating that the City is responsible for causing the damage to Mr. Provence's truck.

STAFF RECOMMENDATION:

Staff recommends the Council move to approve the denial of the claim in the amount of \$3,252.87.

BACKGROUND:

Mike Provence filed a claim alleging that a crew of City workers damaged his truck while the crew was clearing snow from a neighboring property on or about March 6, 2013. The City crew was using a snow-blower to clear snow, and Mr. Provence alleges that the snow-blower caused rocks to strike and damage his truck.

BUDGETARY IMPACT:

If the claim is approved, \$3,252.87 would be paid to the claimant.

SOURCE OF FUNDING:

Special Liability Fund

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 10, 2013

☐ Back ☐ Print

DATE: September 24, 2013
CONTACT PERSON: Seth Lowry, Assistant City Attorney **DOCUMENT #:**
SECOND PARTY/SUBJECT: Phillip Cheatham, Claim **PROJECT #:** 13-039
CATEGORY/SUBCATEGORY 005 Claims / 006 Appeals
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

DENIAL of claim by Phillip Cheatham seeking \$800,000,000 in damages for alleged constitutional violations.

POLICY ISSUE:

The recommendation to deny the claim is based on the conclusion that Phillip Cheatham is alleging federal claims against the City under 42 U.S.C. Section 1983 and that there is no requirement that a claimant comply with the pre-filing requirement of K.S.A. 12-105(b) before filing such claims.

STAFF RECOMMENDATION:

Staff recommends the Council move to approve the denial of the claim in the amount of \$800,000,000.

BACKGROUND:

Phillip Cheatham alleges that he was wrongfully arrested, charged with, and convicted of capital murder, and that the City is economically liable because a Detective with the Topeka Police Department was instrumental in investigating the case and filed a probable cause affidavit that led to his arrest and eventual trial.

BUDGETARY IMPACT:

If the claim is approved, \$800,000,000 would be paid to the claimant.

SOURCE OF FUNDING:

Special Liability Fund

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 10, 2013

☐ Back ☐ Print

DATE: September 24, 2013
CONTACT PERSON: Seth Lowry, Assistant City Attorney **DOCUMENT #:**
SECOND PARTY/SUBJECT: Milton Lee, Claim 13-041 **PROJECT #:**
CATEGORY/SUBCATEGORY 005 Claims / 006 Appeals
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

DENIAL of claim by Milton Lee seeking \$2,000,000 in damages for alleged constitutional violations and the infliction of mental harms.

POLICY ISSUE:

The recommendation to deny the claim is based upon the determination that Mr. Lee suffered no constitutional violations and that he was not the victim of the type of egregious behavior that is required to give rise to a claim for infliction of emotional distress.

STAFF RECOMMENDATION:

Staff recommends denial of the claim in the amount of \$2,000,000.

BACKGROUND:

On November 7, 2012, the claimant pleaded no contest to criminal use of weapons and criminal damage to property charges in Topeka Municipal Court. The Topeka Police Officer who arrested Mr. Lee on those charges subsequently testified at a Mr. Lee's parole revocation hearing, and based upon facts underlying those November 7, 2012, convictions, Mr. Lee's parole was revoked.

BUDGETARY IMPACT:

If the claim is approved, \$2,000,000 would be paid to the claimant.

SOURCE OF FUNDING:

Special Liability Fund

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 10, 2013

☐ Back ☐ Print

DATE:	September 24, 2013	
CONTACT PERSON:	Seth Lowry, Assistant City Attorney	DOCUMENT #:
SECOND PARTY/SUBJECT:	Michelle and Melissa Eklund - Claim 13-008	PROJECT #:
CATEGORY/SUBCATEGORY	005 Claims / 006 Appeals	
CIP PROJECT:	No	
ACTION OF COUNCIL:	JOURNAL #:	PAGE #:

DOCUMENT DESCRIPTION:

DENIAL of claim by Michelle and Melissa Eklund in the amount of \$6,854.51 for alleged damage to their property due to a water main break located near 307 SW Elmwood.

POLICY ISSUE:

The recommendation to deny the claim is based upon the determination that the City did not cause the water main break and that the City responded to the water main break in a reasonable and prudent manner.

STAFF RECOMMENDATION:

Staff recommends the Council move to approve the denial of the claim in the amount of \$6,854.51.

BACKGROUND:

On March 15, 2012, the City received a report that there was a broken water main in the intersection of Elmwood and 2nd Streets. A City crew promptly responded, began shutting off valves, made repairs, and the water service resumed by the early afternoon the same day. In order to complete the repairs, the City crew opened a nearby hydrant and directed the flow of that water westward to prevent the water from interfering with the crew's attempts to repair the main break.

BUDGETARY IMPACT:

If the claim is approved, \$6,854.51 will be allocated from the Special Liability Fund.

SOURCE OF FUNDING:

Special Liability Fund

ATTACHMENTS:

No Attachments Available

Item #18



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 22, 2013

☐ Back ☐ Print

DATE:	September 24, 2013	
CONTACT PERSON:		DOCUMENT #:
SECOND PARTY/SUBJECT:		PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 22, 2013

☐ Back ☐ Print

DATE:	September 24, 2013	
CONTACT PERSON:		DOCUMENT #:
SECOND PARTY/SUBJECT:		PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 11, 2013

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DATE:	September 24, 2013		
CONTACT PERSON:	Bill Fiander/Bill Hoover	DOCUMENT #:	V13RA/1
SECOND PARTY/SUBJECT:	Reser's Fine Foods	PROJECT #:	
CATEGORY/SUBCATEGORY	014 Ordinances – Non-Codified / 006 Vacations		
CIP PROJECT:	No		
ACTION OF COUNCIL:	09-17-13 First Reading	JOURNAL #:	13
		PAGE #:	

DOCUMENT DESCRIPTION:

A PUBLIC HEARING in conjunction with vacation request V13RA/1 by Reser's Fine Foods requesting to vacate a platted access restriction located along the east property line of 3167 SE 10th Avenue, City of Topeka, Shawnee County, Kansas.

AN ORDINANCE introduced by City Manager Jim Colson, relating to the vacation of platted access restriction on the east line of property at 3167 SE 10th Avenue, City of Topeka, Shawnee County, Kansas. Final Reading. (V13RA/1) (Council District No. 3)

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

(Approval of the vacation would allow a driveway entrance on the east side of the property to eliminate a dead-end parking lot in front of the building at 3167 SE 10th.)

POLICY ISSUE:

Approval would allow the property owners to construct a driveway entrance off of SE Wittenberg Road that would eliminate a dead-end parking lot in front of their building.

STAFF RECOMMENDATION:

After the close of the public hearing, staff is recommending the Governing Body move to adopt the ordinance.

BACKGROUND:

The request was initiated by Reser's Fine Foods to vacate platted access restriction along the entire length of the east property line at 3167 SE 10th Avenue.

Item #21

Approval of the vacation is consistent with the City of Topeka Subdivision Regulations. In conjunction with all City department and public utilities, the Planning Department is recommending approval of the request.

Pursuant to Topeka Municipal Code Section 12.60.010(b) the vacation has been duly advertised 20 days, for two consecutive weeks prior to the public hearing.

BUDGETARY IMPACT:

There would be no budgetary impact to the City.

SOURCE OF FUNDING:

No applicable.

ATTACHMENTS:

[Summary Report](#)

[Ordinance](#)

[Aerial map](#)

[legal ad](#)

[reviewer list](#)

CITY OF TOPEKA PLANNING DEPARTMENT

SUMMARY REPORT

Re: V13RA/1 BY: RESER'S FINE FOODS

A request initiated by Reser's Fine Foods to vacate platted access restriction along the entire length of the east property line at 3167 SE 10th Avenue. The vacation would allow the property owners to construct a driveway entrance off of SE Wittenberg Road that will eliminate a dead-end parking lot in front of their building.

There is no cost that would be attributed to the City by the approval of the vacation. Approval of the vacation is consistent with the City of Topeka Subdivision Regulations. In conjunction with all City department and public utilities, the Planning Department is recommending approval of the request.

Pursuant with TMC 12.60.010(b) the vacation has been duly advertised 20 days and two consecutive weeks prior to the public hearing.

(Published in the Topeka Metro News _____)

ORDINANCE NO.

AN ORDINANCE introduced by City Manager Jim Colson, relating to the vacation of platted access restriction on the East line of property at 3167 SE 10th Avenue, City of Topeka, Shawnee County, Kansas. **(V13RA/1) (Council District No. 3)**

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

Section 1. That pursuant to the requirements of K.S.A. 12-504 as amended, a petition by Reser's Fine Foods, as property owners, has been filed with the office of the City Clerk, requesting the vacation of the following described platted access restriction located within the City of Topeka, Shawnee County, Kansas:

Access restriction on the East line of Lot 3, Block A, I-70 Industrial Park Subdivision #6 in the City of Topeka, Shawnee County Kansas

Section 2. That said petition has been duly published for two (2) consecutive weeks in a newspaper of general circulation and on **September 24, 2013**, the petition is ready for determination by the Governing Body of the City of Topeka, Kansas.

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

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

Section 4. That the Governing Body of the City of Topeka does hereby find that justice requires the petition of vacation be granted and does hereby order the vacation of the below described platted access restriction located within the City of Topeka, Kansas:

**Access restriction on the East line of Lot 3, Block A, I-70 Industrial Park Subdivision #6 in the
City of Topeka, Shawnee County Kansas**

Section 5. This vacation shall not effect any other underlying easements, or restrictions whether
platted or by instrument.

Section 6. The City Clerk is hereby directed to certify a copy of this ordinance to the Shawnee
County Register of Deeds Office for appropriate recording.

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

PASSED AND APPROVED by the Governing Body of the City of Topeka _____,
2013.

Larry E. Wolgast, Mayor

ATTEST:

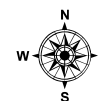
Brenda Younger, City Clerk

To Be Codified

Not To Be Codified X



V13RA/1 By: Reser's Fine Foods



Please have the attached published in the Topeka Metro News in the Legal Advertising Section on September 2, 2013 and September 9, 2013

IN THE MATTER OF THE PROPOSED VACATION OF:

Platted access restriction located along the east property line of 3167 SE 10th Avenue, City of Topeka, Shawnee County, Kansas (V13RA/1)(Council District #3)

NOTICE OF PUBLIC HEARING

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

To Whom It May Concern:

Public notice is hereby given that a petition has been filed by Reser's Fine Foods to vacate access restriction on the East line of Lot 3, Block A, I-70 Industrial Park Subdivision #6 in the City of Topeka, Shawnee County Kansas.

The petition will be presented to the Council of the City of Topeka for hearing **September 24, 2013** at 6:00 P.M. or as soon thereafter as the same may be heard in the City Council Chambers, Municipal Building, 2nd Floor, 8th and Monroe Streets, Topeka, Kansas, at which time and place all interested persons may appear and be heard, either for or against granting the prayer of said Petition.

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

DEPARTMENTAL COMMENTS:

Case: V13RA/1 By: Reser's Fine Foods

Location: 3167 SE 10th Avenue – Platted access restriction along east property line

DEPARTMENTS:

- **Water Division:** X No Objection Objection
Comments:
- **Engineering:** X No Objection Objection
Comments:
- **Parks Department:** X No Objection Objection
Comments:
- **County Refuse:** X No Objection Objection
Comments:
- **Fire Department:** X No Objection Objection
Comments:
- **Police Department:** X No Objection Objection
Comments:

UTILITY COMPANIES:

- **AT&T:** X No Objection Objection
Comments:
- **Westar:** X No Objection Objection
Comments:
- **Kansas Gas Service:** X No Objection Objection
Comments:
- **Cox Communications:** X No Objection Objection
Comments:

Annie Driver, Planner II
Prepared: August 21, 2013



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 10, 2013

☐ Back ☐ Print

DATE:	September 24, 2013		
CONTACT PERSON:	Bill Fiander/Bill Hoover	DOCUMENT #:	ACZR12/2
SECOND PARTY/SUBJECT:	Temporary Signs	PROJECT #:	
CATEGORY/SUBCATEGORY	013 Ordinances - Codified / 161 Comprehensive Zoning Cases		
CIP PROJECT:	No		
ACTION OF COUNCIL:	First Reading 7/09/13. Remanded back to PC 7/16/13.	JOURNAL #:	
PAGE #:			

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Jim Colson, amending City of Topeka Code Sections 18.10.010, 18.10.020, 18.15.030, 18.15.060, 18.25.060, 18.25.220, 18.25.230 and 18.25.260, specifically repealing said original sections, as well as, creating Section 18.25.215, all concerning the regulation of temporary signs. Final Reading. (ACZR12/2) (Remanded back to the Planning Commission from the meeting of July 16, 2013.)

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

(Approval would clarify definitions and standards for temporary signs that were originally established in 2007.)

POLICY ISSUE:

This amendment is designed to improve enforcement and make the temporary sign regulations more user friendly. The current, somewhat vague definitions and regulations of temporary signs are making some types of these signs (such as feather flag signs) unenforceable and are also making it difficult for businesses to determine what temporary signs are and are not permitted. The Governing Body has the following options to consider:

- (1) Adopt the recommendation of the Planning Commission by a majority vote (six votes) of the Governing Body.
 - (2) Reject or amend the Planning Commission's recommendation by a majority vote (six votes) of the Governing Body.
- Item #22

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to adopt the ordinance.

BACKGROUND:

The current temporary sign regulations make it difficult for businesses to determine what signs are and are not permitted and also make it difficult to enforce some types of temporary signs (such as feather flag signs).

The Planning Department researched 19 other communities' sign regulations to see how they monitored temporary signs. Upon completing the research for the Planning Commission, the City advised local sign companies and business who use feather flags of the proposed sign changes and requested their input. The Planning Commission discussed the matter at nine (9) different meetings. Additionally, the Planning Department held two Question and Answer sessions open to the public. After multiple revisions were made, the changes were finally agreed upon by the Planning Commission.

As recommended by the Planning Commission, the key changes include:

- (1) Addressed "feather flags" by defining them as another type of freestanding temporary sign that is self-supportive and subject to the current height and size restrictions (6 x 32 square foot in commercial zoned districts).
- (2) Changed duration of temporary sign from "special event" to two, 30-day periods except for real estate, garage sale, open houses and election signs. They are still limited to one (1) per property.
- (3) Temporary signs must still advertise on the property the services are offered except for garage sales and open houses.
- (4) Banner signs still can only be placed on the face of a building limited to 25 percent of the surface area of the building face.
- (5) Allow a small freestanding sign (4 x 6 square foot) in the City rights-of-way during business hours where there are not adequate setbacks (e.g., Downtown).

Public Works may also place signs in rights-of-way during construction periods.

The Planning Commission recommended approval on May 20, 2013.

The Governing Body considered the ordinance on July 16, 2013 and voted 7-2-0 to remand it back to the Planning Commission. The minutes of that meeting, which included testimony from a Downtown merchant, are attached, as well as revised ordinance language that Councilmember Hiller passed out at the meeting. The main items of re-consideration are summarized below:

- (1) Allowance of contractor signs during a construction event (e.g. property improvement signs)
- (2) Allowance of previously allowed official flags of government entities, religious, business firms, charitable, public, and non-profits.
- (3) Make exception for feather flags above 6' including for Downtown businesses.

The Planning Commission met to consider the changes at its July 22, 2013, and August 26, 2013 meetings. Staff worked with the City Attorney's office to revise the ordinance to make the above changes. The Planning Commission recommended approval by a vote of 8-1-0 of the proposed ordinance just to include Item Nos. 1 and 2 above. They rejected Item No. 3 based on the discussion in the minutes as summarized below:

· It does not meet the original intent of the objectives established for this sign code update which was to make temporary sign regulations easier to understand and enforce while keeping the size and duration standards intact as established in 2007.

- Making an exception to established maximum heights for signs in the community makes self-enforcement more difficult which will require more staff resources to enforce compliance.
- It will lead to a greater number of temporary signs in the community and potentially open the door for other temporary sign types to justify an increase in their size.
- They are not all attractive, can be a nuisance to drivers and pedestrians, and get tattered and worn. Is this the type of character we want for our city?
- Downtown is a destination and pedestrian-oriented place. These signs are car-oriented. The huge investment being made Downtown would not benefit from cluttering the area with feather flags and would not fit the type of character.
- If an exception is made for Downtown, then what would prevent other areas from asking for exceptions?
- Most cities researched do not allow them. Banning them for commercial advertisement is what more cities are doing. Lincoln, NE is the latest example (see attached news articles).

BUDGETARY IMPACT:

There would be no impact on the City's budget as proposed.

SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

[Ordinance](#)

[Summary Report](#)

[Summary of Other Communities Temporary Sign Standards](#)

[Articles of Other Cities Feather Flags](#)

[Planning Commission Minutes August 26, 2013](#)

[Planning Commission Minutes July 22, 2013](#)

[Planning Commission Minutes May 20, 2013](#)

[Planning Commission Minutes April 22, 2013](#)

[Planning Commission Minutes March 25, 2013](#)

[Planning Commission Minutes January 28, 2013](#)

[Planning Commission Minutes December 17, 2012](#)

[Planning Commission Minutes November 26, 2012](#)

[Planning Commission Minutes October 22, 2012](#)

[Hiller amendments 7/16/13](#)

[July 16, 2013 Council Meeting Minutes](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Jim Colson, amending City of Topeka Code § 18.10.010, § 18.10.020, § 18.15.030, § 18.15.060, § 18.25.060, § 18.25.220, § 18.25.230 and § 18.25.260, specifically repealing said original sections, as well as the creation of §18.25.215, all concerning the regulation of temporary signs.

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

Section 1. That section 18.10.010, Defined, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Defined.

(a) For the purpose of this division, the term "sign" means ~~and includes any electronic sign, signboard, billboard, posterboard, transparency, banner, panel poster, bulletin, sign device, any announcement, decoration, demonstration, display or insignia used to advertise or to promote the interest of any person wherein the same is placed, out of doors, upon buildings or structures or upon constructed surfaces detached from or attached to or supported by buildings, other structures or the ground, and shall also include the sign supports and appurtenances necessary thereto~~ any outdoor device, structure, fixture or placard using graphics, symbols, and/or written copy designated for the purpose of advertising or identifying any establishment, product, goods, services, activities, or uses.

(b) The provisions of this division shall not apply to the following:

(1) ~~signs located on governmental or school property where the primary purpose and function of the sign is to convey messages of public rather~~

~~than commercial interest or for keeping score at athletic events~~ Signs inside a building;

(2) Signs required by federal or state law;

(3) ~~Flags of any government agency;~~ Official flags of government jurisdictions and flags which are emblems of on-site business firms and enterprises, religious, charitable, public, and nonprofit organizations;

(4) Flags and pennants with no graphics, symbols, and/or written copy;

(5) Signs erected by governmental entities, except that identification signs for public buildings must comply with the ordinances regulating electronic message centers; and

(6) Signs authorized by the public works director for the duration of street, sidewalk, and utility improvement projects.

Section 2. That section 18.10.020, Classification, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Classification.

For the purpose of this division, signs are hereby classified as follows:

- (a) Wall signs;
- (b) Ground signs, ~~either portable or fixed to the ground~~ including portable;
- (c) Billboards or panel posters;
- (d) Roof signs;
- (e) Projecting signs; and
- (f) Temporary signs ~~and flags, banners and pennants.~~

51 Section 3. That section 18.15.030, Required, of The Code of the City of
52 Topeka, Kansas, is hereby amended to read as follows:

53 **Required.**

54 (a) Except for temporary signs identified in 18.25.260 TMC, ~~No~~ sign subject
55 to the provisions of this division shall hereafter be hung or erected until after a permit to
56 ~~hang, erect or locate such sign~~ has been obtained from the ~~public works director~~city
57 manager or his or her designees.

58 (b) No additional billboard or panel poster type signs subject to the provisions
59 of this division shall hereafter be hung or erected and no permits for additional
60 billboards or panel posters shall be issued by the public works director or his or her
61 designees following the effective date of this section; provided, that this provision shall
62 not prevent the necessary maintenance and/or repair of existing billboards or panel
63 posters.

64 (c) No sign erected or constructed prior to the effective date of this section for
65 which a permit was required for original construction shall be relocated, rebuilt or
66 remodeled without coming into compliance with the provisions of this division and until
67 after a permit granting permission for such relocation, rebuilding or remodeling has
68 been obtained from the public works director or his or her designees. A permit for a new
69 billboard or panel poster type sign shall not be issued until verification that an existing
70 billboard or panel poster type sign has been removed. A new billboard or panel poster
71 sign shall comply with the provisions of this division for new signs, including
72 construction type, distance requirements and zoning.

(d) Permits issued under this division shall become null and void after a period of 90 days from the date of issuance unless work is commenced towards the completion of the structural elements of the sign. One extension of time may be granted for good cause ~~shown by the public works director~~ city manager or his or her designees upon written request of the applicant.

Section 4. That section 18.15.060, Fees, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Fees.

~~Any person desiring a permit under the provisions of this division shall, at the time of receiving such permit, pay to the city the fees required~~ Sign permit application fees are as follows:

(a) ~~Wall signs or nonfreestanding sign:~~ Wall signs: \$30.00.

(b) ~~Freestanding~~ Ground signs: \$60.00.

(c) Billboards/Panel posters: \$60.00

(d) Roof signs: \$60.00

(e) Projecting signs: \$30.00

(f) Balloon signs: \$25.00

(eg) Any advertising sign affixed to a trailer which is used solely for the transportation of the advertising sign and is not designed to carry any other load, a fee of \$10.00 per year per sign. This fee will allow the sign to be placed by the owner for a period of one year from date of issue at locations which comply with sign location requirements, when prior notice of the proposed location is given to the building code enforcement division and approval given by that division.

96 Section 5. That section 18.25.060, Defined, of The Code of the City of
97 Topeka, Kansas, is hereby amended to read as follows:

98 **Defined.**

99 The term “ground signs” as used in this article means any sign not attached to a
100 building, other than a billboard or panel poster, erected upon or supported by the
101 ground and either affixed to the ground or portable. Any sign affixed to a trailer which is
102 used solely for the transportation of the sign and is not designed to carry any other load
103 shall be considered a portable sign for the purpose of sign regulations. Temporary
104 signs identified in Article VII of Chapter 18.25 TMC are not ground signs.

105 Section 6. That The Code of the City of Topeka, Kansas, is hereby amended
106 by adding a section to Article VII, Chapter 18.25 “Temporary Signs,” to be numbered
107 18.25.215, which said section reads as follows:

108 **Conformance with standards.**

109 It is unlawful to erect or maintain a sign identified in Article VII unless the sign
110 conforms to the standards established in Article VII.

111 Section 7. That section 18.25.220, Defined, of The Code of the City of
112 Topeka, Kansas, is hereby amended to read as follows:

113 **DefinedDefinitions.**

114 ~~(a) The term “temporary freestanding sign,” for the purposes of this article, shall mean~~
115 ~~any sign, sign device, banner, pennant, valance or advertising display constructed of~~
116 ~~cloth, canvas, light fabric, cardboard or other material, with a frame, intended to be~~
117 ~~displayed for a short period of time. The advertisement contained on a temporary~~

~~freestanding sign shall be limited to only the business, activity, industry or other pursuit conducted on or in the premises on which such sign is erected or maintained.~~

~~(b) The term "temporary nonfreestanding sign," for the purposes of this article, shall mean any sign, sign device, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard or other material, without a frame, intended to be displayed for a short period of time. The advertisement contained on a temporary nonfreestanding sign shall be limited to only the business, activity, industry or other pursuit conducted on or in the premises on which such sign is erected or maintained.~~

~~(c) The term "temporary balloon sign," for the purposes of this article, shall mean an air or gas filled balloon or other inflated device designed to emulate or advertise a product or call attention to a specific product, service, business or event. Such device may be inflated with gas or carbon dioxide or hot air and may be anchored to the ground or airborne and tethered to the ground, and is intended to be displayed for a short period of time. The advertisement contained on a temporary balloon sign shall be limited to only the business, activity, industry or other pursuit conducted on or in the premises on which such sign is anchored to the ground or airborne and tethered to the ground, or maintained.~~

~~(d) The term "limited duration, temporary, freestanding sign," for the purposes of this article, shall mean any sign, sign device or advertising display constructed of fabric, cardboard, plaster or other material with a self-supportive frame intended to be displayed for a short period of time. Said signs may advertise a business, activity, or~~

140 ~~other pursuit not conducted on or in the premises on which the sign is erected or~~
141 ~~maintained.~~ The following definitions shall apply to this article:

142 Banner sign. A banner sign is a sign that is not self-supporting and is made of
143 cloth, fabric, vinyl, or other material.

144 Election sign. An election sign is a sign that addresses a ballot question or
145 candidate in an upcoming election.

146 Freestanding sign. A freestanding sign is a self-supporting sign comprised of
147 cloth, fabric, vinyl, or other material placed in or on the ground.

148 Garage sale sign. A garage sale sign is a sign that advertises the sale of used
149 personal property.

150 Inflatable sign. An inflatable sign is a sign designed or constructed with the
151 ability to be mechanically filled with air or gas.

152 Open house sign. An open house sign is a sign that invites prospective buyers
153 or tenants to view real property that is for sale or lease.

154 Property improvement sign. A property improvement sign is a sign conveying
155 information regarding modifications or improvements to real property, including
156 construction projects.

157 Property sign. A property sign is a sign that conveys information regarding
158 activities or events affecting real property. Property signs include open house signs,
159 real estate signs, and property improvement signs.

160 Real estate sign. A real estate sign is a sign pertaining to the sale or lease of the
161 lot or tract of land on which the sign is located or the sale or lease of one or more
162 structures located on the lot or tract of land.

163 Temporary sign. A temporary sign is a sign intended to display messages of a
 164 transitory or temporary nature. Temporary signs shall include but are not limited to
 165 elections, garage sales, and property signs.

166 Section 8. That section 18.25.230, Placing and time of limitation, of The Code
 167 of the City of Topeka, Kansas, is hereby amended to read as follows:

168 **Placing and time limitationInflatable signs.**

169 ~~(a) Temporary Freestanding Signs. One temporary freestanding sign, not exceeding six~~
 170 ~~square feet per sign face and 48 inches in height may be placed or displayed at any~~
 171 ~~given time on private property in any R or M dwelling district; provided, however, a sign~~
 172 ~~not exceeding 32 square feet and 72 inches in height per sign face shall be permitted~~
 173 ~~on parcels exceeding one acre in size. One temporary freestanding sign not exceeding~~
 174 ~~32 square feet per sign face and 72 inches in height may be placed or displayed at any~~
 175 ~~given time on private property in any district other than the R or M districts. The~~
 176 ~~temporary freestanding sign shall only be displayed during that time period the event,~~
 177 ~~activity or pursuit occurs on the premises. Further, the temporary freestanding sign shall~~
 178 ~~be erected only upon the day the event, activity or pursuit commences and shall be~~
 179 ~~removed immediately after the event, activity or pursuit concludes. The display of a~~
 180 ~~temporary freestanding sign shall be limited to two separate occasions during any~~
 181 ~~calendar year. No permit is required for the display of a temporary freestanding sign.~~

182 ~~(b) Temporary nonfreestanding signs shall be placed flat upon any face of a building. All~~
 183 ~~such signs shall not extend above or beyond the face of a building on which they are~~
 184 ~~placed or extend more than 12 inches from the face of the building, and shall not~~

~~exceed 25 percent of the surface of the face of the building upon which they are displayed.~~

~~(c) Temporary balloon signs are subject to the following:~~

~~(1) Temporary balloon signs which exceed two cubic feet may not be placed on a property unless a permit is first obtained, as provided by TMC [18.15.030](#) and this section.~~

~~(2) A temporary balloon sign may be placed on the properties specified in the permit four times a calendar year for one week at a time. The maximum altitude at the top of the temporary balloon sign shall not exceed 55 feet including the length of the tether or height of structure to which the temporary balloon sign is attached. No temporary balloon sign may be placed on properties unless the owner has provided notice to all agencies requiring notification at least one week ahead of erection of the temporary balloon sign. Said notice shall be given by certified mail at the expense of the person for whom the temporary balloon sign will be erected. Agencies who desire notification of temporary balloon sign erection shall contact the development services division which shall maintain a list of such agencies.~~

~~(3) As a condition for the issuance of a permit, the owner and/or user of the temporary balloon sign must agree to hold the city harmless from all claims resulting from the placement of the temporary balloon sign.~~

~~(4) The permit fee for a temporary balloon sign shall be \$25.00 per placement on a property. The permit shall expire one week from its effective date.~~

~~(5) Temporary balloon signs are only allowed in C-4, C-5, I-1 and I-2 zoning districts.~~

~~(6) The temporary balloon signs must meet all applicable FAA regulations.~~

~~(7) The gas used in any temporary balloon signs must be noncombustible and the balloon may not be internally illuminated.~~

~~(8) No permit shall be issued for placement of a temporary balloon sign on property within 500 feet from the property line of a hospital with a helicopter landing pad.~~

~~(9) No temporary balloon sign shall be tethered within 55 feet of an overhead power line or property line.~~

~~(d) Limited Duration, Freestanding Signs. Not more than two limited duration, freestanding signs, not exceeding six square feet per sign face and 48 inches in height may be placed or displayed on private property with the consent of the property owner. Limited duration, freestanding signs may be displayed and may remain in place only from 5:00 p.m. Thursday until 5:00 p.m. Sunday. Not more than two limited duration, freestanding signs may be displayed on any property at any given time. No permit is required for the display of a limited duration, freestanding sign.~~
An inflatable sign that exceeds two cubic feet shall not be placed on a property unless a permit is obtained pursuant to TMC 18.15.030. Moreover, the following restrictions shall apply:

(a) Duration; display. The sign may be placed on property specified in the permit four times per calendar year not to exceed one week at a time. Such sign is allowed only in C-4, C-5, I-1 and I-2 zoning districts. If the inflatable sign is tethered and airborne, no permit shall be issued for placement within 500 feet from the property line of a health care facility with a helicopter landing pad or within 55 feet of an overhead power line or property line.

(b) Altitude. The maximum altitude at the top of the sign shall not exceed 55 feet including the length of the tether or height of the structure to which the sign is attached.

(c) Federal regulations. The sign shall comply with all Federal Aviation Administration regulations.

(d) Type of gas; anchor; illumination. The gas used shall be noncombustible and the sign may not be internally illuminated. The sign may be anchored to the ground or airborne and tethered to the ground.

(e) Hold harmless. Each applicant shall agree, in writing, to hold the city harmless from all claims resulting from the placement of the sign.

(f) Notice. No sign shall be placed on property unless the owner has provided notice to any person or organization that has requested notice from the city manager or designee. Such notice shall be provided at least one week before erection of the sign and shall be given by certified mail by the owner or designee.

(g) No off-premise advertising. Any advertisement contained on a sign shall be limited only to the business, activity, industry or other pursuit conducted on the premises upon which the sign is anchored.

Section 9. That section 18.25.260, Allowed without permit, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Allowed without permitRestrictions.

~~The following temporary signs are allowed in any zoning district and do not require a permit:~~

~~(a) Official flags of government jurisdictions and flags which are emblems of on-site business firms and enterprises, religious, charitable, public, and nonprofit organizations.~~

~~(b) Decorative streamers with no printed advertising.~~

(a) Banner signs. Banner signs may be displayed provided all of the following requirements are met:

(1) The sign is placed only on the face of a building;

(2) The sign does not extend above or beyond the face of a building or extend more than 12 inches from the face of the building;

(3) The sign does not exceed 25 percent of the surface of the face of the building; and

(4) Any advertisement is limited to the establishment, product, good, service, or activity occurring on the premises on which the sign appears.

(b) Freestanding signs.

(1) Residential district; dimensions. One freestanding sign, not exceeding six square feet per sign face and four feet in height, may be placed on private property, with the consent of the owner, in any R or M zoning district. For parcels exceeding one acre in size, one freestanding sign not exceeding 32 square feet per sign face and six feet in height may be placed on private property, with the consent of the owner, in any R or M zoning district .

(2) Non-residential district; dimensions. One freestanding sign, not exceeding 32 square feet per sign face and six feet in height, may be placed on

private property, with the consent of the owner, in any district other than R or M zoning districts.

(3) Duration; freestanding signs. Except for signs identified in subsections (b)(4) and (b)(5), a freestanding sign can be displayed only for a period of time not to exceed thirty (30) consecutive days two times per calendar year.

(4) Duration; garage sale signs. Garage sale signs can be displayed no more than two times per calendar year for no more than four consecutive days each time.

(5) Duration; property and elections. Property signs and election signs shall be removed after the activity or event concludes.

(6) No off-premise advertising. Except for garage sale signs and open house signs, any advertisement shall be limited to the establishment, product, good, service, or activity occurring on the premises on which the sign appears.

(7) Right-of-way. One freestanding sign may be placed in City right-of-way in any district not zoned R or M where the distance between the building face and the right-of-way is less than two feet provided all the following requirements are met:

(a) The sign is placed no closer than two feet from the back of the curb;

(b) The sign is placed only during the hours the establishment is open;

(c) The sign does not exceed six square feet per sign face and four feet in height;

(d) The sign does not obstruct a continuous through pedestrian zone of at least six (6) feet in width; and

(e) The sign does not obstruct pedestrian and wheelchair access from the sidewalk to any of the following:

(i) transit stop areas;

(ii) designated disabled parking spaces;

(iii) disabled access ramps; or

(iv) building exits including fire escapes.

(c) Examples of temporary signs.



Freestanding sign



Freestanding sign



Inflatable sign



Banner sign

Section 10. That original §18.10.010, §18.10.020, §18.15.030, §18.15.060, §18.25.060, §18.25.220, §18.25.230 and §18.25.260 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 11. This ordinance shall take effect and be in force on November 1, 2013 after its passage, approval and publication in the official City newspaper.

Section 12. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 13. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the Governing Body on _____.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

CITY OF TOPEKA PLANNING DEPARTMENT

SUMMARY REPORT

Re: ACZR12/2 Temporary Signs

This is an amendment to the temporary sign regulations designed to bring clarity for all users without changing intent of standards and make the regulations more user-friendly. Current regulations include somewhat vague definitions and standards that are making some types of temporary signs unenforceable (e.g., feather flag signs) and also making it difficult for businesses to determine what signs are and are not permitted.

The Planning Department researched nineteen (19) other communities' sign regulations to see how they monitored temporary signs. A summary table showing this research is attached. Many of the communities prohibit feather flag signs and most of the remaining communities only allow them several times per year for limited duration.

Upon completing the research for the Planning Commission, the Planning staff advised local sign companies and business using feather flags of the proposed sign changes and requested their input. The Planning Commission discussed this at five (5) different meetings that were open to the public. Additionally, the Planning Department held two (2) Question and Answer sessions open to the public. After multiple revisions were made, the changes were finally agreed upon by the Planning Commission. No objections were provided at the meeting.

As recommended by staff and adopted by the Planning Commission at its May 20, 2013 meeting (6-0-3), the key elements of the updated temporary sign ordinance include:

- 1) Addressed "feather flags" by defining them as another type of freestanding temporary sign that is self-supportive and subject to the current height and size restrictions (6'/32 sq. ft. in commercial). All are still limited to one (1) per property.
- 2) Changed duration of temporary sign from "special event" to two 30-day periods except for real estate, garage sale, open houses, and election signs.
- 3) Temporary signs must still advertise on the property the services are offered except for garage sales and open houses.
- 4) Banner signs still can only be placed on the face of a building limited to 25 percent of the surface area of the building face.
- 5) Allow a small freestanding sign (4'/6 sq. ft.) in the City rights-of-way during business hours where there are not adequate setbacks (e.g., Downtown). Public Works may also place signs in rights-of-way during construction periods.
- 6) The ordinance would become effective on November 1, 2013.

The Governing Body considered the ordinance on July 16, 2013 and voted 7-2-0 to remand it back to the Planning Commission. The minutes of that meeting, which included testimony from a Downtown merchant, are attached, as well as revised ordinance language that Councilmember Hiller passed out at the meeting. The main items of re-consideration are summarized below:

1. Allowance of contractor signs during a construction event (e.g. property improvement signs)
2. Allowance of previously allowed official flags of government entities, religious, business firms, charitable, public, and non-profits.
3. Make exception for feather flags above 6' including for Downtown businesses.

The Planning Commission met to consider the changes at its July 22nd and August 26th meetings. Staff worked with the City Attorney's office to revise the ordinance to make the above changes. The Planning Commission recommended **approval** (8-1-0) of the proposed ordinance just to include items #1 and #2 above. They rejected item #3 based on the discussion in their minutes as summarized below:

- It does not meet the original intent of the objectives established for this sign code update which was to make temporary sign regulations easier to understand and enforce while keeping the size and duration standards intact as established in 2007.
- Making an exception to established maximum heights for signs in the community makes self-enforcement more difficult which will require more staff resources to enforce compliance.
- It will lead to a greater number of temporary signs in the community and potentially open the door for other temporary sign types to justify an increase in their size.
- They are not all attractive, can be a nuisance to drivers and pedestrians, and get tattered and worn. Is this the type of character we want for our city?
- Downtown is a destination and pedestrian-oriented place. These signs are car-oriented. The huge investment being made Downtown would not benefit from cluttering the area with feather flags and would not fit the type of character.
- If an exception is made for Downtown, then what would prevent other areas from asking for exceptions?
- Most cities researched do not allow them. Banning them for commercial advertisement is what more cities are doing. Lincoln, NE is the latest example (see attached news articles).
- There has been considerable thought on this item with no less than nine (9) meetings being held by the Commission to deliberate on this matter.

Temporary Signs for Commercial/Industrial Zones in Other Communities

October 9, 2012

<u>Community</u>	<u>Summary of Restrictions</u>
Hutchinson, KS	Up to 4 temporary sign permits for 20 days per year may be issued on the same zoning lot. Maximum sign area is 32 s.f. and maximum height is 5' except on buildings where it is 20'. Must be at least 50' from any other temporary sign.
Kansas City/ Wyandotte County, KS	Wind/banner signs, pennants, and some other temporary-type signs are prohibited except for special events. Then they are allowed for 7 days within any 6 months or banner signs displayed on walls (up to 50 s.f. in size) are allowed for 30 days within any 6 months.
Lawrence, KS	One temporary sign permit per year for a sign area up to 60 s.f. and limited to 30 days.
Leavenworth, KS	One temporary sign allowed by a permit for up to 60 days and up to 120 days per year. In addition, 1 banner sign attached to a building or wall is allowed by a permit and is limited to 30 days followed by 60 days downtime. Limit of 4 banner permits per year.
Lenexa, KS	Limited to 4 sign permits per year of 15 days each for each business location. Free-standing sign is allowed if you have at least 200' of frontage and is limited to 32 s.f. and 8' in height. Portable signs and attention-attracting devices including feather signs are prohibited.
Manhattan, KS	Up to 3 banner signs per business are allowed without permits if mounted on a wall or a permanent sign structure. Temporary sales aids (pennants and non-governmental flags) are allowed without permits for up to 30 consecutive days.
Olathe, KS	Limited to 1 per street frontage or building and 4 periods of 30 days each (cannot run consecutively) per calendar year. Freestanding signs must be setback 10' from property lines and are limited to 4' in height and to an area of 32 s.f. Wall-mounted banners are limited in size to what is permitted for a permanent wall sign.
Overland Park, KS	Banner signs, feather flag signs, and similar signs are not allowed. Pole signs are also not allowed.
Salina, KS	Those placed over an existing sign face at least 8' high or on an existing building, wall, or fence behind the front yard setback have no time limitations. All other locations are limited to only 4 types of specific events, each allowing 1 sign up to 32 s.f. in size and for 21 days duration. Sign permits are not required for these types of signs.
Shawnee, KS	Permits are required and display is allowed for up to 90 days per calendar year. Banners may be placed on a wall of a building and are limited to 32 s.f. Feather signs/banners in front yards are limited to 20 s.f. Other portable signs are not allowed.

Little Rock, AR	Each business may have 1 building mounted banner and 1 freestanding banner but shopping centers are limited to 2 freestanding banners per property per street frontage. Freestanding banners are limited to 5' in height and 20' in width. All banners are limited to 6 weeks per sign permit and 24 weeks per year and are allowed during special events only.
Englewood, CO	Feather flag signs, banners and portable signs are all prohibited. However, banners in size up to 50 s.f. are allowed if attached to a wall or on the first floor of a building. These require a permit and are for up to 2 weeks each and limited to 6 permits per year.
Council Bluffs, IA	All swinging and portable signs are prohibited. Banner signs are limited to those attached to a building.
Des Moines, IA	Banners, banner signs and pennants are prohibited except for 1 special event per business per year which requires a permit and is limited to 10 days in duration.
Independence, MO	Wind-blown signs, pennants, inflatable signs, and portable signs are prohibited. Banner signs are allowed via a permit for 15 days each or 1 permit for 60 days and limited to 60 days per calendar year. Must be attached to a building or setback 5' from property lines.
Jefferson City, MO	Each business is limited to 1 temporary or 1 portable sign at any time and is limited in size to 12 s.f.
Kansas City, MO	Banners, feather flag signs and banner signs are only allowed during special events. Special event signs require a permit and pennants, banners, banner signs, and feather flag signs are limited to four 30-day periods per calendar year and they cannot be consecutive. Other temporary signs are limited to two 30-day periods per calendar year. Portable signs are prohibited.
Lee's Summit, MO	Pennants, feather flag signs, and portable signs are prohibited. Banners are only allowed as window or wall signage with 1 per building or lot, at a size up to 40 s.f., and limited to 4 banners per year and 15 days each (with 15 days downtime between permits).
Springfield, MO	A banner sign up to 4 s.f. is allowed without a permit for 30 days per calendar year. Other temporary signs are allowed by a permit for 15 or 30 days each, limited to 6 permits per year. Parking lot light pole banners located at least 50' from the ROW, up to 10 s.f. in size, and flown at least 10' high are allowed without a permit.

LINCOLN, Neb. – Feather signs are multiplying like dandelions in spring.

You can see them sprouting along O Street, fluttering in the wind. They've sprung up on the edges of town, calling attention to apartment complexes.

By the looks of many major streets, you'd never know that the so-called feather signs are illegal, banned by city ordinances intending to keep Lincoln tidy, free of eye clutter and driving distractions.

But the free-flying days of feather signs seemingly are almost over. The city has decided to begin enforcing its no-feather flag rule in earnest.

A letter from Fred Hoke, the city's Development Services Center director, will go out soon to half a dozen of the major business associations explaining city sign law and notifying them that city building inspectors will begin keeping a list and calling on businesses in violation.

Last year, the city tried to keep a lid on feather signs by notifying the sign companies licensed by the city that feather signs are illegal and asking the local companies to stop selling the signs, Hoke said.

But businesses began buying the signs online when they couldn't get them locally, Hoke said. So the signs have multiplied as businesses not only flouted the sign law but avoided paying local sales taxes.

It's time to enforce the city's code or change it, Hoke said.

There is a \$200-per-day fine for disobeying the city sign ordinance, but Mike Petersen, who handles sign permits for the city, expects most businesses will take down the temporary signs when they find out they are in violation of the law.

City building inspectors will be talking with commercial property owners and managers about their feather signs, informing them of the illegal nature of the signs and requesting they remove them, Hoke says in the letter to business associations.

ESCONDIDO — Escondido has granted merchants a two-month grace period to stop using feather flag signs, which City Council members complain make the city look like a circus.

The council recently reinstated a complete ban on the fluttering signs that went into effect Saturday, but city planners decided to allow merchants to continue using the fluttering signs through Sept. 1.

After that, feather flags will only be allowed during special events, and merchants will be required to get permit stickers for such use.

City officials said they want to help merchants struggling in a weak economy, but that the signs create problems with safety and aesthetics.

TACOMA is saying no to feather flags, a type of fluttering sidewalk advertisement that some city officials say is ugly and belongs in the suburbs.

The Tacoma City Council approved a ban on feather signs in its downtown area last week, making the signs illegal downtown starting Aug. 1.

But local businesses say this type of sign — generally resembling a vertical flag attached to a pole — is sometimes necessary and can help them attract customers that might otherwise pass them by.

Council members, before voting to outlaw the signs Tuesday, agreed to work with local business owners in the coming months to find a compromise between no regulation and an outright ban.

At a study session preceding Tuesday's council vote, Councilmen Ryan Mello and Marty Campbell had proposed allowing the signs for another year. Mayor Marilyn Strickland warned that the city had to do something about the signs before they got out of hand.

"They're just really unsightly," Strickland said Tuesday. "We need to think of what kinds of standards we want in our downtown."

She added in an email Friday: "They seem better suited for use in a more suburban environment with fast-moving cars on thoroughfares instead of a pedestrian-oriented downtown core or business district."

Tacoma City Manager T.C. Broadnax said that in choosing whether to allow feather signs downtown, the City Council needs to think about whether it wants to be a suburban or urban destination.

"It definitely would distract from Pacific Avenue and everything we're doing on that street," Broadnax said.

Councilman Joe Lonergan said that he considers feather signs "an auto-oriented type of signage."

"The question is, do we want pedestrian-oriented uses or traffic-oriented uses?" Lonergan asked Tuesday. "I think consistently this council has said it wants pedestrian-oriented uses downtown."

Peter Huffman, Tacoma's interim planning and development services director, said the council will review its policy and may decide to allow the signs in a limited form down the road, he said.

"What we'll be doing is going through a process and working with property owners and business owners here in the future," Huffman said.

Huffman said he's not sure how long the process will take, but he's hoping it will be no more than four to six months.

One regulatory option would be to allow feather signs only for special events, such as store grand openings, Broadnax said.

LAKEWOOD - City leaders want to make it clear: Lakewood sidewalks will no longer look like feather dusters.

After receiving numerous complaints on the extensive use of so-called "feather banners" in Lakewood, city officials agree something must be done.

"It's gotten too yucky and I think it's time to crack down," said Lakewood Councilmember Walter Neary in a public meeting last month.

But council members concede, some of the blame for the spread of bobbing, 10-foot tall sidewalk banners, rests with the council itself.

In June of 2011, the Lakewood City Council adopted an ordinance revising the city's sign regulations, but they did not mention the long, ruffling temporary signs that dot front lawns of small and large businesses.

Soon after, unregulated feather banners sprouted all over town. Councilmember Jason Whalen joked that it appears some business owners think, "One is good. Ten are better."

Changes to the sign code were intended to allow business to continuously display one portable sign without a permit, as long as the sign is an A-frame, T-frame, or banner attached flat against the wall of the business. But certain businesses like AAA Buffet have 10 of the banners posted near a Highway 512 intersection.

**Minutes of the
Topeka Planning Commission
Monday, August 26, 2013**

- 1. ACZR 12/2 Temporary Signs** – Bill Fiander briefed the Planning Commission of the status of the Temporary Sign Ordinance. Mr. Fiander explained that the City Council remanded the item to the Planning Commission. Mr. Fiander explained the ordinance has been drafted with changes to address the requests of the City Council. Mr. Fiander stated the changes include the allowance for contractor signs when there is an improvement to a property. Mr. Fiander stated the amendment allows for the property improvement signs to be placed until the end of the event have been added.

Mr. Fiander stated the City Council asked for a re-insertion of official flags for government entities and charitable or non-profit organizations. Mr. Fiander stated the allowance was added to the ordinance. Mr. Fiander explained that pennants without advertisement are exempt from the ordinance.

Mike Lackey asked if flags in permanent poles are permissible. Mr. Fiander confirmed. Mr. Fiander stated the ordinance was to address non-permanent signs. Mary Feighny explained the ordinance does not apply to flags or signs without wording.

Mr. Lackey stated he thought this was previously agreed upon. Mr. Fiander explained it was not clarified enough and has been done through the changes of the draft ordinance.

Richard Beardmore asked if the property improvement signs were not allowed in the right of way. Mr. Fiander confirmed they are not.

Mr. Beardmore asked if the ordinance addressed specific time limits. Mr. Fiander stated it is based on the project; it must be removed once complete.

Mr. Beardmore asked for an example of the term “business firms”. Ms. Feighny explained the term addresses the emblem of a business.

Scott Gales provided an example of a hotel having a flag with the company emblem on it is permissible. Ms. Feighny confirmed.

Mr. Fiander explained the third reconsideration is for the allowance of feather flags. Mr. Fiander stated the minutes from the City Council are included in the agenda packet and a list of suggested revisions from Councilmember Karen Hiller. Mr. Fiander stated the remanded item was initially discussed at the Planning Commission on July 22, 2013. Mr. Fiander explained that based upon that

discussion, the Planning Staff worked with the Legal Department to add an exception for feather flags downtown in the right-of-way.

Mr. Fiander expressed that there are merchants in the downtown district who are requesting the flags in the right of way, much like the sandwich boards. Mr. Fiander stated the allowance has been added to the ordinance, allowing the flags to exceed six feet but limited to twelve feet in height. Mr. Fiander stated the same conditions apply in regards of clearance of pedestrian right of way and hours of display.

Mr. Fiander stated the Planning Staff is not supportive of the exceptions for feather flags as it does not accomplish the objectives set by the Planning Commission and makes enforcement of the sign code more difficult. Mr. Fiander explained there is an issue where there is unequal treatment will require more staff resources to ensure compliance. Mr. Fiander stated that when standards are not consistent, it becomes a cycle of trying to educate and explain. Mr. Fiander explained there is an issue with self-compliance.

Mr. Fiander explained that sign violations are an opportunity to educate the public and most often self-compliance is accomplished. Mr. Fiander added there has not been a sign violation case that has gone to Municipal court. Mr. Fiander stated there are typically opportunities to education and offenders become compliant.

Mr. Fiander explained the trend amongst other cities is to ban feather flags and used Lincoln, Nebraska as an example. Mr. Fiander added that one city stated that if there were an exception it would not be in the downtown area but in a suburban area that is not pedestrian-oriented. Mr. Fiander stated within the state of Kansas, this draft is a more-lenient of ordinances in regards to feather flags.

Mr. Fiander stated there was a letter passed out from the downtown merchants. Mr. Fiander explained this case was not advertised as a public hearing but the commission may elect to take public comment.

Brett Klausman asked if this is specific to temporary signs. Mr. Fiander confirmed. Mr. Klausman asked how many different sign ordinances are in effect for Topeka. Mr. Fiander stated there is one sign code but many types of signs. Mr. Fiander stated there are many applications, such as Boyles signs or inflatable signs.

Mr. Klausman asked if humans holding a sign, on a street corner, are considered a temporary sign. Mr. Fiander and Ms. Feighny stated that has not been addressed. Mr. Fiander stated that portable signs have been addressed. Mr. Fiander stated it would be fitting to bring portable signs (Boyles Signs) back and add to the temporary sign regulation. Mr. Klausman stated he thinks that the feather flags would be considered portable because they are put up in the morning and then removed in the evening. Mr. Klausman added that the City of Lawrence has prohibited the feather flags but they are visible around town. Mr. Fiander explained

that instances such as that are enforceable items. Mr. Fiander stated people placing the flags will happen and Zoning Enforcement will address it.

Mr. Fiander stated there were nineteen cities reviewed when drafting the ordinance.

Nicholas Jefferson asked if there is a reason that other cities were prohibited. Mr. Fiander explained the main reasons for banning the feather flags were for aesthetics and safety. Mr. Fiander added that it is based on a city's character and how the signs fit with the character.

Mike Lackey stated that allowing portable signs is not a reason to allow feather flags. Mr. Lackey stated they are unattractive and he has seen many tattered or worn signs. Mr. Lackey added that he does not see a reason to allow the feather flags.

Kevin Beck stated that there is so much work being done to renovate downtown. Mr. Beck asked how the feather flags will fit into the architectural design of the renovations.

Mr. Gales stated the problem he sees is allowing it in the right of way. Mr. Gales stated that there are so many meticulous details being added that it could potentially add more problems. Mr. Gales explained how sandwich boards are there for informative reasons. Mr. Gales stated the issue is no longer that it is on a private property, but that it is in the public right of way. Mr. Gales stated he respects the need to advertise but the introduction of the feather flag in the right of way is of concern.

Mr. Lackey asked how the signs would be put up. Mr. Lackey asked if a hole would be drilled in to the ground. Mr. Fiander stated they have been put up in tree wells or simply in a base.

Michelle Cuevas- Stubblefield stated that adopting the ordinance opens many issues. Ms. Cuevas-Stubblefield added if there is a huge investment for adding character to the downtown area, she does not see the benefit of cluttering the area with feather flags.

Mr. Klausman stated that he didn't believe everyone wants to put them up but that allowing them in the ordinance states that the neighbors are ok with people having them. Mr. Klausman stated that if people pay rent and want to market, he doesn't see that the investment matters that much.

Ms. Cuevas-Stubblefield explained that downtown is a destination and did not believe that the feather flag would drum additional business.

Dennis Haugh stated he did not believe that grabbing attention was needed in the downtown area as the competition is in the same area.

Mr. Beardmore stated the downtown area is a 20-mph zone and a pedestrian orientated area. Mr. Beardmore stated that the feather flags may interfere with light poles, street lights and the trees.

Mr. Gales stated that if a flag is moving in the wind, it would be distracting, especially when the driver needs to attend to pedestrians. Mr. Gales added that he is concerned about putting them in the right of way.

Mr. Beck stated that as long as the allowance is made for the downtown is done, what will stop other local businesses from signing a document and asking for an allowance in another area of town, such as Wanamaker.

Mr. Klausman stated that he is in favor of the flags as he has noticed them appearing all over town and are increasingly popular.

Ms. Cuevas-Stubblefield asked where the liability is if someone gets hurt by a feather flag that is allowed in the public right of way.

Mr. Beck asked if it would be permissible for a flag mount being placed on a building and a feather flag put in to the mount. Ms. Feighny explained the caption is in the right of way being permissible. Mr. Fiander explained that Mr. Beck's suggestion would fit under another definition. Mr. Fiander explained the projection of the flag is more pedestrian-oriented. Mr. Fiander suggested a flat banner in lieu of such. Mr. Beck stated he was suggesting another source of attention getting signs as an alternative.

Mr. Lackey stated he did not believe the feather flags would cause a "make or break" situation for business owners.

Mr. Fiander explained the options for the Planning Commission in regards to the submitted draft ordinance. Mr. Fiander stated the options are to re-submit the original ordinance with reasons the action. Mr. Fiander stated the Planning Commission could submit an amended ordinance or defer the issue for further discussion.

Mr. Klausman asked what the City Council options are. Ms. Feighny stated the City Council could either accept the ordinance or change it. Ms. Feighny explained that the ordinance would then require a simple-majority vote.

Mr. Fiander asked if the initial submission was a majority vote. Ms. Feighny explained the first time required a two-thirds vote to change the ordinance. Ms. Feighny explained that the ordinance returning to City Council, however, only requires a simple-majority vote.

Mr. Lackey moved to accept the draft ordinance with items one and two but reject item three.

Mr. Beck asked for clarification of what Mr. Lackey was proposing.

Mr. Jefferson asked if item three was just allowing exception for downtown but not for everywhere else. Mr. Fiander confirmed and stated it the exception is just for downtown. Mr. Fiander stated staff could add all areas around town but it would require another draft ordinance and could be brought back to the Planning Commission.

Mr. Lackey moved to accept the draft ordinance with items one (property improvement signs) and two (official flags) but reject item three, Dustin Crook seconded. **APPROVAL. (8-1-0, Brett Klausman voted No.)**

**Minutes of the
Topeka Planning Commission
Monday, July 22, 2013**

ACZR 12/2 Temporary Signs – Bill Fiander explained the City Council remanded the ACZR 12/2 Temporary Signs ordinance. Mr. Fiander explained Councilwoman Hiller presented three issues that the Planning Commission need to address.

Mr. Fiander explained he is checking with legal to find out the correct language for exempting. Kevin Beck stated he thought the language was in there. Mr. Fiander stated the language was changed per the legal department. Mr. Fiander stated it is being reviewed.

Mr. Beck asked how consultants are affected by this ordinance. Mr. Fiander stated it would be same as the contractors. Mr. Fiander stated he is hoping to return with an ordinance that addresses the contractor/consultants issue. Richard Beardmore suggested addressing removal of the signs.

Mr. Fiander explained that a member of the Downtown Merchants Association desired to have feather flags exempted for downtown and potential branding effect for the stores.

Michelle Cuevas-Stubblefield stated the ordinance is a pro-active approach to address issues and protect business owners, investing in Topeka, who are maintaining a quality store-front property. Ms. Cuevas-Stubble stated the research has been done and the proposal would be very lenient compared to other cities.

Mr. Beardmore asked if there were comments presented that caused the issue to become a proposed ordinance for addressing. Mr. Fiander stated there were problems addressing feather flags as they were not addressed in the current code. Without addressing the ordinance, the Zoning Inspector was not able to enforce the feather flags as being not compliant with height limits.

Mr. Beck suggested that the requests presented from City Council be addressed by the Planning Commission next month.

Ms. Cuevas-Stubblefield stated it would best to present a list of reasons why the issues were chosen. Mr. Beardmore suggested presenting a summary or recap of what how the ordinance was constructed and resent to City Council.

Mr. Fiander suggested having a discussion with the merchants of downtown to ensure the issues are understood.

**Minutes of the
Topeka Planning Commission
Monday, May 20, 2013**

ACZR 12/2 Temporary Signs- amending sign standards in Chapter 18.25 contained in the Comprehensive Zoning Regulations of the Topeka Municipal Code. These changes would update the definition of temporary signs, including feather flag signs. **(Fiander)**

Discussion by members: Bill Fiander summarized the changes to the ordinance based on the Planning Commission's direction from the April 22nd Public Hearing Including:

- Allowance for Sidewalk Signs
- Allowance for construction signs to help identify businesses

Mike Lackey asked if sandwich boards will require a minimum space to allow pedestrians area to walk. Mr. Fiander clarified a six foot clearance is required. Mr. Fiander explained the sign could only be placed during the open hours of the business.

Scott Gales stated he likes the Capital Federal Building and asked if it was compliant. Mr. Fiander stated it does fit with the EMC ordinance and explained the size requirements.

Proponents:

No one spoke in favor of the proposal.

Opponents:

No one spoke in opposition of the proposal.

Michelle Cuevas-Stubblefield asked if the feather flags were addressed in the final draft. Mr. Fiander stated nothing has changed in the draft. Mr. Fiander stated the definition was included but the size limitation and quantity are the same as previous drafts. Ms. Stubblefield asked if the industries were ok with the height requirement. Mr. Fiander stated he has not received any further input in opposition.

Kevin Beck stated the feather flags would virtually be eliminated based on them not meeting the height limit for temporary signs. Mr. Fiander stated the effective date is September 1, 2013, if passed. This date allows time for those who have purchased them the opportunity to use them.

Mike Lackey moves to approve, seconded by Richard Beardmore.
APPROVAL. (6-0-3)

**Minutes of the
Topeka Planning Commission
Monday, April 22, 2013**

- 1. ACZR 12/2 Temporary Signs-** amending sign standards in Chapter 18.25 contained in the Comprehensive Zoning Regulations of the Topeka Municipal Code. These changes would update the definition of temporary signs, including feather flag signs. **(Fiander)**

Discussion by members: Bill Fiander summarized the staff report for the case. Mr. Fiander explained staff recommends approval of the proposed ordinance. Mr. Fiander provided a briefing regarding the work on the sign code. Mr. Fiander explained that the work on the temporary sign ordinance included eliminating ambiguous terms and defining those that needed corrected without changing the current language too much. Mr. Fiander stated the definition of temporary signs was ambiguous. Mr. Fiander stated the work has changed from the previous month.

Mike Lackey asked to clarified the special event, to include open houses and garage sales, and how many per property. Mr. Fiander clarified.

Mr. Fiander explained that most feather flags available for purchase exceed ten feet. The proposed sign code update would limit temporary signs to be less than six feet tall. Mr. Fiander explained garage sale signs and real estate signs.

Kevin Beck asked about open house signs and if there may be more than one posted.

Mr. Fiander confirmed and explained that after the special event, the open house, the signs would be removed.

Michelle Cuevas-Stubblefield asked if business within a strip mall would be limited to just one sign per property for freestanding signs.

Mr. Fiander explained it would be for the principal or parent owner. It was not clear in the ordinance. Due to this, the enforcement was one per property and the enforcement will not be changed.

Mr. Lackey asked if banners in a fast food rest from inside were considered.

Mr. Fiander explained the signs are outside the building, not inside, that are being addressed in the code.

Dennis Haugh asked if tenants in retail space, such as the strip malls, would have to take turns.

Mr. Fiander explained that one per property is how it is being enforced. Mr. Fiander added that portable signs are different than the temporary.

Brett Klausman asked if the changes in the code will promote more portable signs being put out and is it the proposed worse.

Mr. Fiander explained the Planning Department was directed to addressing feather flags and not portable signs.

Mr. Lackey asked if portable signs were addressed in this ordinance. Mr. Fiander stated no.

Mr. Klausman asked if vinyl stickers on the outside of restaurant are considered temporary or are they considered special.

Mr. Fiander stated that there were not any instances where that was enforced.

Bill Hoover stated when there are numerous signs in the yard that will cause the Zoning Administrator to look into it. However, stickers in the window would not.

Mr. Fiander stated there were two public Question and Answer sessions on March 18, 2013. The Zoning Administrator identified a number of businesses that were using feather flags and notified them with invitation.

Proponents: none.

Opponents:

Vince Frye, President of Downtown Topeka, Inc. asked for clarification when streets are under construction and causes an obstruction to getting to the business. Mr. Frye asked if businesses would be able to post temporary signs through the construction period to let customers know they are open. Mr. Frye also asked if it could be for periods longer than 30 days.

Mr. Fiander stated the code does not address that as it is considered off-premise advertisement. Mr. Fiander explained historically, advertising during a construction phase it has been a challenge.

Mary Feighny stated it is not addressed in the changes proposed for the ordinance but the issue is to be addressed at a later time.

Mr. Frye stated the city is adamant about ensuring customers can get to the business but has not addressed the advertising.

Mr. Klausman asked what Mr. Frye envisions.

Mr. Frye stated it would be on sidewalks due to the streets being closed for a long time.

Mr. Beck asked if he meant sandwich boards. Mr. Frye said no.

Mr. Fiander explained there has not been any effort to address signs that are not attention getting from the street.

Mr. Lackey stated the alternate signage has been considered temporary traffic control and have been coordinated with the contractor. This is to prevent a large number, such as 15 signs at end of the block that becomes cluttered and unable to read. However, signs such as "All Businesses Open" have been done. Mr. Lackey stated the temporary signs for the construction period should be coordinated with the city engineering department and the contractor.

Mr. Fiander stated during North Topeka Bridge construction, construction signage was coordinated with detour signs and provided traffic control and access points. The signs that Mr. Frye speak of are not temporary signs but traffic control.

Mr. Hoover stated there are no changes to make it better or worse but not being addressed. Mr. Fiander stated those issues are more about right of way. Ms. Feighny stated the City Manager would do what he could to accommodate merchant needs during construction.

Mr. Klausman asked about signs changing daily, such as placing sandwich boards in the morning and removing at the end of the day. Mr. Fiander stated it has never been enforced.

Ms. Cuevas-Stubblefield asked if this was more for driving traffic as opposed to pedestrian. Mr. Fiander confirmed.

Ms. Cuevas-Stubblefield asked if the ordinance was exclusive of Mr. Frye's concern. Ms. Feighny confirmed.

Anje Kearny, owner of Kansas Avenue Market, spoke in opposition of

the proposed. Ms. Kearny stated she did not understand why the temporary signs are an issue. Ms. Kearny stated that several businesses cannot afford to go buy new signs. Ms. Kearny stated she spoke to 20 businesses and none of them had heard about the proposed sign code amendment. Ms. Kearny explained that she believes businesses are fearful of having the city punish them if they speak out. Ms. Kearny explained she has recently opened the Kansas Avenue Market and just bought \$200 worth of temporary signs. Ms. Kearny stated there is a need for more publicity with Topeka Capital Journal. Ms. Kearny stated she feels like this ordinance and the City of Topeka is unfriendly to businesses and does not see a problem with the feather flags.

Mr. Lackey stated he remembered at least two articles in the Topeka Capital Journal and asked for a summary of how this was communicated to the public.

Mr. Fiander explained the work on the ordinance amendment started in November, there were two articles in the newspaper. Mr. Fiander explained there were public hearings started in December. Mr. Fiander stated there was a meeting at the C.A.C, and referenced that Ms. Kearny was in attendance.

Ms. Kearny stated she is the co-chair for the C.A.C.

Mr. Fiander added the amendment and meetings were advertised to the businesses in March, and the issue has been on the Planning Commission for several months. Mr. Fiander stated the essence of the ordinance has always been the same but addressed the height and size and definitions. The reason the amendment was started was due to a lack of defining feather flags, enforcement not be done.

Ms. Kearny stated Topeka has too many problems with houses not being up to code and are in horrible condition and Code Compliance is not addressing those issues but is going after this problem instead.

Ms. Cuevas-Stubblefield explained that signs change rapidly, feather flags were not used two years ago and it has to be regulated. Ms. Cuevas-Stubblefield explained that too many feather flags will take away from the look of Topeka and we need to ensure we do not look like a big advertising community. Ms. Cuevas-Stubblefield stated that trying to find a balance between the two has been a struggle and ensuring we understand current regulations and find a balance is the goal.

Ms. Kearny stated that she lived elsewhere and garage sale signs were not limited but required a permit. Ms. Kearny explained that that city would fine for not displaying the permit or removing signs after the event. Ms. Kearny does not understand why Topeka is trying to limit this.

Mr. Haugh stated the proposed amendment is much more lenient than surrounding cities.

Ms. Cuevas-Stubblefield stated that many communities are not allowing the use of feather flags.

Mr. Klausman explained that this amendment is addressing temporary and freestanding signs. Mr. Klausman stated that the downtown has mostly shopping done by pedestrians. Mr. Klausman asked if the amendment could separate the downtown area from city retail.

Mr. Hoover stated there will be a downtown plan modified in the future and that would be a great place to address that.

Ms. Feighny stated that is occurring now and enforcement not done until it is impeding on pedestrian traffic. Ms. Feighny added that the Zoning Administrator will usually call the store and ask them to move the sign to correct the issue.

Mr. Fiander explained there has to be a clear zone for pedestrians. Mr. Fiander stated placing signs in the right of way would be addressed in another part of the ordinance and is not being addressed or changed.

Mr. Klausman stated he is concerned with the sandwich boards, and pictures of, being shown in the amendment but would be allowed downtown. Mr. Klausman asked if downtown could be specialized in the ordinance.

Ms. Kearny stated she is downtown and she is just trying to help with business in that area. However, Ms. Kearny stated that there are areas such as 29th and Topeka Boulevard that would be in the same situation as downtown by specializing the area in regards to signage.

Mr. Lackey asked if there were new definitions that define the length of time in the amendment.

Mr. Fiander stated that is what the Planning Department has done by providing definitions and addressing the length of time but did not change standards.

Ms. Kearny stated that if she complained enough, then maybe the city would fix it.

Ms. Feighny asked Ms. Kearny what exactly is she against in the amendment.

Ms. Kearny stated she believes there should be some regulation but she does not see a reason to regulate feather flags or why it is an issue.

Mr. Lackey asked how downtown would look if all business had a ten foot feather flag in front of it.

Ms. Kearny said it would look great as it shows businesses are active. Ms. Kearny compared the feather flags to the balloon man on the corner.

Mr. Klausman explained there was an ordinance in place and it did not address the feather flags. Mr. Klausman stated it was time to fix that issue to ensure there was clear enforcement.

Ms. Kearny asked if there was way to make them permanent.

Mr. Fiander explained that flags on a pole are not temporary signs and would not meet the definitions in the proposed amendment.

Ms. Kearny responded that a person could put them in concrete and that would make them permanent.

Mr. Fiander stated that would not be permissible in the right of way.

Ms. Cuevas-Stubblefield stated there is a need to address pedestrian issue.

Mr. Beck stated that if it was not addressed, businesses can be impacted in negative way.

Ms. Feighny asked for clarification of whether it was the construction signs.

Mr. Beck clarified it would be signs in the downtown area and businesses without a setback.

Mr. Fiander stated the goal of the amendment was to address feather flags and not those issues. However, Mr. Fiander added, it can be done.

Mr. Haugh asked if there could be exceptions provided in the amendment.

Mr. Fiander stated it could be done but not in the right of way.

Ms. Feighny stated it would have to allow signs in the right way where the property does not have the spacing to allow the setback.

Nicholas Jefferson asked if a minimum spacing, for example a number of feet from the wall, be added.

Ms. Feighny stated that was one way to address it.

Mr. Klausman asked if sandwich boards be excluded.

Mr. Fiander stated those are considered transitory message and does meet definition but the problem is that it is in the right of way. The code does not allow signs in the right of way and it would have to be done through exception. Mr. Fiander stated it would be difficult to carve out exceptions.

Mr. Beck asked if Ms. Feighny could do it.

Ms. Feighny stated this could be a big policy issue. Ms. Feighny said it could be addressed but would present a challenge.

Ms. Cuevas-Stubblefield stated there is a big difference between sandwich boards that have to be stood next to in order to read the menu and those that are placed for visibility of driving traffic.

Mr. Klausman stated it would be good to address strip malls.

Mr. Fiander stated signs that are not read from the street are not what are being addressed but those that are in the right of way.

Mr. Lackey stated he doesn't understand why there is a need to have something put in the code amendment. Mr. Lackey added it should be left alone. Mr. Lackey asked if Code Enforcement had been downtown enforcing signs in the pedestrian right of way.

Ms. Cuevas-Stubblefield asked if would be exclusive of pedestrian traffic.

Mr. Lackey stated that if the Planning Commission keeps going from other angles, it will cause more issues.

Mr. Lackey moved for approval with staff recommendations, seconded by Dennis Haugh. **DISAPPROVAL. (3-3-0).**

Mr. Klausman stated the sandwich board signs need to be defined and clearly understood.

Mr. Fiander stated there is a standard on height and the Planning Department will need to create a definition of sandwich boards in pedestrian ways. Mr. Fiander stated they are currently addressed out of

the pedestrian ways.

Mr. Klausman suggested looking into the City of Lawrence, as they may have addressed this.

Mr. Fiander stated the Planning Commission could pass amendment or direct staff with new language at next meeting.

Ms. Feighny asked if the Planning Commission would want to see language first.

Mr. Lackey confirmed.

Ms. Feighny stated there is no need for a motion to continue public hearing unless the Planning Commission wants public comments.

Mr. Fiander stated it will be continued to May 20th, Zoning and Platting meeting.

Kevin Beck moved to continue ACZR 12/2, Temporary Signs until May 20, 2013, seconded by Brett Klausman. **APPROVAL. (6-0-3)**

**Minutes of the
Topeka Planning Commission
Monday, March 25, 2013**

Work Session – Temporary and EMC Sign Ordinance

Bill Fiander provided a briefing regarding the work on the sign code. Mr. Fiander explained that the work on the temporary sign ordinance and the work on the EMC ordinance began to merge. With that, the Planning Staff began working the ordinances together. The goal was to address feather flags, clarify the special event duration, and provide a user-friendly tool while not changing the current ordinance.

Brett Klausman asked if the Planning Department worked with sign companies on temporary sign ordinance. Mr. Fiander explained the work and research has been internal and the work completed on the EMC ordinance has been with many sign companies. During the Question & Answer meetings held by the Planning Department, the temporary sign information was briefed but no one from the public addressed the information.

Michelle Cuevas-Stubblefield asked if the ordinance allows for two (2) special events for 30 days consecutively. Mr. Fiander stated yes, as long as it is a special event.

Mike Lackey asked what the difference is between placing a banner on the window and placing a poster on every window. Mr. Fiander stated it is not addressed. Gaylene Epke added that signs in side windows are not regulated. Mr. Fiander explained the signs are outside the building, not inside that are being addressed in the code.

Richard Beardmore asked if a feather flag is a sign if it has no words on it. Mary Feighny stated that no words on it means it is not a sign. If it is not advertising something, with words, pictures, logos or symbols, it is not a sign.

Scott Gales asked if flags from flag poles, such as those from automobile dealers, with no logo or text, were permissible. Mr. Fiander confirmed and stated it would not be considered a temporary sign.

Mr. Lackey asked if banners with political statements were legal if posted on the side of a house. Ms. Feighny stated this is not addressed in the ordinance.

Mr. Fiander stated the public comments received were about putting advertisement in right of way for a fee. Mr. Fiander explained this was not being done. Bill Hoover stated there were comments about portable signs

such as Boyle signs. Mr. Fiander explained this is addressed in a separate ordinance. Mr. Fiander explained some people do not like the Boyles style signs yet many businesses use them as a tool. While it is a type of temporary sign, it is already addressed and quite different than what is being addressed in the proposed sign code ordinance. Mr. Fiander offered to do so, however, if the Planning Commission requested it to be done.

Mr. Beardmore stated that separating feather flags, blank or not blank, is not addressing the issue. Mr. Beardmore asked for the definition. Ms. Feighny provided the definition. Mr. Beardmore stated a colored flag draws attention, regardless of content, is providing a loophole that allows users to continue with many feather flags.

The Planning Commission requested the Planning Staff to clarify the definition to address the attention getting devices.

Mr. Beardmore added that measuring the foot candles for EMC should state that it is done facing the sign. Additionally, Mr. Beardmore asked if the property line limitation was addressed. Mr. Fiander confirmed. Mr. Beardmore asked if measurement was done at night. Mr. Fiander stated it is. Currently, Ms. Epke is measuring it in foot-candles.

Mr. Fiander explained how auto-dimming is addressed. Mr. Fiander explained much research was accomplished by comparing other cities. Mr. Fiander introduced Kip Slattery, Illuminous Neon and Virginia Baumgardner, Custom Neon, and Ron Sellers (not present) and explained their involvement in shaping the code.

Kevin Beck asked if the velocity of the scrolling was addressed. Mr. Fiander stated it isn't. Mr. Hoover stated that the brightness was most-addressed. Virginia Baumgardner stated that companies do not recommend scrolling because the viewers are driving and not sitting to watch. The Commissioners discussed the difference between flashing, framing and animation on EMCs.

Mr. Beardmore asked what the proposed schedule is with the ordinance. Mr. Hoover explained once clarifications are made, issues are addressed; the draft ordinance would be presented to the Planning Commission.

Mr. Fiander provided a video demonstrating the different EMC sign effects, such as strobing, spinning and framing.

Mr. Beardmore asked if the ordinance will have a date of compliance. Ms. Feighny explained there will be some dates but the cost of compliance was considered. Issues such as size and placement will be grandfathered.

Mr. Fiander stated the ordinances would be modified by Staff and presented

to the Topeka Planning Commission. Mr. Fiander added the draft ordinances will be sent to the Planning Commissioners soon.

MINUTES
TOPEKA PLANNING COMMISSION - POLICY
Monday, January 28, 2013

Electronic Messaging Centers Update – Bill Fiander briefed the Planning Commission on the status of the Electronic Messaging Centers. Mr. Fiander explained there have been two productive meetings in January. Mr. Fiander stated the initial meeting had four individuals participate. However, Mr. Fiander explained the second meeting had approximately twenty people present. Representatives of the State of Kansas, KDOT, numerous sign companies and manufacturers, the president of the Kansas State Sign Association and a reporter from the Topeka Capital Journal. Mr. Fiander stated the meetings afford the drafting of the ordinance while including the stakeholders. Mr. Fiander explained that the work done will assist in preparing for a public hearing.

Mr. Fiander stated the illumination, animation, also known as movement of message, and the placement (including size, where the sign sits, the spacing between signs, zoning districts) are the main topics of the discussions. Mr. Fiander stated the next meeting is scheduled for February 7, 2013 at 11 am. Mr. Fiander stated the guests have volunteered to prepare a draft and present at the next meeting.

Mr. Fiander stated that it will be important to better define the animation or flashing of the messages. Mr. Fiander added that comments received included concern with the brightness of the signs. Bill Hoover added that representatives present at the meeting were supportive of adjusting the brightness based on the technology available to do so. Mr. Hoover suggested 60-90 days to make the adjustments. Mr. Hoover added the businesses are responding based on their interest of their livelihood.

Mr. Fiander stated outreach has been difficult but changing the notification processes and utilizing the communication staff of the City may help. Mr. Fiander stated there is a need to get involved of the residents and neighborhoods.

Mike Lackey stated it is important to discuss the placement. Mr. Lackey explained that zoning districts might want to be addressed times of turning them off if near a residential area.

Mr. Fiander confirmed that the technology is there to turn the illumination down. Additionally, Wichita requires a certificate from the manufacturer of the Electronic Messaging Centers that verifies the brightness of the sign when applying for a sign permit. Mr. Hoover stated the maximum illumination was 500 nits. Mr. Hoover stated that enforcement would require a \$3,000 meter.

Additionally, the sign companies were going to look at the conversion between nits and foot candles.

Dennis Haugh questioned how the code is currently written and if the changes will be retro-active. Mr. Fiander explained that the ordinance will include time for compliance. However, business owners have control of how bright the EMC is and have the technology to turn them down. Mr. Hoover addressed the size of the ECM. Mr. Hoover stated our current code is lenient in comparison to other cities.

Mr. Fiander explained that currently, billboards are 300 square feet, and does not require a stay time. Most companies are self-regulating and use an eight second rule. Mr. Fiander compared other cities and provided suggestions on placement. Mr. Fiander asked for suggestions from the Planning Commission.

Richard Beardmore asked if off-premise signs will be addressed. Mr. Fiander stated it was not the initial intent, however, in working with the Legal department, the issue becomes apparent that it needs addressed. Mr. Fiander explained that the Planning department may re-accomplish the entire sign code in the future. Mr. Fiander stated the goal is to address the EMC and temporary signs and then potentially the entire sign code.

Mr. Beardmore asked if there was a size restriction currently. Mr. Hoover explained the size was measured by a formula and it depended on the zoning.

Mr. Fiander shared a recently approved sign permit that provided the department an opportunity to look for holes in current code. This incident illustrated that height restrictions were not clearly addressed.

Kevin Beck asked if the ordinance had to be content had to be regulated. Mr. Fiander confirmed it must be content neutral.

Mr. Lackey explained that it would be advantageous to keep the size and location regulated, given that most cities are restrictive. Lawrence, Overland Park and Lenexa do not allow the ECMs, Mr. Hoover stated.

Dustin asked how are the Planning Department is currently enforcing brightness. Mr. Fiander stated that most often enforcement is began through a complaint, verified by zoning inspector, and the resolution process begins. Mr. Fiander added that many issues are found during the night so the complaints come from citizens.

Michelle Cuevas-Stubblefield asked how many meetings are remaining. Mr. Fiander stated there may be a couple more meetings. The next meeting is February 7, 2013. Mr. Fiander stated the outcome of the next meeting will indicate if there is a need for additional meetings.

MINUTES

TOPEKA PLANNING COMMISSION - POLICY

Monday, December 17, 2012

1. **ACZR 12/2 Temporary Signs-** amending sign standards in Chapter 18.25 contained in the Comprehensive Zoning Regulations of the Topeka Municipal Code. These changes would update the definition, placing and time limitation of temporary signs, including feather flag signs.

Discussion by members: Bill Fiander explained the amendment will update the regulations and define feather flags. Mr. Fiander explained through enforcement of temporary sign regulations, feather flags were being classified as a particular type of temporary sign. However, the City Attorney's office clarified that the current code did not address feather flags. The definition was left for interpretation. Mr. Fiander explained the Planning Department's goal was to draft an update that specifically defines feather flags.

Mr. Fiander gave a presentation explaining the different types of temporary signs. Mr. Fiander explained and illustrated feather flags to be vertical flags that are partially framed. Mr. Fiander added they have increased in popularity in the city. The feather flags are a type of advertisement for business. One conflict with the definition was the word "frame".

Mr. Fiander summarized the changes in the proposed amendment are removing the word "frame" from definitions and instead used whether the sign is "attached to building" or not permanently affixed to the ground. Additionally, the amendment would add feather flags as a freestanding sign and maintain a limit of 6 feet in height and 32 square feet. Mr. Fiander added there were no additional limitations with the proposed change.

Richard Beardmore asked what the limitations were for a feather flag. Mr. Fiander clarified that under this proposal, one freestanding flag, with 6 feet in height and 32 square feet limitations, in commercial area, for a special event. Mr. Beardmore questioned how long a special event can last. Gaylene Epke, Zoning Inspector, explained special events usually last 60-90 days, with the exception of real estate signs. Real estate signs are not time limited due to being unable to determine how long a house will remain for sale. Mr. Beardmore asked if the 60-90 days was in the proposed amendment. Ms. Epke explained the 60-90 days are defined by the word "temporary" by city standards. Mr. Beardmore clarified the sign is limited to one sign at a time per property owner. Mr. Fiander explained it is one per property which is how it is being enforced currently.

Brett Klausman asked if the proposed restrictions are eliminating the use of feather flags. Mr. Fiander explained there are flags that meet the proposed restrictions but there are not many. The proposed amendment only allows the use of short, feather flags.

Scott Gales asked how citizens could identify if a flag has been permitted properly. Mr. Fiander explained there are no permits required for temporary signs. If a business is not in compliance, they receive a letter from the zoning inspector. Mr. Fiander explained there is a process in place to issue a fine for violations by code; however, the zoning inspector has been giving warns only for the first notification prior to issuing a fine. This provides the owner the opportunity to become compliant.

Mr. Klausman asked if most of the complaints are received by citizens. Ms. Epke confirmed they are received by telephone or email. This prompts Ms. Epke to go check the situation. Mr. Klausman asked if photographs were sent to her. Ms. Epke stated it is rare.

Michelle Cuevas-Stubblefield asked if the 60-90 days were consecutive or collective. Ms. Epke confirmed it is consecutive.

Nicholas Jefferson asked if the proposal would go into effect immediately or would business owners be given a grace period to adjust. Mr. Fiander stated this has not been addressed in the ordinance but stated the Planning Staff would be open to the idea.

Public Testimony:

Virginia Baumgardner, of Custom Neon Signs, spoke in regard to the proposal. Ms. Baumgardner requested clarification. "The Temporary Freestanding sign definition meets the following requirements. Number three state, "...is displayed only for special events." Ms. Baumgardner asked how the definition applies to sandwich board signs or a-frame signs that display menu or drink specials. Ms. Baumgardner stated it conflicts with the exemption of permits. Additionally, Ms. Baumgardner asked how this applies to a banner such as "Best of Topeka" or a banner for an award recipient. Ms. Baumgardner questioned the temporary balloon sign definition conflicts with no off-premise signs allowed.

Mr. Fiander responded to Ms. Baumgardner. Mr. Fiander acknowledged the absence of the legal department and asked to address that. Mr. Fiander explained the sandwich board in the example illustration was advertising a store opening.

Ms. Epke explained store openings are classified as a special event permissible for 60-90 days. Ms. Epke added there have not been any issues with special recognition yet, but her opinion is that it should be classified as a temporary non-freestanding. Ms. Epke acknowledged this issue could use additional discussion. Mr. Fiander added he would like to consult with the legal department regarding this.

Scott Gales stated that his business encourages clients to advertise new

constructions. Due to the length of project, the signs are displayed for as long as 9-12 months, exceeding the proposed restrictions. Mr. Gales asked for clarity on those issues. Mr. Fiander explained that in cases such as that, it may be considered a permanent sign which would not be restricted by this amendment. Ms. Epke explained signs, such as Mr. Gales described, are considered permanent and permissible as long as the project. Mr. Gales added multiple signs on a project such as project managers and financing signs for clarification. Mr. Fiander stated the proposal does not deviate from what the current restrictions are. Property owners are only allowed one. If multiple signs are happening and the Planning Department does not know, it will continue to happen. However, when a complaint is received, after speaking to the owner, enforcement can be done.

Pat Barnes, Lawyer of Scott, Quinlan, Willard and Barnes, LLC, representing Boyles Incorporated, commented the proposal may unintentionally affect portable signs. Mr. Barnes suggested lines 18 and 19 of the proposed should read "Ground signs are not included with temporary signs regulated in Article VII. Mr. Barnes stated that the change would address their concern.

Mr. Barnes asked that the Commission consider that this is one of the most cost effective methods of advertising. Mr. Barnes added that Topeka has many small businesses and that it is important for them to get their message out affordably. Mr. Barnes stated that the proposal limits the opportunities to use temporary signs. Mr. Barnes added the language outlined is concerning regarding the definition of special event. Mr. Barnes stated it may be too restrictive, especially for venues such as Kansas Expocentre or menu specials at local businesses.

Bill Hoover responded that the intent with the proposed was not to include the portable signs Mr. Barnes is addressing.

Mr. Fiander added that signs are intended to attract the public from the street. If it is interior to the site, it is not enforceable by definition.

Kip Slattery, of Luminous Neon, Inc, asked for clarification of the proposal. Mr. Slattery explained a recently approved PUD addressed specific sizes of a temporary sign. Mr. Slattery asked if there will be or should there be any conflict in the size of the sign in a PUD and the proposed amendment?

Mr. Fiander responded the PUD could be more restrictive but could not confirm regarding the case Mr. Slattery is addressing.

Mr. Gales commended the Planning Staff for the work on the proposed amendment. Mr. Gales stated he could be supportive but thought there is still additional refining to be done.

Kevin Beck agreed with Mr. Gales and added that the fact that Mr. Fiander

wanted to visit with the legal department on a couple of items. Mr. Fiander agreed and stated the clarification for Mr. Barnes, grace period and balloon signs all needed addressed. Mr. Klausman asked for addition of a photograph of a balloon sign. Mr. Beardmore added an example of allowed and not allowed would be a good additional also.

Richard Beardmore moved to allow the public hearing to remain open until the January 23, 2013 meeting to further refine the proposed amendment, seconded by Michelle Cuevas-Stubblefield.

APPROVAL. (7-0-2).

MINUTES
TOPEKA PLANNING COMMISSION - POLICY
Monday, November 26, 2012

ACZR 12/2 Temporary Signs – Bill Fiander briefed the Planning Commission on the draft ordinance regarding temporary signs and the definition of feather flags. Bill Hoover provided additional information regarding the different definitions of temporary signs and what other cities have in their code regarding temporary signs. Mr. Fiander explained that there has been an increase of complaints and questions regarding feather flags. Due to the ordinance not clearly addressing the feather flags, a better definition is required.

The Planning Commission discussed many options regarding feather flags and whether they are permissible. It was the direction of the commission to classify feather flags as temporary freestanding signs and maintain the existing six foot height limitation for that type of sign. Mr. Fiander will present an ordinance to the Planning Commission at the December public hearing. Mr. Fiander expressed the ability to delay this issue if necessary. Staff intends to invite temporary sign companies to the December 17th public hearing.

MINUTES

TOPEKA PLANNING COMMISSION - POLICY

Monday, October 22, 2012

Temporary Sign code update – Bill Fiander led a discussion regarding the different classification of signs being used in Topeka. Mr. Fiander referred to the handout with visual aids explaining what Feather Flags are. The Feather Flags are not defined within the current Municipal Code. The Legal Department has advised the Planning Department to better define the classification of flags prior to enforcement. Additionally, Mr. Fiander added that time restrictions should be addressed.

Issues such as attaching the flags to a pole on the building, car dealerships using vehicle logos, and non-freestanding flags were discussed. Gaylene Epke described the different examples of “attention-getting” devices, such non-logo, bearing flags or human beings wearing signs.

Mr. Fiander explained that the definitions need to be clear and thorough. Mr. Fiander explained that Bill Hoover had researched other cities regarding Feather Flags. Mr. Hoover explained the placement of flags and how other communities are handling permit requests.

Ms. Epke explained that she had also received information while attending the Kansas Association of Code Enforcement conference. Ms. Epke stated she had discussions with Kansas Code Enforcement counterparts about what is being allowed and what limitations are placed on the signage.

Scott Gales asked if the owners would be required to come to the Development Services are declare use of their signs and apply for a limit. Ms. Epke stated this is something the Planning Commission should consider to assist with enforcement. Mr. Hoover added that many communities require the permit process to ensure the city is aware of the duration of the signs.

Portable and Inflated signs would not be included in updating the Temporary Sign Code. Mr. Fiander posed the request to the Planning Commission to provide feedback and assistance in the update. Mr. Fiander added that visual aids, such as graphics should be included. Mr. Fiander suggested having Ms. Epke do a presentation on City Channel 4.

Mary Feighny explained that the Planning Commission needs to decide if Feather Flags need regulated and to what extent.

Mr. Gales asked how many Feather Flags are being used in Topeka. Ms. Epke stated that there are hundreds currently up around the city. Brett Klausman added that he has seen the Feather Flags for apartments. The Feather Flags are used to advertise specials for the apartments or new businesses.

Mr. Klausman asked if there many complaints. Dean Diediker stated we get a lot calls with inquiries. Ms. Epke added the Planning Department receives complaints that banners are not allowed, yet the Feather Flags are. The complaints indicate there is no difference between the two types of flags. Mr. Fiander added that there is no standardization or consistency currently and it is needed to enforce and allow.

Ms. Epke suggested the Planning Commission define "Temporary" in regards to the signs. Mr. Fiander asked for input at the next Planning Commission Policy Meeting.

Sign Ordinance - Suggested revisions 7/16/13

Section 1: Reinstate here, in subsection b (3) of this section that talks about what the ordinance does not apply to, former 9 (a)

9 (a) Official flags of government jurisdictions and flags which are emblems of onsite business firms and enterprises, religious, charitable, public and nonprofit organizations.

Reason? Unless there was a problem, why change....

Section 5: Insert a reference to where in the Sign Code the definitions for the five categories from Section 4 other than Ground Signs can be found.

Reason? Clarity, completeness, consumer-friendly

Section 9 (b): Add a new subsection (6) "Duration; construction/contractor. Contractor signs may be displayed on a residential or non-residential construction site during the period of time that contractor is actively working. If more than one contractor is working, more than one sign, but only one per contractor, may be displayed."

Reason? This issue was raised during Planning Commission discussion, is valid, and was not addressed.

Section 9 (b)(7): Add a new subsection (f) "The sign does not obstruct safety sight lines, per TMC _____"

Reason? Clarity, consumer-friendly. It is important that people who want to put up signs know that there are sight-line issues when setting signs out in the right-of-way.

Feather Flags: Add in three places to allow for feather flags, both long-term and temporary in Non-Residential and temporary, at a reduced size, in Residential.

Section 5: Include Feather Flags in the definition of Ground Signs. "Narrow fabric, attached on one side only to a pole that is anchored into the ground" is possible language. Clarify different heights and frequencies per various commercial/industrial zoning classifications. What car dealers do now should be OK, for instance. Pay for a permit, permission to have flags up all the time. 25' heights? 30' on center? For Downtown, 12' heights and either one per storefront or 50', whichever is less, should be OK. If the Downtown permission should be Temporary only, that's OK with me. Allow size of feather flag to be 60 square feet on a 25' pole (3'x20'), 20 square feet on a 12' pole (2'x10')?

Section 7: Add Feather Flags to definitions of Temporary Signs, in its own class. See above for some language. Residential should be included, though, with the small size and the small flag. Can be limited time-wise the same as other temporary signs

If language regarding displaying them only if they are in good condition – lettering clear, no tears or stains, “fluttering” as intended in design – is important to some, I am OK with adding.

Reason? Is reasonable. People like feather flags. They are inexpensive and fun. No good reason to ban them.

Construction Signage: This ordinance includes an exemption, with deferral to the Public Works Director, for signs during construction. We do not yet have policy in this arena. It is critical to have commitment from the City Manager and the Public Works Director that the exception for construction signage will allow names of businesses, with signs and lettering big enough to be seen by a passing car or from across the street. This commitment, at this time, would be helpful.

Council Minutes – July 16, 2013

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, July 16, 2013. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Hiller, Campos II, Ortiz, De La Isla, Manspeaker, Schwartz, Schmidt and Harmon -8. Mayor Larry E. Wolgast presided -1. Absent: Councilmember Everhart -1.

AFTER THE MEETING was called to order, Councilmember Manspeaker gave the invocation.

THE PLEDGE OF ALLEGIANCE was recited by those present in the chamber.

A PRESENTATION on the 2012 City of Topeka Financial Audit was provided by Jeff White, Interim Budget Director, Columbia Capital Management, L.L.C. He reported the City's external auditors delivered a "clean" opinion and for the first time in a number of years, the City completed the Comprehensive Annual Financial Report (CAFR), including audited financial statements, for the fiscal year ending December 31, 2012, in a timely fashion. He stated the transmittal letter and the Management Discussion and Analysis (MD&A) outlines a key change in the 2012 FY CAPR which is the transfer of the City's former parks program to Shawnee County. He reported the external auditor's management letter provided the City guidance in areas needed for change and improvement, most of which have or will be resolved with relatively simple procedural changes. He expressed his confidence in the responsible management of public resources based on the quality of the City's accounting and financial reporting and commended Finance Department staff members for their hard work in completing the audit. He provided brief comments on audit preference, process improvement, entry errors and changing accounting standards.

Mayor Wolgast commended staff for providing a clear snapshot of the City's financial reporting processes and providing a mechanism for the Governing Body to reference in moving ahead with budgetary recommendations. He commended Tina Loyd, Finance Department, and Pam Simecka, City Controller, for their hard work in helping complete the audit.

Councilmember Hiller commended staff for providing the report. She stated the report will be a great reference tool in making financial decisions.

Mayor Wolgast requested to pull items 4A, 4B and 4C, Board Appointments for the Community Corrections Advisory Council from the consent agenda for further review of the appointment process. He stated he seeks to work cooperatively with the Council and believes the Governing Body is a team that works together. He asked the City Attorney's office to review the process to see if it meets all state statutes and City ordinances and when the review is complete, the process will be presented to the Council for participation in nominating and appointing individuals who apply to serve in the community on various boards and commissions. He stated a list of appointments to be filled in the next 60 to 90 days will be posted on the City's website with a link to the form for self-nomination to those interested in serving their community.

Councilmember Ortiz thanked Mayor Wolgast for being sensitive to the Councilmembers needs; however, due to the many vacant appointments at this time, certain boards cannot vote on their annual budget until the vacancies are filled. She expressed concern with the Juvenile Corrections Advisory Board funding cuts and noted any delay in the appointment process could have a negative effect on the organization.

Councilmember Ortiz moved to withdraw items 4A, 4B and 4C, Board Appointments to the Community Corrections Advisory Council from the consent agenda for further discussion. The motion seconded by Councilmember Manspeaker carried unanimously. (8-0-0)

THE CONSENT AGENDA was presented as follows:

MINUTES of the regular meeting of July 9, 2013, were presented.

An Open After Midnight License application for Quinton's Bar and Deli located at 4121 SW Huntoon Street, was presented.

Councilmember De La Isla moved to approve the remainder of the consent agenda. The motion seconded by Councilmember Manspeaker carried unanimously. (8-0-0)

ORDINANCE NO. 19830 introduced by City Manager Jim Colson, amending City of Topeka Code Sections 18.10.020, 18.10.050, 18.20.020, 18.25.010, 18.25.070, 18.25.080, 18.25.095, 18.55.190 and specifically repealing said original sections, as well as, creating new Section 18.25.135, all concerning electronic message center sign regulations placed on first reading July 9, 2013, was again presented. (ACZR12/4)

Bill Fiander, Planning Department Director, reported the proposed ordinance would fill a void in the City's sign regulations as electronic message center signs are currently not regulated in non-residential zoning districts. He stated Planning Department staff researched 23 other community sign regulations to see how they monitored electronic message center signs in commercial areas and four Question & Answer Sessions were held at public hearing meetings to discuss the issue. He noted the Topeka Planning Commission and City of Topeka Planning Department support the ordinance and recommend approval.

Councilmember Schwartz asked if the Greater Topeka Chamber of Commerce has commented on the issue.

Bill Fiander reported the Topeka Chamber of Commerce supports the proposed ordinance.

Councilmember Manspeaker questioned why the proposed ordinance was being presented and noted he has not received any complaints from the community.

Bill Fiander stated the two main reasons the ordinance has been presented is to improve the aesthetics and safety of the community. He noted staff has received a handful of complaints regarding the issue.

Mayor Wolgast reported he has received some complaints from constituents.

Councilmember Ortiz stated businesses have made great investment in advertising signs and asked if a grand-father clause would be included in the ordinance for signs that are currently too big or do not comply with the new regulations.

Bill Fiander stated he is not aware of any signs that would be out of compliance if the ordinance is approved; however, a grand-father clause is included in the ordinance for larger-size signs. He noted the brightness and movement of the electronic message center signs would have to be reprogrammed to comply with the ordinance.

Mayor Wolgast spoke in support of the ordinance and stated it is important to the community. He listed several communities comparable in size to the City of Topeka and reported most of the cities do not allow the type of signage used in the Topeka area. He also noted several public meetings have been held to provide opportunities for the industry to voice their concerns and work towards a resolution.

Councilmember Ortiz asked if there was anyone opposed to the new sign regulations.

Bill Fiander stated there were some businesses that believe the City should not restrict electronic sign movement; however, a compromise was reached and the proposed ordinance was drafted.

Kip Slattery, Luminous Neon, Inc., thanked City staff for drafting the regulations and expressed appreciation for reaching out to the industry to find a compromise to satisfy both parties. He spoke in support of the ordinance.

Councilmember Hiller stated she has received many complaints about the electronic message center signs and expressed appreciation to City staff for engaging the industry in the process.

Councilmember Hiller moved to adopt the ordinance. The motion seconded by Councilmember Schmidt carried. Mayor Wolgast voted “yes.” Councilmember Manspeaker voted “no.” (8-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Hiller, Campos II, Ortiz, De La Isla, Schwartz, Schmidt, Harmon and Mayor Wolgast -8. Noes: Manspeaker -1. Absent: Everhart -1.

AN ORDINANCE introduced by City Manager Jim Colson, amending City of Topeka Code Sections 18.10.010, 18.10.020, 18.15.030, 18.15.060, 18.25.060, 18.25.220, 18.25.230 and 18.25.260, specifically repealing said original sections, as well as, creating Section 18.25.215, all concerning the regulation of temporary signs placed on first reading July 9, 2013, was again presented. (ACZR12/2)

Bill Fiander, Planning Department Director, reported the current temporary sign regulations make it difficult for businesses to determine what signs are permitted and enforce some types of temporary signs such as feather flags. He noted Planning Department staff researched 19 other community sign regulations to see how temporary signs are monitored and requested input from local sign companies on the proposed sign changes. He also noted the Planning Department held two Questions & Answer sessions that were open to the public. He

stated the ordinance would add graphics to the Code, as well as, clarifies banners, free-standing signs and feather flags; however, the size standards did not change.

Councilmember Schwartz asked if the Greater Topeka Chamber of Commerce supports the ordinance. She also asked if there was discussion regarding a \$40 permit fee that would cover the costs of the permit process.

Bill Fiander reported the stakeholder group did not have a discussion regarding feather flags and most of the Question & Answer sessions were regarding the notification process. He stated staff did not do a cost analysis; however, there is a permit fee and process even if there are exceptions allowed. He noted he would most likely recommend a permit process for any exceptions made for every type of sign.

Councilmember Manspeaker asked how many businesses have feather flag signs and to describe what is a special event sign.

Bill Fiander reported there were approximately 30 businesses that displayed feather flag signs at the time staff took inventory in the winter season; and most temporary type signs could be used to display a special event for two, 30-day periods; however, a special event is not clearly defined in current City Code making it tough to enforce.

Councilmember Schmidt asked for clarification regarding feather flag signs and how long they could be displayed.

Bill Fiander stated any free-standing signs can be displayed for two, 30-day periods that fit the size restrictions; however, most of the current feather flags being displayed would be too tall.

Councilmember Hiller expressed appreciation for the information that has been presented; however, in her opinion, the proposed ordinance effectively bans flags, contractor

signs and feather flags, and the timeline seems to be unnecessary. She stated many people have expressed their support of feather flag signs. She distributed proposed amendments to the ordinance and suggested the ordinance be remanded back to the Planning Commission to consider adding language to allow flags, contractor signs and feather flags, as well as, allow language for long-term and short-term display.

Councilmember Hiller moved to refer the ordinance back to the Planning Commission for further study in flags, contractor signs and feather flags and to make other minor corrections. The motion was seconded by Councilmember Schmidt.

Garry Kahre, Downtown Merchants Advertising Association, expressed concern with signage for downtown merchants and noted there are no setbacks for them to display signs. He stated merchants want to create an area of activity, creativity and festivity and view feather flags as a way to enhance businesses. He provided an example of artistic flags and stated they did not object to the idea of flags being generic in nature. He requested the Council consider setting aside the downtown district area to allow use of feather flags for permanent or ongoing advertising, especially during construction phases.

Councilmember Schmidt stated there are times when feather flags become weathered and frayed. He asked if a permit fee would be agreeable by association members to ensure a professional looking sign would always be displayed.

Garry Kahre stated he would have to get a consensus from the association on their thoughts regarding an additional permit fee.

The motion to refer the ordinance back to the Planning Commission for further study in flags, contractor signs and feather flags and to make other minor corrections carried. Mayor Wolgast voted "yes." Councilmembers De La Isla and Manspeaker voted "no." (7-2-0)

NO Retail Cereal Malt Beverage License applications were presented.

RESOLUTION NO. 8531 introduced by City Manager Jim Colson, authorizing the serving of complimentary alcoholic liquor and cereal malt beverages for the First Friday Art Walk event sponsored by ArtsConnect, Inc., was presented.

Mary Feighny, Assistant City Attorney, reported House Bill 2199 was passed by the Kansas Legislature which allows premises that are not licensed to sell alcohol and cereal malt beverages to provide complimentary alcohol and/or cereal malt beverages at events sponsored by a non-profit organization promoting the arts if the governing body approves the event.

Mayor Wolgast asked if Governing Body approval of an event would add an additional step to the special event process.

Mary Feighny stated approval of the resolution would be indefinite; however, the event has to be sponsored by ArtsConnect, Inc.

Sarah Fizell, ArtsConnect, Inc., spoke in support of the resolution and appeared to answer questions.

Councilmember Campos II expressed concern with how underage drinking laws would be regulated if the resolution is approved.

Sarah Fizell stated ArtsConnect would be required to notify the Kansas Alcohol Beverage Control Division of any events taking place and the businesses participating in the events would still be required to abide by all underage drinking laws.

Councilmember Hiller thanked ArtsConnect, Inc., for all their work in moving forward with the new law.

Councilmember Ortiz expressed concern with not having a time duration outlined in the resolution.

Mary Feighny stated the Council has the option to amend the duration of time outlined in the resolution.

Councilmember Ortiz moved to amend Section 1 of the resolution to limit the serving of complimentary alcoholic liquor and/or cereal malt beverage on the unlicensed premises of businesses by the business owner or agent at the First Friday Art Walk event sponsored by ArtsConnect, Inc., a nonprofit organization promoting the arts, to be held on the first Friday of each month, commencing on August 2, 2013, through August 8, 2014, between the hours of 5:30 p.m. and 8:30 p.m. The motion seconded by Councilmember Schwartz carried unanimously.

(8-0-0)

Councilmember Ortiz stated she fully supports ArtsConnect; however, the proposed amendment was made to stipulate a date certain in the event other organizations make a similar request.

Councilmember Ortiz moved to approve the resolution as amended. The motion seconded by Councilmember Campos II carried unanimously. Mayor Wolgast voted “yes.”

(9-0-0)

BOARD APPOINTMENT recommending the appointment of Charlene Nards to the Community Corrections Advisory Board for a term ending June 30, 2015, was presented.

Councilmember Campos II moved to approve the board appointment. The motion was seconded by Councilmember Manspeaker.

Councilmember Harmon questioned if the state statute regarding mayoral appointments would apply to the board appointment.

Mary Feighny, Assistant City Attorney, stated the appointment was a statutory appointment to be made by the Governing Body; therefore, the state statute Councilmember Harmon was referring to would not apply.

Councilmember Hiller stated she had been working with the previous mayor to get a systematic process in place so that all Councilmembers could contribute and nominate good quality people to serve.

Mayor Wolgast reminded the Council that they are considering the appointment of Charlene Nards.

Councilmember Hiller expressed concern with the appointment process and noted the entire process takes approximately 90 days to complete.

Councilmember Manspeaker raised a point of order and stated the Council is considering an appointment at this time, not the appointment process. He stated he understands the process can be confusing at first; however, over time it becomes easier to understand and appears to be working.

Councilmember Hiller made a substitute motion to delay the board appointment 90 days, to allow time for the Council to further discuss the board appointment process. The motion was seconded by Councilmember Harmon.

Councilmember Manspeaker stated that he believes further discussion is not necessary because the appointment process is transparent and allows any Councilmember to nominate anyone whether they live in that Council person's district or not. He stated the responsibility of the Council is to nominate someone who can bring good qualities to the board or commission and the Mayor does a fine job of screening the candidates accordingly.

The substitute motion to delay the board appointment 90 days to further discuss the board appointment process failed. Councilmembers Campos II, Ortiz, De La Isla, Manspeaker and Schmidt voted “no.” (3-5-0)

The motion to approve the board appointment carried unanimously. (8-0-0)

BOARD APPOINTMENT recommending the re-appointment of Lazon Grays to the Community Corrections Advisory Board for a term ending June 30, 2015, was presented.

Councilmember Manspeaker moved to approve the board appointment. The motion was seconded by Councilmember De La Isla.

Councilmember Schwartz expressed concern with the appointment of Mr. Grays and asked if background checks are conducted on appointees.

Mayor Wolgast stated background checks are conducted on all applicants.

Councilmember Ortiz asked what purpose the Community Corrections Advisory Council serves.

Mary Feighny, Assistant City Attorney, stated the Community Corrections Advisory Council is composed of a variety of people throughout Shawnee County that advise others on correctional system activities and process.

Mayor Wolgast stated many different entities throughout the County support the Community Corrections Advisory Council corrections process and programs.

Councilmember Hiller spoke in support of the appointment and stated Mr. Grays provides good contributions to the Council.

The motion to approve the board appointment carried. Councilmembers Campos II and Ortiz voted “no.” (6-2-0)

BOARD APPOINTMENT recommending the appointment of Ed Collazo to the Community Corrections Advisory Board for a term ending June 30, 2015, was presented.

Councilmember Campos II moved to approve the board appointment. The motion seconded by Councilmember De La Isla carried. Councilmember Campos II voted “no.” (7-1-0)

Jim Colson, City Manager, requested to pull Council agenda item 7I, under First Readings, an ordinance apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, in the area of Lauren’s Bay Estates for Street Improvement Project No. 60632-01.

Upon hearing no objections, Mayor Wolgast announced the ordinance would be withdrawn from the Council agenda.

AN ORDINANCE introduced by City Manager Jim Colson, amending City of Topeka Code Section 9.15.020 and specifically repealing said original section, concerning possession and consumption of alcoholic liquor and cereal malt beverages was presented for first reading.

AN ORDINANCE introduced by City Manager Jim Colson, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for Waterline Improvement Project No. T-281036.00, located in Horseshoe Bend Subdivision Nos. 2 and 3, as defined and described in Resolution No. 8449, adopted and approved on July 24, 2012, was presented for first reading.

AN ORDINANCE introduced by City Manager Jim Colson, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for Sanitary Sewer Improvement Project No. T-401026.00 located in Horseshoe Bend Subdivision Nos. 2 and 3, as defined and described in Resolution No. 8447, adopted and approved on July 24, 2012, was presented for first reading.

AN ORDINANCE introduced by City Manager Jim Colson, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for Street Improvement Project No. T-601024.00, located in Horseshoe Bend Subdivision Nos. 2 and 3, as defined and described in Resolution No. 8448, adopted and approved on July 24, 2012, was presented for first reading.

AN ORDINANCE introduced by City Manager Jim Colson, apportioning and levying a special assessment on certain lots and pieces of ground in Shawnee County, Kansas, for Sanitary Sewer Project No. T-401025.00, located at NW Halfday Lane, as defined and described in Resolution No. 8338, adopted and approved on May 24, 2011, was presented for first reading.

AN ORDINANCE introduced by Jim Colson, City Manager, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, in the area of Horseshoe Bend Subdivision Nos. 2 and 3 for Sanitary Sewer Improvement Project No. T-401026.00, as defined and described in Resolution No. 8447, adopted and approved July 24, 2012, was presented for first reading.

AN ORDINANCE introduced by City Manager Jim Colson, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for Sanitary Sewer Improvement Project No. T-401027.00, located at 1148 SW Jewell as defined and described in Resolution No. 8329, adopted and approved on May 3, 2011, was presented for first reading.

AN ORDINANCE introduced by City Manager Jim Colson, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for Sanitary Sewer Improvement Project No. T-401029.00, located in North Park

Addition as defined and described in Resolution No. 8374, adopted and approved on August 23, 2011, was presented for first reading.

AN ORDINANCE introduced by City Manager Jim Colson, apportioning and levying a special assessment on certain lots and pieces of ground in the City of Topeka, Shawnee County, Kansas, for Street Improvement Project No. T-601001.00, located on SW Frazier Avenue between 3rd and 4th Streets as defined and described in Resolution No. 8258, adopted and approved on May 25, 2010, was presented for first reading.

PRESENTATIONS BY THE CITY MANAGER, MAYOR AND MEMBERS OF THE COUNCIL;

Jim Colson, City Manager, announced the Kansas Attorney General's Office, Kansas Sunshine Coalition for Open Government, Kansas Press Association and Kansas Newspaper Foundation is sponsoring a free training session on the Kansas Open Meetings Act (KOMA) and the Kansas Open Records Act (KORA) on July 24, 2013, at 1:30 p.m. at the Memorial Hall Auditorium located at 120 SW 10th Avenue, 2nd Floor.

Councilmember Manspeaker stated he has received many complaints from constituents regarding the sound quality of City Council meetings. He expressed concern with the lack of transparency in regards to citizens not being able to hear what is being discussed and requested the problem be fixed as soon as possible. He also expressed concern with potential serial communication violations in the form of emails being sent between Councilmembers. He reported the Kansas Open Meetings Act has three elements to consider, (1) interactive discussion; (2) by and between at least a majority of the body; and (3) matters relating to the functions of the body. He asked that the Governing Body not include him when replying to all members of the Governing Body in email communications.

Councilmember Schwartz encouraged the Governing Body to attend the Kansas Attorney General's KOMA and KORA training on July 24, 2013. She noted that she believes the regulations were not intended to stifle communication between elected officials. She referenced a Topeka Capital Journal newspaper article regarding board nominations and appointments and stated her intent was not to suppress discussion between the Governing Body or project negative media.

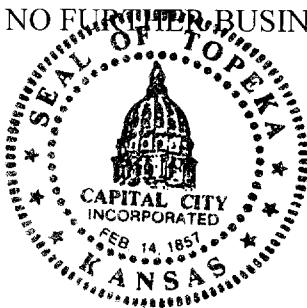
Councilmember Hiller stated she plans to attend the KOMA and KORA training being offered on July 24, 2013, and encouraged the Council to research and find ways to communicate with each other instead of ways not to communicate with each other. She also requested to schedule a future Work Session discussion on Council Rules and Procedures.

Councilmember Ortiz stated she believes everyone should use common sense regarding KORA and KOMA regulations at any given time. She thanked Police Chief Ron Miller for his assistance in a missing person case last week which had a great outcome. She invited the community to participate in Taco Casa's 50th Anniversary celebration at 1423 SW 6th Avenue on July 17, 2013.

Councilmember De La Isla commended City staff for a successful 2012 Financial Audit. She noted her personal experience with financial audits and stated the report shows that the City is moving in the right direction.

Mayor Wolgast commended the Governing Body for respectfully moving forward with City business even though there may be differences in opinions.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:33 p.m.



Brenda Younger
Brenda Younger
City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 11, 2013

☐ Back ☐ Print

DATE:	September 24, 2013		
CONTACT PERSON:	Chad Sublet, City Attorney	DOCUMENT #:	
SECOND PARTY/SUBJECT:	PROJECT #:		
CATEGORY/SUBCATEGORY	013 Ordinances - Codified / 160 Franchises		
CIP PROJECT:	No		
ACTION OF COUNCIL:	09-17-13 First Reading	JOURNAL #:	13
		PAGE #:	

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Jim Colson, relating to Topeka Metropolitan Transit Authority; granting a franchise to operate a bus system within the limits of the City of Topeka, prescribing the terms thereof and relating thereto, pursuant to the provisions of K.S.A. 12-2001 et seq., and specifically repealing Ordinance No. 16640. Final Reading.

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

(Approval would extend the franchise agreement for twenty years. The current agreement expires on October 6, 2013.)

POLICY ISSUE:

Approval grants the Topeka Metropolitan Transit Authority (TMTA) the authority to maintain and operate a bus transportation system within the city limits for a period of twenty (20) years.

STAFF RECOMMENDATION:

Staff is recommending the Governing Body move to adopt the ordinance.

BACKGROUND:

K.S.A. 12-2001 authorizes cities to permit entities to use city streets by way of a franchise agreement that is codified in an ordinance.

BUDGETARY IMPACT:

There would be no budgetary impact to the City.

SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

[Ordinance](#)

Item #23

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Jim Colson, relating to the Topeka Metropolitan Transit Authority; granting a franchise to operate a bus system within the limits of the City of Topeka, prescribing the terms thereof and relating thereto, pursuant to the provisions of K.S.A. 12-2001 et seq., and specifically repealing Ordinance No.16640.

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

Section 1. **Franchise grant.**

In consideration of the benefits to be derived by the City of Topeka, Kansas, a municipal corporation, and its inhabitants from the maintenance and operation of a bus transportation system in the City of Topeka, there is hereby granted to the Topeka Metropolitan Transit Authority, hereinafter referred to as "Authority," its successors and assigns, the authority for a period of twenty (20) years from the effective date of this ordinance, to maintain and operate a bus transportation system conveying passengers for hire within the limits of said City as the same now exists; and for said purpose there is hereby further granted to said Authority, permission to operate its buses upon, over and along the streets, avenues, alleys, bridges and other public ways of said City.

Section 2. **Bus routes; filed with city clerk.**

The Authority shall operate its buses initially over routes as shown on a map provided to the City Clerk and, as changes are made in said routes, the Authority shall provide notice to the City Clerk of route changes and a map showing the route changes.

Section 3. **Rates; file with city clerk.**

The rates charged customers for transportation furnished by the Authority shall be in accordance with the schedule of rates filed with the City Clerk within ten (10) days

31 after the effective date of this ordinance. Authority shall provide to the City Clerk notice
32 of any changes to the rate schedule within ten (10) days of such change.

33 Section 4. **Hold harmless.**

34 Authority, its successors and assigns, shall save and hold the City of Topeka
35 harmless for all liability, damages, costs and expenses of every kind for the payment of
36 which said City may become liable to any person, firm, company, or corporation by
37 reason of the rights and privileges herein granted and, if any action either at law or in
38 equity, be brought against the City for damages or for any cost to the City for any fault
39 or negligence of the Authority, its servants, agents or employees, in the operation of its
40 transportation system, Authority, its successors and assigns, shall pay all costs,
41 damages and expenses for which said City may be held liable.

42 Section 5. **Acceptance.**

43 Within thirty (30) days from and after the passage and approval of this ordinance,
44 said Authority shall file with the City Clerk its unconditional written acceptance of this
45 ordinance.

46 Section 6. **Termination.**

47 Notwithstanding Section 1, City may terminate this franchise at any time by
48 repeal of this ordinance.

49 Section 7. **Repeal.**

50 That City of Topeka Ordinance No. 16640 is hereby specifically repealed.

51

This ordinance shall take effect and be in force on October 7, 2013 after its passage, approval and publication in the official City newspaper.

CITY OF TOPEKA, KANSAS

ATTEST:

Brenda Younger, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 10, 2013

☐ Back ☐ Print

DATE: September 24, 2013

CONTACT PERSON: Carol Foreman, Labor Relations Attorney **DOCUMENT #:**

SECOND PARTY/SUBJECT: Council 72 Local 1294, **PROJECT #:** AFSCME, AFLO-CIO Water Division

CATEGORY/SUBCATEGORY 007 Contracts and Amendments / 020 Employee Agreements

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

APPROVAL of a one-year Labor Agreement between the City of Topeka and the Water Division, Council 72, Local 1294, Kansas Public Employees Union, AFSCME, AFLO-CIO.

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

(Approval would provide bargaining unit members with a one-step increase; a \$250 one-time lump sum payment for the 12 employees who are at the top level of the wage schedule; and all members will receive one additional personal leave day for 2014. The increased wage cost for the 2014 wage package is estimated to be \$75,966.63 or 2.26%. The total impact to the 2014 budget including benefit costs is an increase of 3.44%.)

POLICY ISSUE:

The agreement will provide bargaining unit members with a one-step increase, a \$250 one-time lump sum payment for the 12 employees who are at the top level of the wage schedule. All members will receive one additional personal leave day for 2014.

The increased wage cost for the 2014 wage package is estimated to be \$75,966.63 or 2.26%. The total impact to the 2014 budget, including benefit costs, is an increase of 3.44%.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the agreement.

BACKGROUND:

Item #24

A tentative agreement has been reached and ratified by bargaining unit members on August 27, 2013. Highlights of the changes to the agreement are listed below and a complete list of changes is included as an attachment to the agenda.

1. One step increase for eligible employees
2. A one-time lump sum payment of \$250.00 for employees at the top of the wage schedule
3. One additional personal leave day for 2014; this topic can be reopened for 2015
4. Other minor modifications to the contract to correct inequities and clarify policies

BUDGETARY IMPACT:

The increased cost for the 2014 wage packet is estimated to be \$75,996.63 or 2.26%. The total impact to the 2014 budget, including benefits, is an increase of 3.44%.

SOURCE OF FUNDING:

Water fund

ATTACHMENTS:

[Contract Amendment](#)

[Summary](#)

[Financial Memo](#)

[Cost Estimates](#)

CITY OF TOPEKA CONTRACT NO. _____

AMENDMENT NO. 1 TO CITY OF TOPEKA CONTRACT NO. 42564

THIS AMENDMENT to City Of Topeka Contract No. 42564 is entered into this _____ day of _____, 2013, by and between the City of Topeka, a duly organized municipal corporation hereinafter referred to as "City" and Council 72, Local 1294 of the American Federation of State, County, and Municipal Employees (AFSCME) AFL-CIO, hereinafter referred to as "Union."

WHEREAS the City and Union have previously entered into City of Topeka Contract No. 42564, hereinafter referred to as "the Contract" which governs terms and conditions of the employment relationship between the Employer and the employees represented by Union; and

WHEREAS, provisions in Article 18 of the Contract allowed for a reopener for the subject of wages to be discussed and negotiated; and

WHEREAS, after statutory meet and confer sessions between management and Union representatives, agreements were reached on the reopened item, and three non-wage issues, which parties agreed to reopen and negotiate, the terms of which have been ratified by the members of Union and set forth below.

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

1. The existing language of Article 7, Section 3 of the Contract is hereby stricken and amended to read as follows:

Section 3. Wage Schedule effective for first full pay period of 2014.

SCHEDULE	DESCRIPTION	GRADE	1	2	3	4	5	6	7	8	9	10	11	12
WAT-REG	GRADE 1	W01	11.63	12.05	12.43	12.83	13.23	13.64	14.03	14.44	14.85	15.24	15.62	16.04
WAT-REG	GRADE 2	W02	13.60	14.07	14.54	15.03	15.53	16.02	16.48	16.99	17.46	17.95	18.43	18.91
WAT-REG	GRADE 3	W03	14.97	15.49	16.01	16.52	17.04	17.53	18.04	18.55	19.05	19.59	20.09	20.61
WAT-REG	GRADE 4	W04	16.26	16.82	17.39	17.97	18.54	19.09	19.69	20.27	20.82	21.43	21.98	22.57
WAT-REG	GRADE 5	W05	17.92	18.56	19.21	19.87	20.53	21.16	21.80	22.44	23.08	23.74	24.37	25.06
WAT-C1	GRADE 2 + CLASS 1 CERTIFICATION	W12	13.85	14.32	14.80	15.29	15.78	16.27	16.74	17.24	17.71	18.20	18.69	19.16
WAT-C1	GRADE 3 + CLASS 1 CERTIFICATION	W13	15.23	15.74	16.26	16.78	17.30	17.78	18.29	18.81	19.31	19.84	20.34	20.87
WAT-C1	GRADE 4 + CLASS 1 CERTIFICATION	W14	16.51	17.07	17.64	18.22	18.80	19.35	19.94	20.52	21.07	21.68	22.24	22.83
WAT-C1	GRADE 5 + CLASS 1 CERTIFICATION	W15	18.18	18.82	19.47	20.13	20.79	21.42	22.06	22.70	23.33	23.99	24.62	25.31
WAT-C2	GRADE 2 + CLASS 2 CERTIFICATION	W22	14.11	14.58	15.05	15.54	16.04	16.52	16.99	17.50	17.97	18.45	18.94	19.42
WAT-C2	GRADE 3 + CLASS 2 CERTIFICATION	W23	15.48	16.00	16.51	17.03	17.55	18.04	18.54	19.06	19.56	20.10	20.59	21.12
WAT-C2	GRADE 4 + CLASS 2 CERTIFICATION	W24	16.77	17.33	17.89	18.47	19.05	19.60	20.20	20.78	21.33	21.93	22.49	23.08
WAT-C2	GRADE 5 + CLASS 2 CERTIFICATION	W25	18.43	19.07	19.72	20.38	21.04	21.67	22.31	22.95	23.59	24.25	24.88	25.57
WAT-C3	GRADE 2 + CLASS 3 CERTIFICATION	W32	14.36	14.83	15.31	15.79	16.29	16.78	17.24	17.75	18.22	18.71	19.19	19.67
WAT-C3	GRADE 3 + CLASS 3 CERTIFICATION	W33	15.73	16.25	16.77	17.29	17.80	18.29	18.80	19.32	19.81	20.35	20.85	21.38
WAT-C3	GRADE 4 + CLASS 3 CERTIFICATION	W34	17.02	17.58	18.15	18.73	19.31	19.85	20.45	21.03	21.58	22.19	22.75	23.33
WAT-C3	GRADE 5 + CLASS 3 CERTIFICATION	W35	18.69	19.33	19.98	20.63	21.29	21.92	22.56	23.20	23.84	24.50	25.13	25.82
WAT-C4	GRADE 2 + CLASS 4 CERTIFICATION	W42	14.62	15.08	15.56	16.05	16.54	17.03	17.50	18.01	18.47	18.96	19.45	19.92
WAT-C4	GRADE 3 + CLASS 4 CERTIFICATION	W43	15.99	16.50	17.02	17.54	18.06	18.54	19.05	19.57	20.07	20.60	21.10	21.63
WAT-C4	GRADE 4 + CLASS 4 CERTIFICATION	W44	17.28	17.83	18.40	18.98	19.56	20.11	20.71	21.28	21.83	22.44	23.00	23.59
WAT-C4	GRADE 5 + CLASS 4 CERTIFICATION	W45	18.94	19.58	20.23	20.89	21.55	22.18	22.82	23.46	24.10	24.76	25.39	26.08

2. The existing language of Article 7, Section 4 of the Contract is hereby stricken and amended to read as follows:

Section 4. Wage Schedule Administration.

- A. New hire probationary employees successfully completing their probation period will receive a one (1) step increase in pay. New hire probationary employees will not be eligible for a step increase until their probationary period is successfully completed. The Cross Connection/Backflow Inspector must be certified in their field within six (6) months after obtaining this position to pass probation.
- B. Employees are eligible to receive a one (1) step pay increase in 2014, within the steps identified in Section 3, on the anniversary date of new hire or promotion whichever is applicable, if they meet the following eligibility:
 - 1. No Level 2, Level 3, or level 4 disciplinary actions on the employee's record since his/her anniversary date.
 - 2. The employee receives an overall annual performance evaluation for 2013 of "Meets Expectations" or better rating.
- C. Employees who are not step eligible due to being at the top level, but receive an overall annual performance evaluation for 2013 of "meets expectations" or better rating will receive a one-time lump sum payment of two hundred fifty dollars (\$250.00) payable on the anniversary date of new hire or promotion whichever is applicable.

3. The existing language of Article 7, Section 5 of the Contract is hereby stricken and amended to read as follows:

Section 5. Promotions

- A. An employee who is promoted to a higher pay classification will be placed in the step that gives that employee as close to a three percent (3%) pay increase as possible. Such promotion establishes the employee's anniversary date for the purposes of this Section. If the promoted employee is within six (6) months or less of having been eligible for their anniversary step increase at their former/lower classification prior to their promotion, they, if eligible, shall receive an anniversary step added to their wages on the date that it would have come due had they not accepted the promotion. Thereafter all Step increases will come due on the newly established promotion anniversary.
- B. Utility System Worker Grade II employees are eligible but not entitled after three years three months (3.3) of service as a permanent employee to be promoted to Utility System Worker Grade III, if the employee is rated satisfactorily by Management and meets the minimum qualifications for position.

4. The existing language of Article 7, Section 8 of the Contract is hereby stricken and amended to read as follows:

Section 8. Standby.

Any employee selected by Management as being on standby during non-normal work hours and specifically designated as a standby employee shall be compensated one (1) hour standby pay for each segment of time. Segment of time shall be defined as follows:

1. Segment one begins 7:00 am – 3:00 pm
2. Segment two begins 3:00 pm – 11:00 pm
3. Segment three begins 11:00 pm – 7:00 am

All standby pay will be compensated at regular straight time pay.

5. The existing language of Article 4, Section 15 of the Contract is hereby stricken and amended to read as follows:

Section 15. Commercial Driver's License/Motorcycle Endorsement.

- A. The City shall reimburse the employee's cost of renewing a Commercial Driver's License (CDL). The City shall pay the employee for the first original attempt to acquire his/her CDL. All subsequent testing attempts and fees associated with employees successfully acquiring their CDL will be the responsibility of the employee taking the test.
- B. The City shall reimburse the employees cost of renewing a motorcycle endorsement. The City shall pay the employee for the first original attempt to acquire his/her motorcycle endorsement. All subsequent testing attempts and fees associated with employees successfully acquiring their motorcycle endorsement will be the responsibility of the employee taking the test.

6. The existing language of Article 6, Section 5 of the Contract is hereby stricken and amended to read as follows:

Section 5. Personal Safety Equipment.

Each employee that is required to use personal safety equipment will be issued personal safety equipment as appropriate. After initial issue, personal safety equipment must be turned in to be replaced and replacement quantities shall not exceed the maximum allowance specified below. Management may replace safety equipment

beyond the replacement quantities specified on a case-by-case basis for special circumstances. Additional personal safety equipment items are available for purchase by employees at their own expense through the City uniform purchasing contract. The City and Union agree to meet biannually or as needed to review Personal Safety Equipment order form for availability of items listed on order form.

Rain gear: 1 issue – 3 years

Hip Boots: 1 issue –2 years

Work Gloves: 4 issue – annually

Specialty Gloves: 1 pair every 2 years

Safety Glasses (non-prescription) –4 pairs – annually

- Clear
- Tinted

Safety vests – 1 issue – quarterly

Hard hats – 1 issue – 3 years

7. The existing language of Article 4, Section 3 of the existing Contract is hereby stricken and amended to read as follows:

Section 3, Personal Leave Day Employee Benefits.

One (1) annual personal leave day will be granted to each employee of the bargaining unit beginning on January 1st, 2013 and continuing every January 1st there forth.

Personal leave shall be requested and approved in the same manner as vacation. Personal leave will only be taken in eight (8) or ten (10) consecutive hour increments based on the work hours an employee maintains when the time is taken.

Personal leave day cannot be carried over from one (1) year to the next.

During the calendar year 2014, bargaining unit employees will be allowed one (1) additional personal leave day, for a total of two (2) personal leave days in the calendar year 2014. The additional personal leave day for calendar year 2014 is subject to all the terms and conditions set out in the above paragraphs of this section.

8. The existing language of Article 18 of the existing Contract is hereby stricken and amended to read as follows:

This Agreement shall be effective January 1, 2013 and in full force and effect through December 31, 2015. Either party may reopen contract negotiations by written notice to the other party by March 1 on the subjects of wages for 2014 and 2015 and healthcare benefits and personal leave day, Article 4, Section 3 for 2015. All provisions of this Agreement shall continue in full force and effect during the negotiations for any successor Agreement. The City and AFSCME agree that the provisions of this Agreement may only be reopened by mutual consent of the parties throughout the term of this Agreement. In the event of severe budget shortfall caused by unforeseen external national and/or the significant curtailment of essential services provided by the bargaining unit members to the City's citizens, the parties agree to reopen Article 7 Wages.

Negotiations shall commence within thirty (30) days of the above required notice unless such time is extended by mutual agreement of the parties.

9. The Table of Contents of Contract Number 42564 is hereby stricken and amended to read as follows:

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10. All other terms and conditions of City of Topeka Contract No. 42564, not specifically stricken or amended herein shall remain in full force and effect.

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

AFSCME WATER LOCAL 1294

CITY OF TOPEKA, KANSAS

Roger Levings, Business Representative
AFSCME, Council 72

Jim Colson, City Manager

ATTEST:

Pete Vobach, President

Brenda Younger, City Clerk

Ron Perry, Chapter Chair

Bruce Northup, Water Plant Manager

Brad Duchesneau, Chief Steward

Duane Overfield, Meter Services
Manager

Larry DeLong, Steward

Charlie Shinn, Director Water Services

Jermel Walker, Steward

Carol Foreman, Assistant City Attorney

Scott Cramer, Steward

Anthony Strange, Steward

Mitch White, Steward

Summary of 2014 AFSCME Water Contract Amendments

Article 7 § 3 Wage Schedule – Wage schedule was revised for 2014

Article 7 § 4 Wage Schedule Administration – One step increase and a \$250 one time lump sum payment for employees who are not step eligible due to being at the top level of the wage schedule.

Article 7 § 5 Promotions – Corrects wage inequality for employees who are promoted to a higher pay classification.

Article 7 § 8 Standby – Clarifies how employees on standby will be paid.

Article 4 § 15 Commercial Driver's License/Motorcycle Endorsement – Allows for the renewal of a motorcycle endorsement to be treated the same as a renewal of a commercial driver's license.

Article 6 § 5 – Personal Safety Equipment – Corrects a typographical error.

Article 4 § 3 Personal Leave Day Employee Benefits – Grants one additional personal leave day for 2014.

Article 18 Termination and Continuation of Contract – Amends current language to allow for parties to reopen personal leave day for 2015.

Table of Contents – Changes the title of Article 4 § 15.

Financial Services

Memo

To: Honorable Mayor Larry Wolgast
Members of the Topeka City Council

From: Jeff White, Acting Finance Director

CC: Jim Colson, City Manager

Date: September 10, 2013

Re: **Fiscal Effects/Proposed Water/AFSCME Agreement (2014)**

Pursuant to KSA 75-4331, the chief financial officer of the City is required to provide to the governing body an analysis of the fiscal effects on the City of proposed agreements between the City and recognized employee organizations. As part of this analysis, we are required to identify the potential impact on the City's aggregate tax levy and its operating expense limitations.

We have reviewed the economic terms of the agreement with the Water/AFSCME agreement pending before the City Council and have compared its costs both to the expected costs of the status quo ante agreement in Fiscal Year 2013 and the Adopted Budget for Fiscal Year 2014.

Based upon our review of the negotiation team's analytics, we believe the Fiscal Year 2014 Water Department expenditure budget adopted by the City Council has sufficient resources to accommodate the agreement as presented. Kansas cities are not currently subject to statutory limitations on either tax levies or expenditures and the fund impacted by this agreement does not benefit from a tax levy.

The table below summarizes our understanding of the economics of the agreement and provides the estimated impact on the City's water rates if the agreement were to be financed solely with a rate increase:

Item	2013	2014
Wages	\$ 2,527,193.84	\$ 2,586,404.00
Benefits	677,287.95	731,952.33
Totals	\$3,204,481.79	\$3,318,356.33
Increase from 2013	-	\$ 113,874.54
Water Rate Increase Equivalent	-	0.4%

Please let me know if you have any questions about this analysis.

AFSCME Water 2014 WAGE PROPOSAL COSTS

City's Final Wage Proposal - Step + \$250 lump sum payment for 12 employees at the top level of the wage schedule and additional personal leave day in 2014

Union	NO	2013			Proposed 2014			2014	2014	2014	Percentage	2013	2014	2013-2014	Grand Total	Grand Total
		Benefit Rate	Total Wages	Benefits	Benefit Rate	Total Wages	Benefits	Difference	Difference	Total Diff		Benefit	Benefit	Difference	Difference	Anticipated
								Wages	Benefits	Wage&Benefit	Impact	Rate	Rate	Benefits	Wage & Benefits	Budget Impact
AFSCME Water	63	26.80%	\$ 2,527,193.84	\$ 677,287.95	28.30%	\$ 2,586,404.00	\$ 731,952.33	\$ 59,210.16	\$ 16,756.47	\$ 75,966.63	2.26%	26.80%	28.30%	\$ 37,967.91	\$ 113,874.54	3.44%



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 10, 2013

☐ Back ☐ Print

DATE: September 24, 2013
CONTACT PERSON: Mary Feighny, Deputy City Attorney **DOCUMENT #:**
SECOND PARTY/SUBJECT: **PROJECT #:**
CATEGORY/SUBCATEGORY 020 Resolutions / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by Councilmember Richard Harmon amending Resolution No. 7253 to remove funding for the development of the Riverfront Park.

(Approval would discontinue funding allocations to the Riverfront Park in the amount of \$106,000 for FY2014 and \$159,462 in FY2015.)

POLICY ISSUE:

Approval would discontinue City funding allocations for the development of the Riverfront Park in FY2014 and FY2015.

STAFF RECOMMENDATION:

Staff is making no recommendation.

BACKGROUND:

In 2002, the Council enacted Resolution No. 7253 which allocated transient guest tax funding to develop the Great Overland Station. \$1,325,000 was earmarked for the development of Riverfront Park to be allocated over a period of 13 years through fiscal year 2015; however, the City no longer operates parks due to the City-County Parks & Recreation Department Consolidation.

BUDGETARY IMPACT:

As of December 31, 2013, \$1,059,537 has been allocated from Transient Guest Tax funds for park development. The remaining allocation amounts include \$106,000 in FY2014 and \$159,462 in FY2015.

SOURCE OF FUNDING:

Item #25

Transient Guest Tax Funds

ATTACHMENTS:

[Resolution](#)

[Resolution No. 7253 \(2002\)](#)

1 RESOLUTION NO. _____
2

3 A RESOLUTION introduced by Councilmember Richard Harmon, amending
4 Resolution No. 7253 to remove funding for the development of
5 Riverfront Park.
6

7 WHEREAS, the City Council enacted Resolution 7253, on August 20, 2002, to
8 allocate transient guest tax proceeds in the amount of \$200,000 annually beginning in
9 fiscal year (FY) 2003 and continuing until the City has expended a total of \$2.5 million or
10 until FY 2015, whichever event occurs first; and

11 WHEREAS, the purpose of the annual allocation was to provide funding for the
12 Great Overland Station Project; and

13 WHEREAS, a portion of the annual allocation was earmarked for the development
14 of Riverfront Park by the City's Parks and Recreation Department; and

15 WHEREAS, the City no longer has a Parks and Recreation Department by virtue of
16 the 2012 consolidation of parks and recreation functions with Shawnee County (Contract
17 No. 41460); and

18 WHEREAS, Shawnee County is now responsible for maintaining and operating
19 Riverfront Park.

20 NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY
21 OF TOPEKA, KANSAS:

22 SECTION 1. That Resolution 7253 is amended to eliminate the allocation of funding
23 for the development of Riverfront Park for FY 2014 and 2015.

24 SECTION 2. That such funding shall amount to approximately \$106,000 in FY 2014
25 and \$159,462 in FY 2015.
26

SECTION 4. That this Resolution shall not affect the City's allocation to Railroad Heritage, Inc., subject to budget appropriations and fund availability, in the amount of approximately \$94,000 in FY 2014 and \$47,000 in FY 2015 to be used for the purposes identified in Resolution No. 7253: (1) provide matching funds for the TEA-21 Grant Phase II; (2) supporting costs for professional design services and project administration; (3) construction of a Veterans' Memorial; and (4) development of hands-on exhibits that provide, at a minimum, interpretative displays of the Kaw Indians, French-Canadian traders, Oregon Trail pioneers, Underground Railroad freedom-seekers, rowdy Frontier characters and Charles Curtis.

SECTION 5. Any other provision of Resolution No. 7253 not specifically amended herein shall remain in full force and effect

ADOPTED and APPROVED by the City Council on_____.

CITY OF TOPEKA, KANSAS

Larry Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

1 As Amended by the Economic Development Committee
2 August 16, 2002

3
4 RESOLUTION NO. 7253

5
6 A RESOLUTION introduced by Councilmember John Alcala requesting designation of
7 \$200,000 per year for approximately thirteen (13) consecutive years
8 beginning FY2003 from the Transient Guest Tax fund to restore the
9 Great Overland Station.
10

11 WHEREAS, the Great Overland Station is listed on the Register of Historic
12 Kansas Places and has been determined eligible for listing on the National Historic
13 Register. The Station has been approved by the Topeka Landmark Commission; and

14 WHEREAS, the Station stands as a symbol of an extraordinary era in America's
15 history, a period of great industrial and cultural expansion which mirrors the optimism
16 and hope of the American people. It served as the hub for transportation and industry,
17 and community life centered around this Station; and

18 WHEREAS, once transformed into the Great Overland Station, the once-proud
19 building will become the symbol of a new era of vitality and vision in our community,
20 serving as a catalyst to economic development and to efforts to create a riverfront park
21 on the Kansas River. The historic site contains stories of our early history, stories of the
22 Kaw Indians, French-Canadian traders, Oregon Trail pioneers, Underground Railroad
23 freedom seekers, rowdy frontier characters and hometown hero Charles Curtis. During
24 the war years, the Station was a significant stopping point for thousands of soldiers and
25 it served as a centerpiece for the entire Topeka community. Connecting that history
26 with railroad heritage represented at the Station will provide Topekans and visitors with
27 a knowledge and appreciation of deep and colorful roots of our community and validate

the contributions of the many individuals from all ethnic and social backgrounds who came together to create and grow our community and State; and

WHEREAS, the restoration of the historic building, the preservation of Topeka's railroad heritage and the development of the historic site reaching to the Kansas River are extremely important to Topeka and to Kansas.

WHEREAS, the City of Topeka Transient Guest Tax funds are to be allocated to support programs, which promote the City of Topeka and attract visitors to the community thereby stimulating revenue flow and creating increased sales tax revenue; and

WHEREAS, The Great Overland Station requires an additional \$2.5 million to restore the Station to its former glory and to develop a river front park. Said restoration costs would include acquisition of the land; demolition or relocation of some existing buildings; cleaning and clearing the land for development; providing matching monies to the TEA-21 grant Phase II; supporting costs for professional design services and administration; construction of a Veteran's Memorial; providing access roads, pedestrian pathways, parking, lighting, signage, landscaping, and development interpretive exhibits; and

WHEREAS, the City of Topeka is supportive of the efforts to restore the Great Overland Station so that the building can be transformed into an important transportation, tourist, visitor, educational and community gathering center, and will serve as an example of how a community can come together to provide education, knowledge, innovation and economic development for generations to come.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Topeka that the City of Topeka ~~provide the Great Overland Station \$250,000 per year for 10 (ten) consecutive years from Transient Guest Tax funds beginning FY2003 for restoration of the Station so that it can be transformed into an important transportation, tourist, visitor, educational and community gathering center.~~ shall do the following:

1. Appropriate \$200,000 per year for the Great Overland Station project. This commitment shall begin in Fiscal Year 2003 and continue until the City of Topeka has expended a total of \$2,500,000 on the project, or through Fiscal Year 2015, whichever occurs first. The project shall include the following components:

- a. Acquisition of land for park purposes
- b. Demolition or relocation of some existing buildings
- c. Cleaning and clearing the land for development
- d. Providing matching monies to the TEA-21 grant Phase II
- e. Supporting costs for professional design services and project administration
- f. Construction of a Veteran's Memorial
- g. Providing, at a minimum, access roads, pedestrian pathways, parking, lighting, signage, landscaping, pedestrian trailhead and a river recreation access trailhead.
- h. Development of hands-on exhibits that provide, at a minimum, interpretative displays of the Kaw Indians, French-Canadian traders, Oregon Trail pioneers, Underground Railroad freedom-seekers, rowdy frontier characters and Charles Curtis.

Items d), e), f) and h) shall be developed by Railroad Heritage, Inc. pursuant to a contract with the City of Topeka in an amount not to exceed \$1,175,000. Items a), b), c) and g) shall be part of a river front park to be developed by the City of Topeka Parks and Recreation Department, with the total expenditures from the Transient Guest Tax not to exceed \$1,325,000. The City of Topeka may, by separate agreement, contract with Railroad Heritage, Inc. to provide these items, in order to more efficiently develop the project and/or to assist in leveraging other funding sources.

2. To meet its obligation to Railroad Heritage, Inc., as described in paragraph 1, above, the City of Topeka will provide an annual commitment of \$94,000 to the Railroad Heritage, Inc. The total commitment to the Railroad Heritage, Inc. shall not exceed \$1,175,000.

3. The funding commitment to the Railroad Heritage, Inc. shall be subject to the negotiation and execution of an agreement between the Railroad Heritage, Inc. and the City of Topeka which shall, at a minimum, provide the following:

a. That the funds committed by the City of Topeka represent the entirety of the City's commitment to the Railroad Heritage, Inc., i.e. that no more funds will be requested or committed.

b. Funds appropriated to the Railroad Heritage, Inc. shall be expended for construction and development of Phase II of the project, which shall include, at a minimum, those items identified in paragraph one, above.

4. The funds identified in paragraph 1 above, and not committed by agreement to Railroad Heritage, Inc. shall be expended by the City of Topeka on other

components of the project, up to the project limitation of \$2,500,000, as described in paragraph one, above.

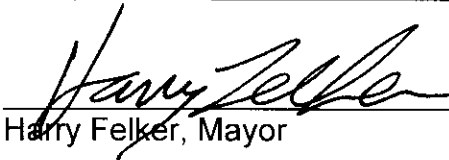
5. All financial commitments referenced in this Resolution shall be subject to the State of Kansas Budget and Cash Basis laws, and all Governing Body approvals as required by State law or City ordinance.

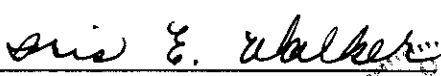
BE IT FURTHER RESOLVED, that in order to fund the Great Overland Station project and other projects that enhance the rich historical heritage of the City of Topeka, the Council of the City of Topeka resolves to:

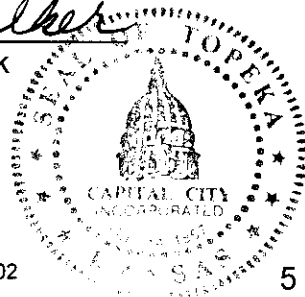
1. Consider the adoption of a Charter Ordinance that would increase the current Transient Guest Tax from its current rate of 5% to a rate of 6%, to be effective on January 1, 2003 (or the first day of the month following its approval, whichever is later). The Charter Ordinance shall include a provision that discontinues the 1% increase on December 31 of the thirteenth year following the approval.

2. Deposit funds collected from the increase in the Transient Guest Tax in excess of the \$200,000 per year committed to the Great Overland Station project in the Historic Preservation Fund. This fund will be expended for projects and activities that enhance the rich historical heritage of Topeka, as authorized by City Code Section 2-331.

ADOPTED and APPROVED by the City Council AUG 20 2002.


Harry Felker, Mayor


Iris E. Walker, City Clerk



APPROVED AS TO FORM AND LEGALITY

DATE 8/16/02 BY PC



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 22, 2013

☐ Back ☐ Print

DATE: September 24, 2013
CONTACT PERSON: Brenda Younger **DOCUMENT #:**
SECOND PARTY/SUBJECT: Applications **PROJECT #:**
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

APPROVAL of Retail Cereal Malt Beverage and Scrap Metal Dealers License Applications.

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

(Retail Cereal Malt Beverage License applications and Scrap Metal Dealer applications must be approved by the governing body prior to issuance of the licenses.)

POLICY ISSUE:

Approval helps ensure businesses are in compliance with City regulations.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the license application(s) as presented.

BACKGROUND:

Pursuant to K.S.A. 41-2702 as amended, license applications for retail cereal malt beverage must be approved by the governing body prior to issuance of the license.

Pursuant to TMC 5.170.040 and L.2011, Ch. 86, Section 2, Scrap Metal Dealer applications have to be approved by the governing body prior to issuance of registration.

BUDGETARY IMPACT:

Budgetary impact is based on the number of licenses issued.

SOURCE OF FUNDING:

City Clerk's Operating Budget

ATTACHMENTS:

No Attachments Available

Item #26



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 11, 2013

☐ Back ☐ Print

DATE:	September 24, 2013		
CONTACT PERSON:	Bill Fiander/Bill Hoover	DOCUMENT #:	PUD13/1
SECOND PARTY/SUBJECT:	Walmart Commercial Center PUD	PROJECT #:	N/A
CATEGORY/SUBCATEGORY	014 Ordinances – Non-Codified / 007 Zoning		
CIP PROJECT:	No		
ACTION OF COUNCIL:	09-17-13 First Reading	JOURNAL #:	13
	PAGE #:		

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Jim Colson, amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code, by providing for certain changes in zoning on property located between SE 25th Street and SE 27th Street, east of SE California Avenue from “C-2” Commercial District, “C-4” Commercial District, “M-2” Multiple-Family Dwelling District, “R-1” Single-Family Dwelling District, “PUD” Planned Unit Development District (“M-2” use group) ALL TO “PUD” Planned Unit Development District (“C-2” Commercial and “C-4” Commercial use groups). Final Reading. (PUD13/1) (Council District No. 4)

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

(Approval would allow for the construction of a 160,000 square foot Walmart Super Center located near SE 25th Street and SE California Avenue.)

POLICY ISSUE:

Governing Body options include:

- (1) Adopt the recommendation of the Planning Commission by a majority vote (six votes) of the Governing Body.
- (2) Reject or amend the recommendation of the Planning Commission by a two-thirds majority vote (seven votes) of the Governing Body.
- (3) Remand back to the Planning Commission with a statement specifying the basis for the Governing Body's decision by a majority vote (six votes) of the Governing Body.

Item #27

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to adopt the ordinance.

BACKGROUND:

As conditioned, the request is consistent with the land use policies and principles of the Comprehensive Plan. Staff believes with the completion of the recommended traffic and bike lane improvements and appropriate residential buffering, the request is in conformance with the Comprehensive Plan. These improvements should assist in mitigating against the negative effects that can arise from “stripping out” arterial streets with commercial uses as noted in the Land Use and Growth Management Plan 2025.

BUDGETARY IMPACT:

The applicant will need assistance from the City if right-of-way or an easement along the west side of California is necessary in order to install the four-way commercial traffic light at Drive A/California.

SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

[Summary Report](#)

[Ordinance](#)

[staff report](#)

[Aerial map](#)

[zoning map](#)

[Central Highland Park Future Land Use Map](#)

[PUD Elevations](#)

[PUD Plan - Pg 1](#)

[PUD Plan - Pg 2](#)

[PUD Plan - Landscape](#)

[PUD Plan - Notes](#)

[Neighborhood meeting report from applicant](#)

[Public testimony](#)

[Case Minutes of Planning Commission 8/16/2013](#)

CITY OF TOPEKA PLANNING DEPARTMENT

SUMMARY REPORT

RE: PUD13/1 Wal Mart Commercial Center PUD

The proposal is a request to amend the zoning on property located east of SE California Avenue, lying between SE 25th and SE 27th Streets from “C-2” Commercial District, “C-4” Commercial District, “M-2” Multiple-Family Dwelling District, “R-1” Single-Family Dwelling District, “PUD” Planned Unit Development (“M-2” Multiple-Family Dwelling District use group”) **ALL TO** “PUD” Planned Unit Development (“C-4” and “C-2” Commercial District use groups). Approval of the zone change would allow for a 160,000 sq. ft. Wal Mart Super Center.

The PUD plan as presented to the City Council proposes:

- Six hundred and thirty five (635) automobile parking spaces, an on-site Topeka Metro bus stop on the north side of the building, and bicycle parking at both main building entrances (25 bike rack spaces).
- Two access points on to SE California and SE 25th Street (Drive A and Drive B)
- New synchronized (InSync) traffic signal with pedestrian-activated crossing at Drive A and California
- The traffic signals at SE 29th and 25th Streets will be retrofitted with new InSync systems.
- Bike lanes along both sides of SE 25th Street with bike sharrows near the intersection to accommodate the left-turn lane.
- Left turn lane along SW 25th Street for 150 ft. from the intersection with SE California.
- Center turn lane along SE California from SE 25th Street through SE 27th Street.
- Mid-block pedestrian crosswalk across SE 25th Street with advance warning signage.
- Nine-foot tall berm located on the east side of the building with a row of 6 ft. tall evergreen trees planted across the length of the berm.
- Eight foot tall precast concrete wall along the north property line.
- Six foot tall black chain link fence along the south side of the building and along the length of the east property boundary.
- Sidewalk connection along the south side of SE 25th Street connecting from Drive B to SE Burr
- Storm water detention basin east of the building.

The property is located within an “Outpatient” area and fronts upon an “At Risk” area, as designated by the City’s 2011 Neighborhood Health Map. The subject property is eligible for a ten-year property tax rebate under the Neighborhood Revitalization Program. Comprehensive plan policies encourage development and re-development on infill sites inside the City’s inner urban core areas and within its “Intensive Care”, “At Risk” and “Outpatient” neighborhoods. Staff believes with the completion of the recommended traffic and bike lane improvements and

appropriate residential buffering, the request is in conformance to the Comprehensive Plan. These improvements should assist in mitigating against the negative effects that can arise from “stripping out” arterials with commercial uses as noted in the Comprehensive Plan. SE 25th Street should remain the line of transition between commercial uses to the south and residential to the north along California, except for the *Transition Area* at the northwest corner of SE 25th and SE California Avenue as designated in the Central Highland Park Neighborhood Plan (2010).

A minor plat is under review and will need approval prior to the issuance of any building permits.

The Planning Department recommended approval of the zone change, as referenced in the attached staff report. The Planning Commission recommended the zone change be approved by a vote of 9-0-0 at its August 19, 2013 public hearing, as referenced in the attached minutes. All conditions of approval that are listed in the staff report and approved by the Planning Commission are reflected on the attached PUD plan.

The Planning Department requests the Governing Body move to approve the ordinance and adopt the zone change.

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Jim Colson, City Manager amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code (TMC), by providing for certain changes in zoning on property located between SE 25th Street and SE 27th Street, east of SE California Avenue from “C-2” Commercial District, “C-4” Commercial District, “M-2” Multiple-Family Dwelling District, “R-1” Single-Family Dwelling District, “PUD” Planned Unit Development District (“M-2” use group) **ALL TO** “PUD” Planned Unit Development District (“C-2” Commercial and “C-4” Commercial use groups). **(PUD13/1) (Council District No. 4)**

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

Section 1. That the “District Map” referred to and made a part of the Zoning Ordinance by Section 18.50.050 of the Topeka Municipal Code (TMC), be and the same is hereby amended, by reclassifying the following described property:

A TRACT OF LAND BEING ALL OF LOTS 15 THRU 20 IN BLOCK A OF COMMUNITY PLAZA SUBDIVISION, A SUBDIVISION RECORDED IN BOOK 28 PAGE 130 OF THE SHAWNEE COUNTY RECORDS AND PART OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 12 SOUTH, RANGE 16 EAST OF THE 6TH PRINCIPAL MERIDIAN, IN TOPEKA, SHAWNEE COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT BEING 200 FEET NORTH AND 50 FEET EAST OF THE SOUTHWEST CORNER OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 9, SAID POINT BEING THE SOUTHWEST CORNER OF SAID LOT 20; THENCE NORTH 00 DEGREES 01 MINUTES 01 SECONDS WEST, A DISTANCE OF 306.51 FEET; THENCE NORTH 89 DEGREES 58 MINUTES 59 SECONDS EAST, A DISTANCE OF 269.88 FEET; THENCE NORTH 00 DEGREES 01 MINUTES 01 SECONDS WEST, A DISTANCE OF 544.10 FEET; THENCE NORTH 88 DEGREES 24 MINUTES 00 SECONDS EAST, A DISTANCE OF 589.92 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 08 SECONDS EAST, A DISTANCE OF 240.10 FEET; THENCE NORTH 88 DEGREES 24 MINUTES 00 SECONDS EAST, A DISTANCE OF 134.81 FEET; THENCE SOUTH 00 DEGREES 04 MINUTES 59 SECONDS EAST, A DISTANCE OF 239.09 FEET; THENCE SOUTH 60 DEGREES 24 MINUTES 32 SECONDS EAST, A DISTANCE OF 292.82 FEET; THENCE ALONG A CURVE TO THE LEFT, WITH A RADIUS OF 270.00 FEET, AN ARC LENGTH OF 47.87 FEET, HAVING A CHORD BEARING OF SOUTH 24 DEGREES 30 MINUTES 43 SECONDS WEST AND A CHORD DISTANCE OF 47.81 FEET; THENCE IN A SOUTHERLY DIRECTION WITH A COMPOUND TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 467.28 FEET, AN ARC LENGTH OF 148.35 FEET, HAVING A CHORD BEARING OF SOUTH 10 DEGREES 20 MINUTES 17 SECONDS WEST AND A CHORD DISTANCE OF 147.73 FEET; THENCE IN A SOUTHERLY DIRECTION WITH A COMPOUND TANGENT CURVE TURNING TO THE LEFT

WITH A RADIUS OF 294.03 FEET, AN ARC LENGTH OF 295.81 FEET, HAVING A CHORD BEARING OF SOUTH 27 DEGREES 34 MINUTES 42 SECONDS EAST AND A CHORD DISTANCE OF 283.49 FEET; THENCE SOUTH 56 DEGREES 23 MINUTES 59 SECONDS EAST, A DISTANCE OF 12.00 FEET; THENCE ALONG A CURVE TO THE LEFT, WITH A RADIUS OF 787.33 FEET, AN ARC LENGTH OF 474.55 FEET, HAVING A CHORD BEARING OF SOUTH 73 DEGREES 40 MINUTES 00 SECONDS EAST AND A CHORD DISTANCE OF 467.39 FEET; THENCE SOUTH 01 DEGREES 20 MINUTES 55 SECONDS EAST, A DISTANCE OF 299.42 FEET; THENCE SOUTH 88 DEGREES 25 MINUTES 07 SECONDS WEST, A DISTANCE OF 1,190.15 FEET; THENCE NORTH 00 DEGREES 05 MINUTES 18 SECONDS WEST, A DISTANCE OF 199.20 FEET; THENCE SOUTH 88 DEGREES 28 MINUTES 52 SECONDS WEST, A DISTANCE OF 609.74 FEET TO THE POINT OF BEGINNING AND

CONTAINING 1,240,374 SQUARE FEET OR 28.48 ACRES, MORE OR LESS.

Section 2. The development of the site is from “C-2” Commercial District, “C-4” Commercial District, “M-2” Multiple-Family Dwelling District, “R-1” Single-Family Dwelling District, “PUD” Planned Unit Development District (“M-2” use group) **ALL TO** “PUD” Planned Unit Development District (“C-2” and “C-4” use groups).

Subject to:

- 1. Use and compliance of the site in accordance with the recorded Master Planned Unit Development Plan for Wal Mart Commercial Center**

Section 3. The Master PUD Plan for Wal Mart Commercial Center shall be recorded with the Shawnee County Register of Deeds in accordance with Section 18.190.060(b) of the Topeka Municipal Code (TMC). Following the recording of the Master PUD Plan and prior to any building and/or land development on the site, a site development plan shall be submitted for review and administrative approval by the Planning Director.

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

Section 5. This Ordinance Number shall be fixed upon the “District Map”.

Section 6. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

PASSED AND APPROVED by the Governing Body of the City of Topeka,

_____, 2013.

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified _____

Not To Be Codified X

August 19, 2013
Agenda Item # E-2

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: PUD13/1

By: William A. & Kathryn D. Reinsch; Darrell E. Simnitt Trust; Richard & Patricia Lake; Elwanda M. Rogers, Trustee of the Elwanda Rogers Revocable Trust and DR-DL Building; Flarice Phillips; and Unified School District #501

PROPOSAL: Zone change from “C-2” Commercial District, “C-4” Commercial District, “M-2” Multiple-Family Dwelling District, “R-1” Single-Family Dwelling District, “PUD” Planned Unit Development (“M-2” Multiple-Family Dwelling District use group”) **ALL TO** “PUD” Planned Unit Development (“C-4” and “C-2” Commercial District use groups).

LOCATION: On property located between SE 25th and SE 27th Streets along the east side of SE California Avenue

PRESENT USE: The property is presently vacant (28.5 acres) except for the 4,591 sq. ft. daycare facility that will be demolished. The property was formerly a drive-in theater.

PROPOSED USE: Approximate 160,000 sq. ft. Wal Mart supercenter (grocery store, department store, seasonal garden center, hardware, etc.) on Lot 1 (27.36 acres) and one out lot (1 acre) fronting SE California Avenue.

The proposed PUD plan is providing:

- 635 automobile parking spaces, an on-site Topeka Metro bus stop on the north side of the building, and bicycle parking at both entrances.
- Two access points on to SE California and SE 25th Street (Drive A and Drive B)
- Traffic signal (InSync) with pedestrian-activated crossing at Drive A and California
- Bike lane or bike sharrows (as necessary) along both sides of SE 25th Street.
- Left turn lane along SW 25th Street for 150 ft. from the intersection with California.
- Nine-foot tall berm located on the east side of the building with a row of 6 ft. tall evergreen trees planted atop the berm and 8 ft. landscape screening barrier along the north side of parking lot.
- Sidewalk connection along SE 25th from Drive B to SE Burr
- Interior sidewalks and pedestrian crossings connecting SE California and SE 25th Street to the building.
- Detention basin on east side of building.

August 19, 2013
Agenda Item # E-2

CHARACTER OF NEIGHBORHOOD: The property is located east of a principal arterial (SE California Avenue) and south of a collector street (SE 25th Street) with a 300 ft. wide leg connecting to SE California and a 120 ft. wide leg connecting to SE 25th Street. The frontages along SE California between SE 25th and SE 29th Streets are developed for commercial uses. The properties to the east and north of the subject property are developed for multiple-family residential. Highland Park High School is located north of SE 25th Street on the north side of the subject property. Dornwood Park lies further east of the subject property at the end of SE 25th Street. SE 25th Street is a residential collector and primarily serves residential neighborhoods and Dornwood Park, as well as, provides an egress for the high school

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	“PUD” Planned Unit Development (“M-2” use)	Apartments
South:	“R-1” Single-Family Dwelling District	Vacant
	“PUD” Planned Unit Development (“M-2” use)	Apartments
East:	“PUD” Planned Unit Development (“M-2” use)	Apartments
West:	“C-2” Commercial District	Retail stores
	“PUD” Planned Unit Development (“I-1” use)	Self-storage facility

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT RESTRICTIONS: The interior of the property has remained zoned “R-1” Single-Family Dwelling District since 2004 when it was rezoned from “R-1” Single-Family Dwelling District with a Resolution of Intent (ROI) for “C-4” Commercial District. Prior to 2004, the interior of the property was originally zoned for single-family dwellings since annexed in 1958. (ROIs were a pre-1992 form of conditional zoning, which were approved by City Council and the applicant would subsequently have to meet criteria listed in the approving resolution before using the property as allowed under that district. The ROI on this property for “C-4” uses was eliminated in 2004 when staff recommended the “R-1” District for the subject property.) The “C-4” zoned tract along SE California has remained as zoned for commercial since at least the 1960s. There is one existing building currently being used as a day care facility on this tract that was constructed in 1980 for retail uses and will be demolished. The “M-2” tracts have remained zoned for multiple-family residential since 1969 and have been vacant ever since. The “R-1” tract was used as a drive-in theater at some point historically in the past.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The subject property may still be suitable as presently restricted for residential uses since this is the character of the area along SE 25th Street to the east and west of SE California Avenue. SE 25th Street has traditionally acted as the line of demarcation between the commercial and residential uses along California. However, there may also be other uses for which the property would be suitable due to the length of time it has been undeveloped for residential uses. The property is located within an “Outpatient” area and fronts upon an “At Risk” area, as designated by the City’s 2011 Neighborhood Health Map. The subject property has frontage on the eastern edge of the City’s Neighborhood Revitalization Area and is eligible for a ten-year property tax rebate. Comprehensive plan policies encourage development and re-development on infill sites inside the City’s inner urban core areas and within its “Intensive Care”, “At Risk” and “Outpatient” neighborhoods.

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This development has the potential to encourage further investment on undeveloped properties within this area. However, considering SE 25th Street has traditionally functioned as a residential collector street for neighborhoods to the east and west and has not served commercial properties, there are significant traffic and street improvements that need to be made before the subject property could be considered suitable for a regional commercial development of this size (160,000 sq. ft.) since the property is located approximately 1,500 ft. north of the arterial intersection at 29th and California. If this applicant makes the necessary traffic and street improvements as recommended by the City of Topeka to both SE California and 25th Streets, the subject property may also be suitable for uses other than residential.

CONFORMANCE TO COMPREHENSIVE PLAN: The Topeka Land Use and Growth Management Plan – 2025 (LUGMP) identifies the area along SE California between SE 29th and SE 25th Streets for *Commercial/Office* uses. However, the future land use map of the LUGMP is more of broad brush approach and does not designate specific land uses for each particular parcel or tract of land, but rather gives general guidelines for making land use and rezoning decisions. The plan's land use principles and policies generally require regional commercial uses to be at arterial intersections and encompass approximately 7 – 15 acres at each corner of the intersection and should not be located within close proximity to residential neighborhoods. Arterial streets are constructed to have the capacity to handle traffic from regional commercial uses of this type, not collector streets. Policies in the plan also recommend against “stripping out” arterial streets with commercial uses because of a number of undesirable results that can occur, such as:

- Lessening the primary purpose of the arterial's ability to move traffic.
- Excessive public cost due to the need for traffic control devices.
- Reducing property values for residential uses adjacent to the strip of commercial zoning as the commercial uses “bleed” into the neighborhood.
- Lowering the value of “prime” retail properties as an excessive amount of commercial properties are established.

The subject property is located approximately 1,500 ft. north of the SE 29th and SE California arterial intersection and accesses off a collector street (SE 25th Street) and is in an area that has already been primarily stripped out with commercial uses fronting along California. SE 25th Street has primarily functioned as a collector street that provides access to residential properties. SE 25th Street was not intended to serve commercial properties and carry heavy truck traffic to these properties. That being said, the intersection of SE 29th and SE California will probably not experience new commercial development on its south and west sides since the neighborhoods to the west of California and south of 29th are already predominately developed, leaving the subject property at a more practical location for the expansion of commercial development.

The PUD plan does provide some buffering with residential properties to the east and south, as well as, makes pedestrian and bicycle connections. However, staff does recommend a couple of additions be included to this buffering. Staff recommends a 6 ft. black or green chain link fence be installed along the south side of the principal building, just to the south of the row of parking stalls and connected with the fence around the detention pond, which should also be 6 ft. tall, black or green chain link. An existing vegetative tree line lies across the south boundary line with an approximate 240 ft. of separation between the property line and developed area, but this will need to be depicted on the plan graphics to ensure it remains as the required residential buffer area for properties to the south. On its east boundary, the PUD requires a 9 ft. tall berm with 6 ft. of evergreen landscaping across the berm to act as a residential buffer

August 19, 2013
Agenda Item # E-2

for the apartments to the east, which staff believes is sufficient buffer for properties to the east. An 8 ft. tall landscaped screening barrier will also be established across the north end of the parking lot that is adjacent with apartments.

Staff believes with the completion of the recommended traffic and bike lane improvements and appropriate residential buffering, the request is **in conformance** to the Comprehensive Plan. These improvements should assist in mitigating against the negative effects that can arise from “stripping out” arterials with commercial uses as noted in the LUGMP. SE 25th Street should remain the line of demarcation between commercial uses to the south and residential to the north along California, except for the *Transition Area* at the northwest corner of SE 25th and SE California Avenue as designated in the Central Highland Park Neighborhood Plan (2010).

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: Removal of the present restrictions would have a detrimental effect upon nearby properties without the necessary street and traffic improvements being made to SE California and SE 25th Street that would enable the subject property to be suitable for a regional commercial development of 160,000 sq. ft.

The traffic and street improvements the City of Topeka requests are listed below:

- Left-turn lane on SE 25th Street for 150 ft. from the intersection with California.
- A center turn lane along SE California from SE 25th Street through at least 50 ft. south of SE 25th Street (exclusive of tapering).
- Three synchronized traffic signals (InSync) at Drive A, SE 25th Street, and SE 29th Street, which are the two traffic signals on either side of Drive A that will be significantly impacted.
- Drive A will be constructed as a four-way commercial traffic light with a pedestrian-activated crossing across California.
- Collaborate with City of Topeka to establish shared access for the two residential properties on the west side of California across from Drive A.
- Bike lanes along SE 25th Street since this is a designated route in the City Bikeways Plan. (The bike lanes may transition to sharrows near the intersection to accommodate the left-turn lane.)
- Mid-block crossing for pedestrians across SE 25th Street with the exact location of the crossing to be determined at the time of site development plan review

The Traffic Impact Study (TIS) indicates the project will generate 9,639 new vehicle trips per day. SE California currently carries 17,932 trips per day. The estimated 9,639 trips per day added would bring California to a total of 27,571 trips per day. This would make this development responsible for nearly 35% of that total. Even though the TIS indicates the streets and intersections will still be at acceptable levels of service, this traffic increase clearly reduces much of the carrying capacity of California for a four-lane road way that the City expended considerable cost widening in the recent past.

The subject property is adjacent with residential properties and zoning districts on three sides and without adequate residential buffering would have a detrimental effect upon these properties. As indicated above, staff believes the PUD plan requires sufficient buffering for these residential properties, but is recommending some additions to the buffering proposed on the plan. Lighting still needs to be addressed on the plan as to type and intensity of lighting in order to ensure parking areas are adequately lit and lighting will not impact adjacent properties.

August 19, 2013
Agenda Item # E-2

THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE OWNER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER: The proposed reclassification would allow the property to develop for commercial uses. There would be a relative gain to the public health, safety, and welfare since the PUD will provide sidewalk, pedestrian, and bicycle connectivity both internal to the site and externally with surrounding neighborhoods and accommodates various modes of transportation. These improvements would add to considerable investments the City has made, or is planning to make in the future, in both widening SE California Avenue to four lanes and providing for infrastructure improvements (sidewalks, curbs, and gutters) within Central Highland Park to the west of the subject property.

AVAILABILITY OF PUBLIC SERVICES: With the exception of street and traffic improvements noted above, the subject property is served with public utilities, services, and facilities. All improvements will be at the cost of the developer. The City will collaborate with the developer to develop shared access for the two residential properties on the west side of SE California that will be needed to accommodate the traffic signal at Drive A. The Storm Water Management Report has been approved by the City of Topeka. The plat will need to reflect the area covering the detention basin as a storm water management easement (SME), as required by the City.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS: A 20 percent reduction is requested with the PUD to the Off-Street Parking Regulation requirement that retail uses provide parking at 1 per 200 sq. ft. of floor area due to provisions being made for other modes of transportation (bus stop, bike lanes, and sidewalks). The plan proposes 635 off-street automobile parking spaces. The applicant will provide bike lanes on SE 25th Street, which is a designated bike route on the City of Topeka Bikeways Plan and bicycle parking at a rate of 4 percent of the required automobile parking spaces (equals 25 bike rack spaces). Bike parking will be located in front of the main entrances of the building with the exact type approved at the time of site plan review. An on-site Topeka Metro bus stop is provided at the north end of the property. The applicant is also making numerous sidewalk and pedestrian connections both internal to the site and with adjacent properties with sidewalks and pedestrian crossings.

Minimum lot area: **Compliant** – 28.5 acres (minimum 1 acre lot size)

Setbacks: **Compliant** – Established on the PUD plan

Platting: **Non-Compliant** – The applicant is submitting a plat for the September Planning Commission meeting. A note has been added to the PUD stating, *"No building permits shall be issued until the property is platted."*

CONCERNS OF STAFF AND REVIEWING AGENCIES: This request was submitted to all applicable reviewing agency staff for consideration and comment, which have been addressed or will be addressed at the time of site plan review and prior to building permit issuance.

August 19, 2013
Agenda Item # E-2

ADDITIONAL FACTORS:

1. Citizen Participation Process: The applicant conducted a neighborhood information meeting on July 24, 2013 at Highland Park High School. The applicant's report to the City is attached. All neighborhoods within ½ mile and property owners within 500 ft. were notified of the zone change. (Central Highland Park, Hi-Crest, Highland Acres, and Rolling Meadows.) All written responses received as of the date of the staff report are attached. All public materials related to the application were posted to the City of Topeka Planning website at <http://www.topeka.org/Planning/Walmart.shtml>
2. Capitol Area Plaza Authority: N/A
3. Flood Hazard Area: N/A
4. Airport Hazard Area: N/A
5. Historic Properties: N/A

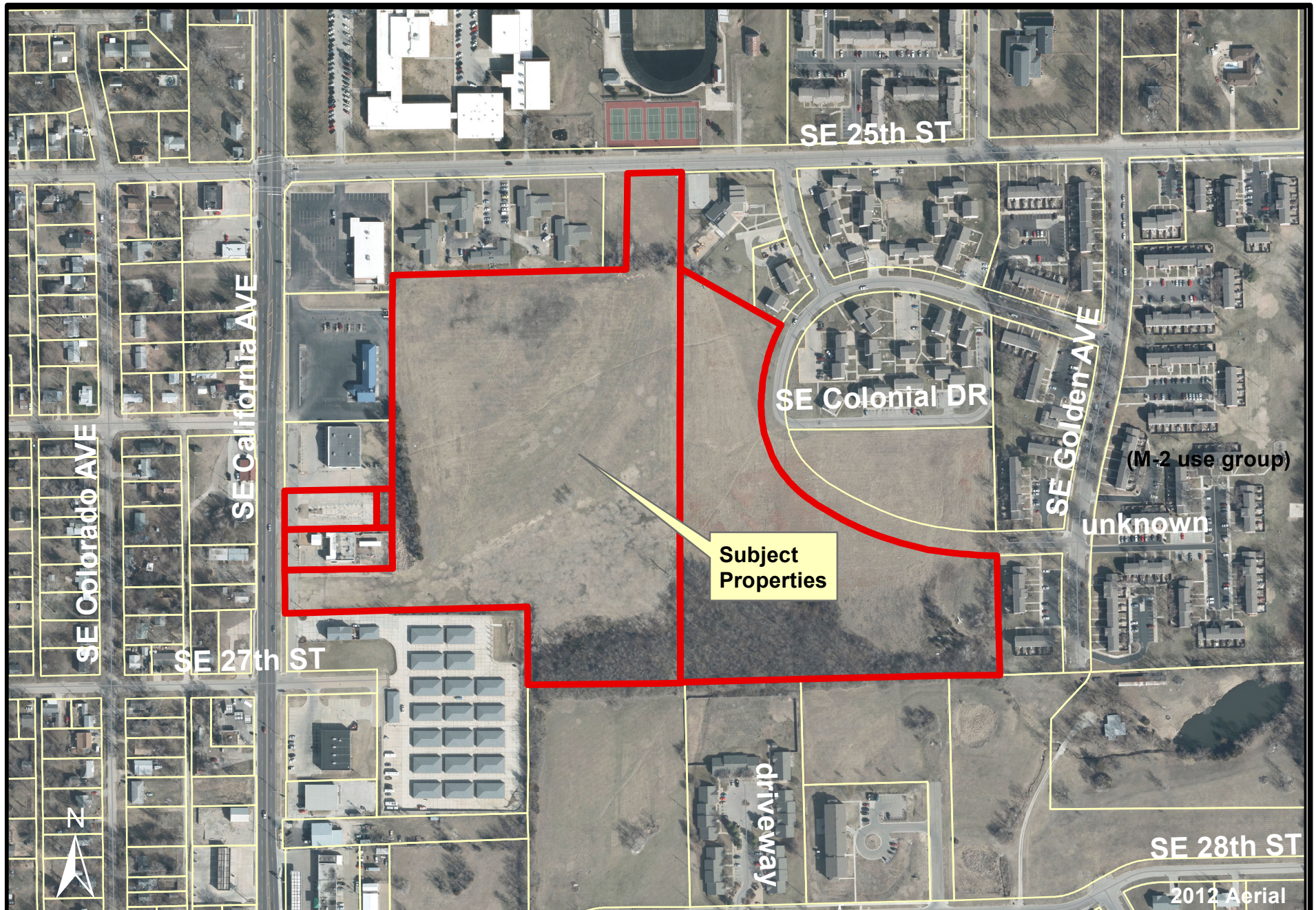
STAFF RECOMMENDATION: Based upon the above findings and analysis, planning staff recommends **APPROVAL** of this proposal, **subject to:**

1. Use and development of the site in accordance with the recorded **Master Planned Unit Development Plan for Wal Mart Commercial Center.**
2. Adding Traffic Improvement Notes to Circulation, Parking, and Traffic Notes on Sheet 4:
 - a. Adding Note stating: *"The traffic improvements stated herein shall be completed prior to the issuance of a Certificate of Occupancy."*
 - i. *A west-bound left turn lane for SE 25th Street where it approaches SE California for 150 ft.*
 - ii. *A continuous two-way center turn lane on SE California from SE 25th through SE 27th so that there is a 50 ft. long northbound left turn lane south of 27th Street (exclusive of the taper).*
 - iii. *Synchronized traffic signals (InSync) at Drive A, SE 25th Street and SE 29th Street.*
 - iv. *5 ft. wide bike lanes on both sides of SE 25th Street from Drive B to SE California with bike sharrows as these lanes near the approach of California to accommodate the left-turn lane.*
 - v. *Construction of Drive A as a four-way commercial traffic light with a pedestrian-activated crossing across California.*
3. Adding note under Circulation, Parking, and Traffic Notes to state: *"Adding a striped mid-block crosswalk, including advance warning signage, across SE 25th Street with the exact location of the crossing to be determined at the site development plan stage or within six months of the store opening after review by the City Engineer and Unified School District #501."*
4. Labeling on Sheet 1 that the "pedestrian crossing" at Drive A across California will be pedestrian-activated.
3. Labeling bike lanes/sharrows along SE 25th Street on Sheet 1.

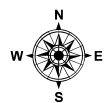
August 19, 2013
Agenda Item # E-2

4. Adding Note #4 under Utility Notes to state: *“Parking lot lighting shall be directed way from public streets and residential properties and shall not exceed three foot-candles as measured at the property line. The source of illumination shall be shielded from adjacent properties.”*
5. Indicating the type and intensity of parking lot lighting that is being provided to the above Lighting note under Utility Notes.
6. Adding to Note #1 under Signage Notes to include: *“. . . The base of the pole sign shall be landscaped with shrubs to a height of 30 inches.”*
7. Revising Note #4 under Signage Notes to state: *“Wall signs shall comply with the ‘C-4’ base zoning signage requirements.”*
8. Adding note under Signage Notes: *“No Electronic Message Center signs shall be permitted at the SE 25th Street entrance.”*
9. Adding note under Building and Structure Notes: *“No outdoor storage, sales, or display of products, materials, and merchandise, except within the fenced area shown on the plan and intended for garden center merchandise only.”*
10. Adding note under Building and Structure Notes: *“No parking of semi-truck trailers on the premises, except for those unloading and loading.”*
11. Revising Note #3 under Building and Structure Notes to state: *“The exterior building and sign designs shall demonstrate substantial compliance with the elevations included with the PUD plan and shall be reviewed and approved by the Topeka Planning Director prior to building permit issuance.”*
12. Depicting the existing tree line and width of the tree line on “Sheet 3- Landscaping” since this will act as the southern residential buffer area.
13. Reflecting a 6 ft. tall black chain link fence along the south side of the building just south of the row of parking stalls, connecting with the shown fence around the detention pond, and then extending north along the length of the east property boundary, including along the east side of the 25th Street drive entrance.
14. Indicating that the fence shown on the plan and around the detention pond will be *“6 ft. tall, black chain link.”*

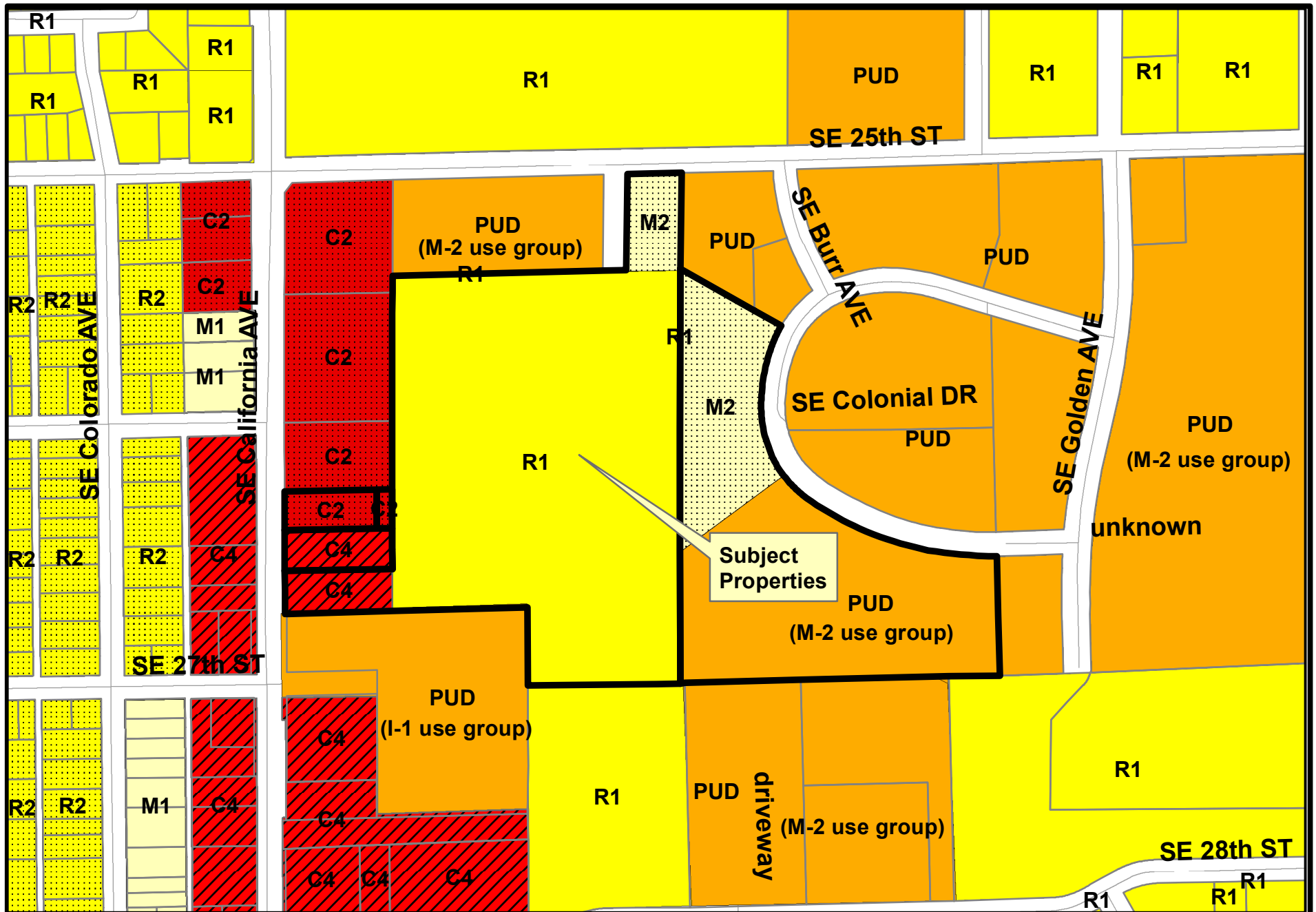
Prepared by:
Annie Driver, AICP
Planner II



PUD13/1 Wal Mart Commercial Center Planned Unit Development

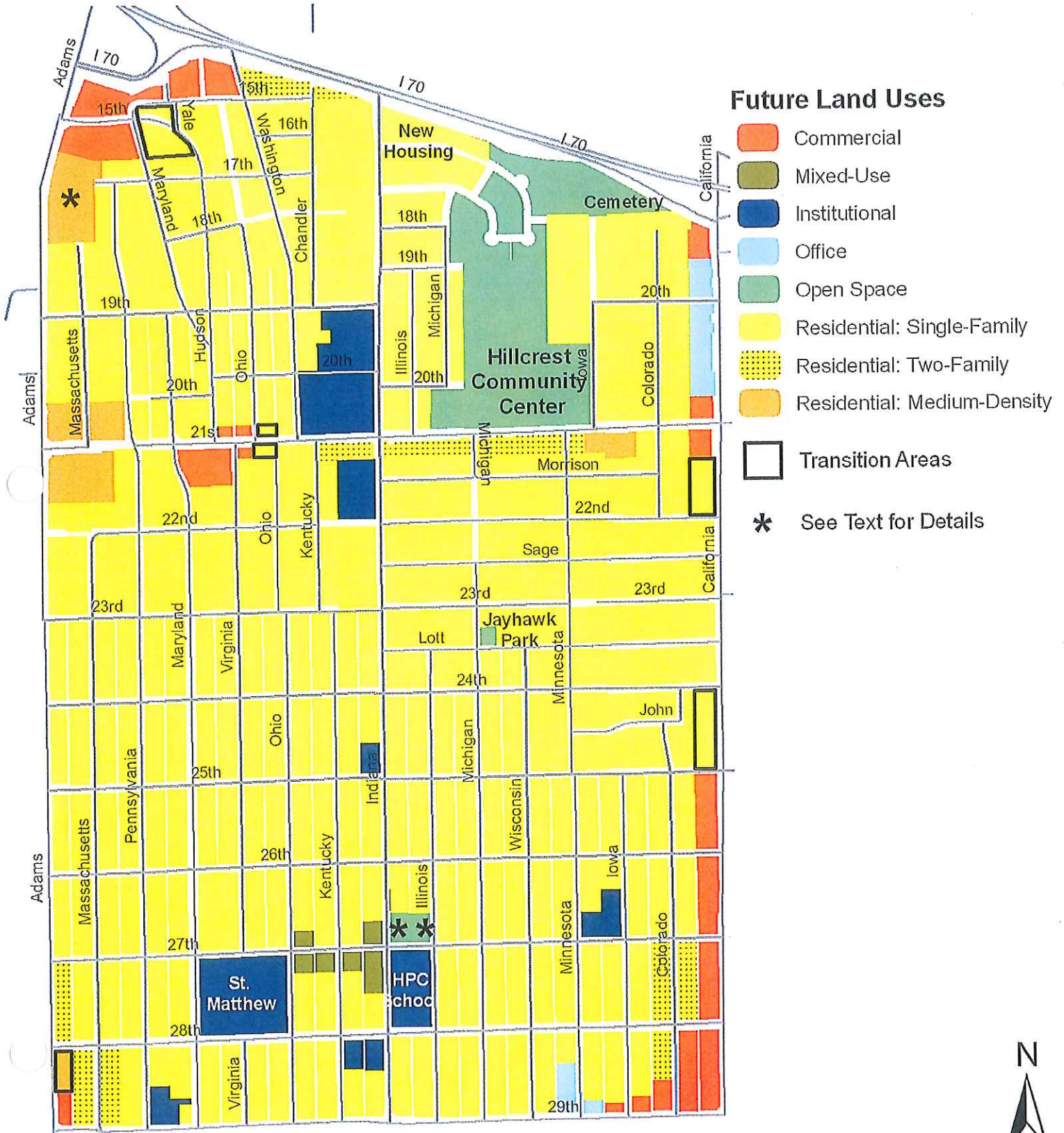


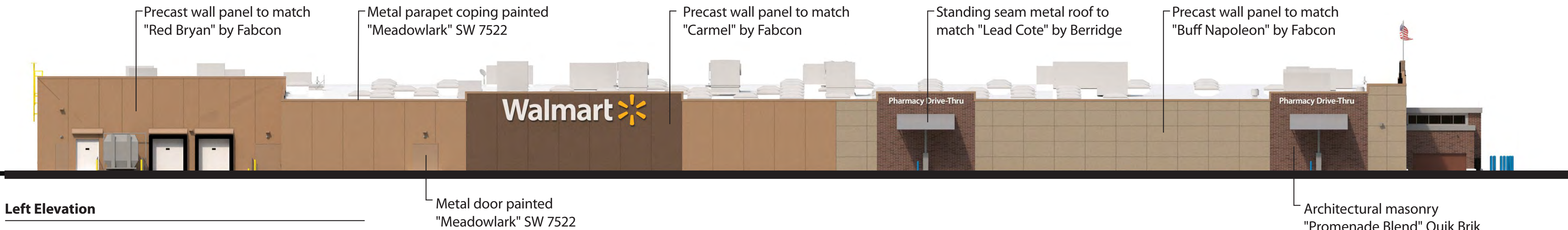
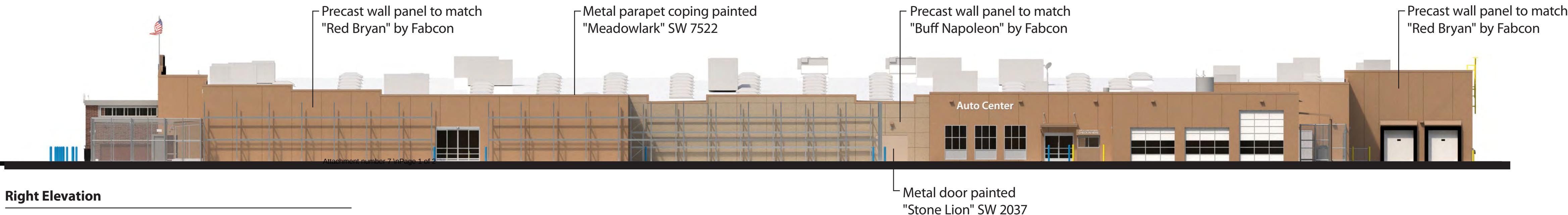
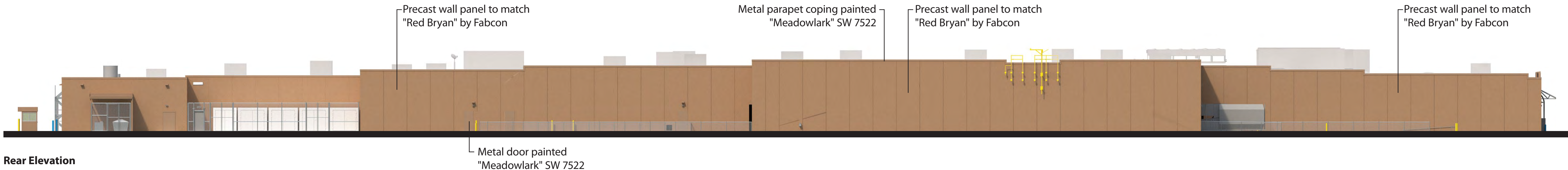
City of Topeka Planning Department



PUD13/1 Wal Mart Commercial Center Planned Unit Development

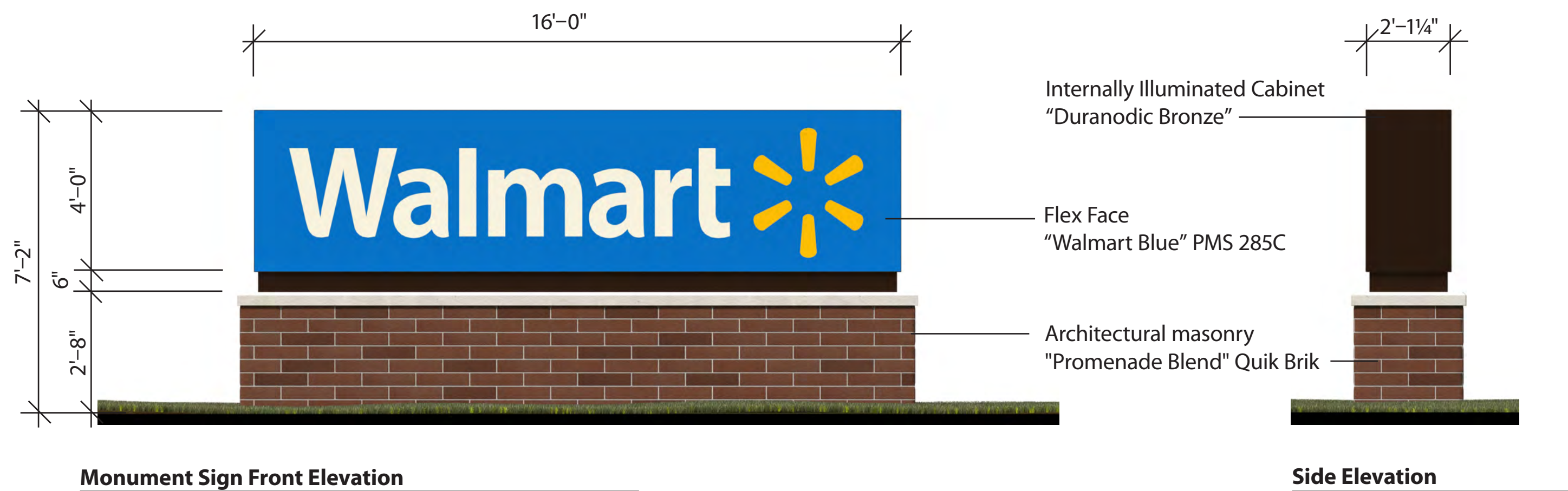
Central Highland Park Future Land Use Map



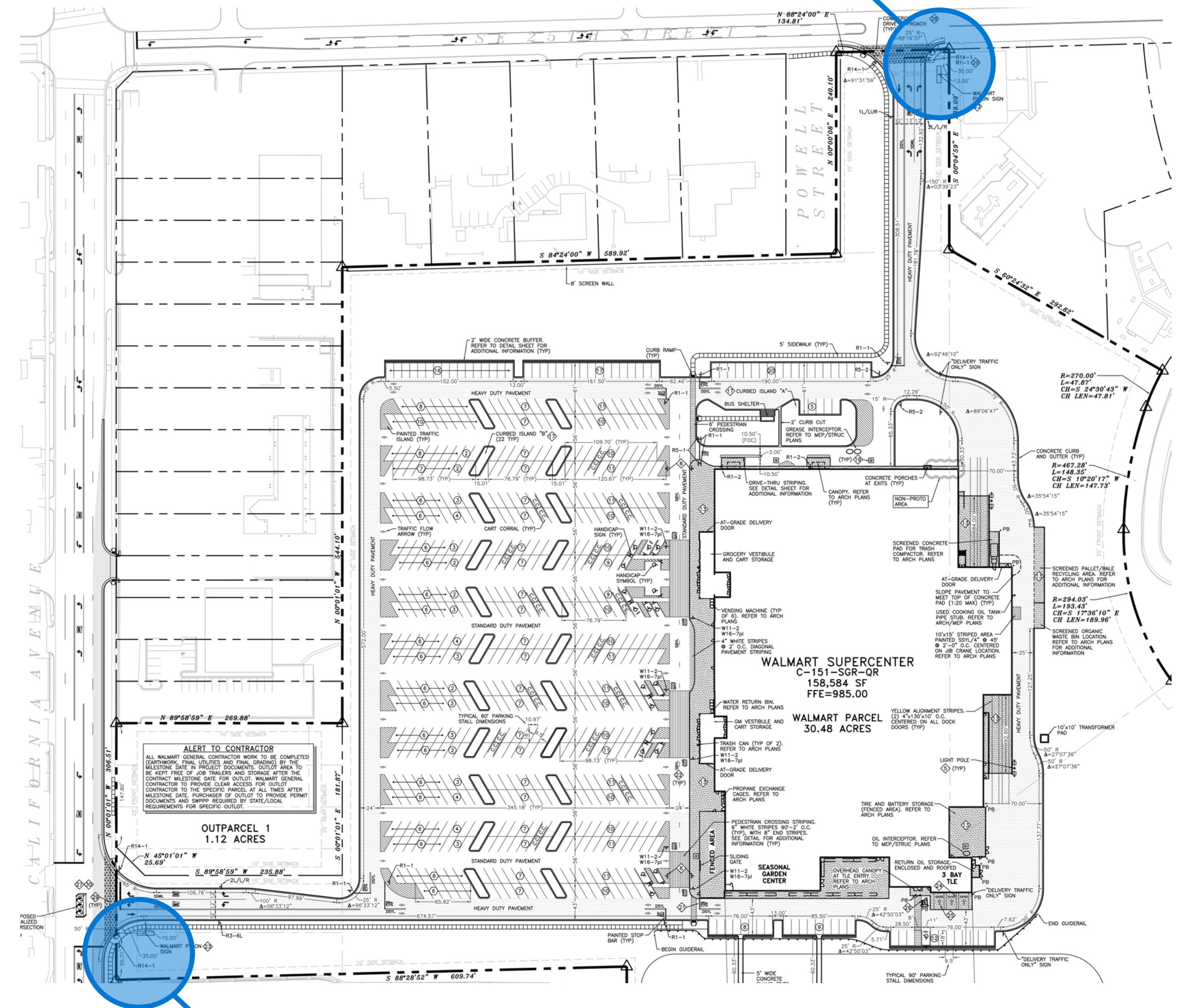
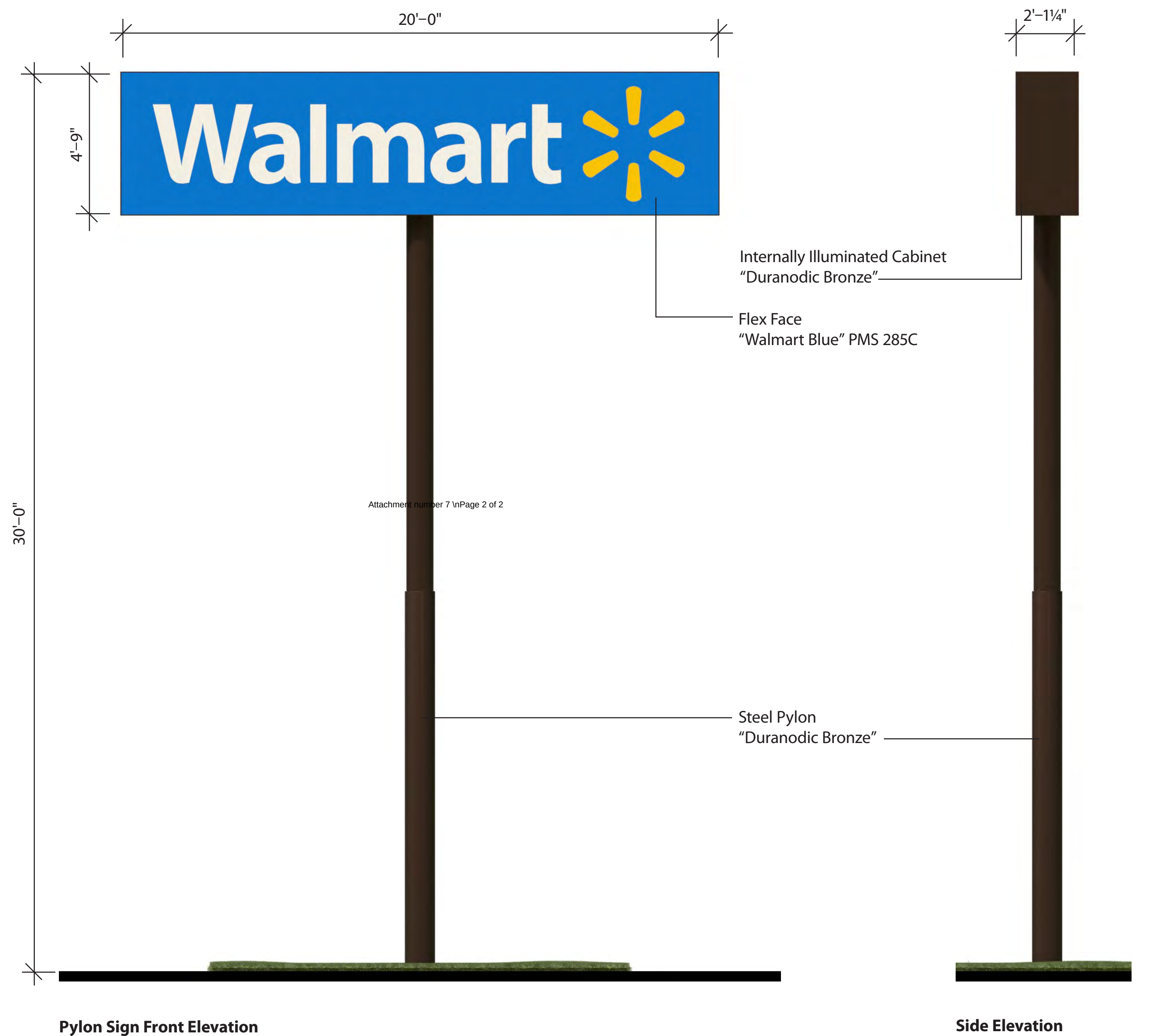


Sign	Qty.	Height	Area (S.F.)	Total S.F.
Walmart	2	5'-6"/8'-0"	297.98	595.96
Market & Pharmacy	1	2'-6"	102.74	102.74
Outdoor Living	1	2'-6"	77.17	77.17
Pharmacy Drive-Thru (directional)	1	2'-0"	74.74	74.74
Pharmacy Drive-Thru	1	1'-6"	39.90	39.90
Auto Center (directional)	1	2'-0"	34.50	34.50
Auto Center	1	2'-0"	31.47	31.47
Total Building Signage				956.48





Monument Sign



Pylon Sign

Sign	Qty.	Illumination	Area (S.F.)	Total S.F.
Walmart (Pylon)	1	Internal	95.00	95.00
Walmart (Monument)	1	Internal	64.00	64.00
Total Site Signage				159.00



A MASTER PLANNED UNIT DEVELOPMENT FOR: WALMART COMMERCIAL CENTER

A TRACT OF LAND IN THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 12 SOUTH,
RANGE 16 EAST OF THE SIXTH PRINCIPAL MERIDIAN, IN TOPEKA, SHAWNEE COUNTY, KANSAS.

BOOK: _____ PAGE: _____

DATE: _____ TIME: _____
RECORDED WITH THE SHAWNEE COUNTY REGISTER OF DEEDS:

REBECCA J. NIOCE--REGISTER OF DEEDS

LEGAL DESCRIPTIONS

COMPOSITE DESCRIPTION FOR TOTAL TRACT:

A TRACT OF LAND BEING ALL OF LOTS 15 THRU 20 IN BLOCK A OF COMMUNITY PLAZA SUBDIVISION, A SUBDIVISION RECORDED IN BOOK 28 PAGE 130 OF THE SHAWNEE COUNTY RECORDS AND PART OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 12 SOUTH, RANGE 16 EAST OF THE 6TH PRINCIPAL MERIDIAN, IN TOPEKA, SHAWNEE COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT BEING 200 FEET NORTH AND 50 FEET EAST OF THE SOUTHWEST CORNER OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 9, SAID POINT BEING THE SOUTHWEST CORNER OF SAID LOT 20; THENCE NORTH 00 DEGREES 01 MINUTES 01 SECONDS WEST, A DISTANCE OF 306.51 FEET; THENCE NORTH 89 DEGREES 58 MINUTES 59 SECONDS EAST, A DISTANCE OF 269.88 FEET; THENCE NORTH 00 DEGREES 01 MINUTES 01 SECONDS WEST, A DISTANCE OF 544.10 FEET; THENCE NORTH 88 DEGREES 24 MINUTES 00 SECONDS EAST, A DISTANCE OF 589.92 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 08 SECONDS EAST, A DISTANCE OF 240.10 FEET; THENCE NORTH 88 DEGREES 24 MINUTES 00 SECONDS EAST, A DISTANCE OF 134.81 FEET; THENCE SOUTH 00 DEGREES 04 MINUTES 59 SECONDS EAST, A DISTANCE OF 239.09 FEET; THENCE SOUTH 60 DEGREES 24 MINUTES 32 SECONDS EAST, A DISTANCE OF 292.82 FEET; THENCE ALONG A CURVE TO THE LEFT, WITH A RADIUS OF 270.00 FEET, AN ARC LENGTH OF 47.87 FEET, HAVING A CHORD BEARING OF SOUTH 24 DEGREES 30 MINUTES 43 SECONDS WEST AND A CHORD DISTANCE OF 47.81 FEET; THENCE IN A SOUTHERLY DIRECTION WITH A COMPOUND TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 467.28 FEET, AN ARC LENGTH OF 148.35 FEET, HAVING A CHORD BEARING OF SOUTH 10 DEGREES 20 MINUTES 17 SECONDS WEST AND A CHORD DISTANCE OF 147.73 FEET; THENCE IN A SOUTHERLY DIRECTION WITH A COMPOUND TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 294.03 FEET, AN ARC LENGTH OF 295.81 FEET, HAVING A CHORD BEARING OF SOUTH 27 DEGREES 34 MINUTES 42 SECONDS EAST AND A CHORD DISTANCE OF 283.49 FEET; THENCE SOUTH 56 DEGREES 23 MINUTES 59 SECONDS EAST, A DISTANCE OF 12.00 FEET; THENCE ALONG A CURVE TO THE LEFT, WITH A RADIUS OF 787.33 FEET, AN ARC LENGTH OF 474.55 FEET, HAVING A CHORD BEARING OF SOUTH 73 DEGREES 40 MINUTES 00 SECONDS EAST AND A CHORD DISTANCE OF 467.39 FEET; THENCE SOUTH 01 DEGREES 20 MINUTES 55 SECONDS EAST, A DISTANCE OF 299.42 FEET; THENCE SOUTH 88 DEGREES 25 MINUTES 07 SECONDS WEST, A DISTANCE OF 1,190.15 FEET; THENCE NORTH 00 DEGREES 05 MINUTES 18 SECONDS WEST, A DISTANCE OF 199.20 FEET; THENCE SOUTH 88 DEGREES 28 MINUTES 52 SECONDS WEST, A DISTANCE OF 609.74 FEET TO THE POINT OF BEGINNING AND CONTAINING 1,240,374 SQUARE FEET OR 28.48 ACRES, MORE OR LESS.

LOT 1:

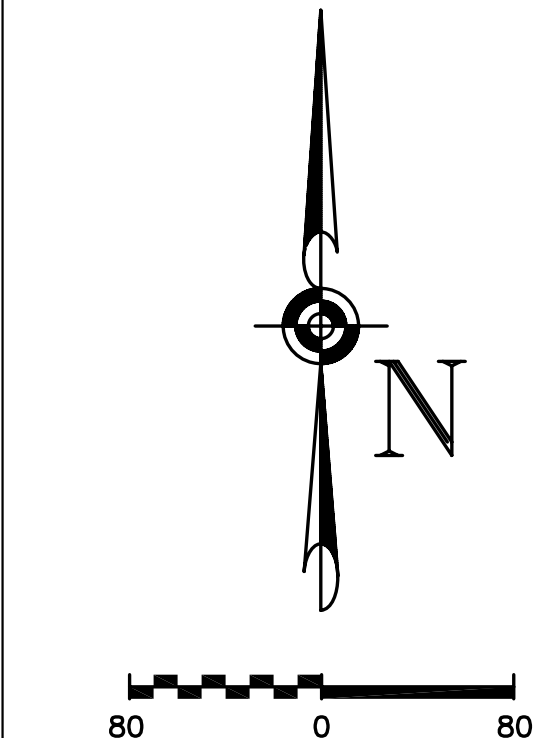
A TRACT OF LAND BEING ALL OF LOTS 15, 16, 17 AND PART OF 18 OF BLOCK A OF COMMUNITY PLAZA SUBDIVISION, A SUBDIVISION RECORDED IN BOOK 28 PAGE 130, LOCATED IN THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 12 SOUTH, RANGE 16 EAST OF THE 6TH PRINCIPAL MERIDIAN, IN TOPEKA, SHAWNEE COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERN CORNER OF LOT 15; THENCE NORTH 89 DEGREES 58 MINUTES 59 SECONDS EAST, A DISTANCE OF 269.88 FEET; THENCE SOUTH 00 DEGREES 01 MINUTES 01 SECONDS EAST A DISTANCE OF 181.87 FEET; THENCE SOUTH 89 DEGREES 58 MINUTES 59 SECONDS WEST A DISTANCE OF 235.81 FEET; THENCE NORTH 45 DEGREES 01 MINUTES 01 SECONDS WEST, A DISTANCE OF 48.18 FEET; THENCE NORTH 00 DEGREES 01 MINUTES 01 SECONDS WEST A DISTANCE OF 147.80 FEET TO THE POINT OF BEGINNING AND CONTAINING 48,502 SQUARE FEET OR 1.11 ACRES, MORE OR LESS.

LOT 2:

A TRACT OF LAND BEING PART OF LOT 19 AND ALL OF LOT 20 IN BLOCK A OF COMMUNITY PLAZA SUBDIVISION, A SUBDIVISION RECORDED IN BOOK 28 PAGE 130 OF THE SHAWNEE COUNTY RECORDS AND PART OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 12 SOUTH, RANGE 16 EAST OF THE 6TH PRINCIPAL MERIDIAN, IN TOPEKA, SHAWNEE COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT BEING 200 FEET NORTH AND 50 FEET EAST OF THE SOUTHWEST CORNER OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 9, SAID POINT BEING THE SOUTHWEST CORNER OF SAID LOT 20; THENCE NORTH 00 DEGREES 01 MINUTES 01 SECONDS WEST, A DISTANCE OF 158.71 FEET; THENCE SOUTH 45 DEGREES 01 MINUTES 01 SECONDS EAST, A DISTANCE OF 48.18 FEET; THENCE NORTH 89 DEGREES 58 MINUTES 59 SECONDS EAST, A DISTANCE OF 235.81 FEET; THENCE NORTH 00 DEGREES 01 MINUTES 01 SECONDS WEST, A DISTANCE OF 725.97 FEET; THENCE NORTH 88 DEGREES 24 MINUTES 00 SECONDS EAST, A DISTANCE OF 589.92 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 08 SECONDS EAST, A DISTANCE OF 240.10 FEET; THENCE NORTH 88 DEGREES 24 MINUTES 00 SECONDS EAST, A DISTANCE OF 134.81 FEET; THENCE SOUTH 00 DEGREES 04 MINUTES 59 SECONDS EAST, A DISTANCE OF 239.09 FEET; THENCE SOUTH 60 DEGREES 24 MINUTES 32 SECONDS EAST, A DISTANCE OF 292.82 FEET; THENCE ALONG A CURVE TO THE LEFT, WITH A RADIUS OF 270.00 FEET, AN ARC LENGTH OF 47.87 FEET, HAVING A CHORD BEARING OF SOUTH 24 DEGREES 30 MINUTES 43 SECONDS WEST AND A CHORD DISTANCE OF 47.81 FEET; THENCE IN A SOUTHERLY DIRECTION WITH A COMPOUND TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 467.28 FEET, AN ARC LENGTH OF 148.35 FEET, HAVING A CHORD BEARING OF SOUTH 10 DEGREES 20 MINUTES 17 SECONDS WEST AND A CHORD DISTANCE OF 147.73 FEET; THENCE IN A SOUTHERLY DIRECTION WITH A COMPOUND TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 294.03 FEET, AN ARC LENGTH OF 295.81 FEET, HAVING A CHORD BEARING OF SOUTH 27 DEGREES 34 MINUTES 42 SECONDS EAST AND A CHORD DISTANCE OF 283.49 FEET; THENCE SOUTH 56 DEGREES 23 MINUTES 59 SECONDS EAST, A DISTANCE OF 12.00 FEET; THENCE ALONG A CURVE TO THE LEFT, WITH A RADIUS OF 787.33 FEET, AN ARC LENGTH OF 474.55 FEET, HAVING A CHORD BEARING OF SOUTH 73 DEGREES 40 MINUTES 00 SECONDS EAST AND A CHORD DISTANCE OF 467.39 FEET; THENCE SOUTH 01 DEGREES 20 MINUTES 55 SECONDS EAST, A DISTANCE OF 299.42 FEET; THENCE SOUTH 88 DEGREES 25 MINUTES 07 SECONDS WEST, A DISTANCE OF 1,190.15 FEET; THENCE NORTH 00 DEGREES 05 MINUTES 18 SECONDS WEST, A DISTANCE OF 199.20 FEET; THENCE SOUTH 88 DEGREES 28 MINUTES 52 SECONDS WEST, A DISTANCE OF 609.74 FEET TO THE POINT OF BEGINNING AND CONTAINING 1,191,873 SQUARE FEET OR 27.36 ACRES, MORE OR LESS.



LEGEND

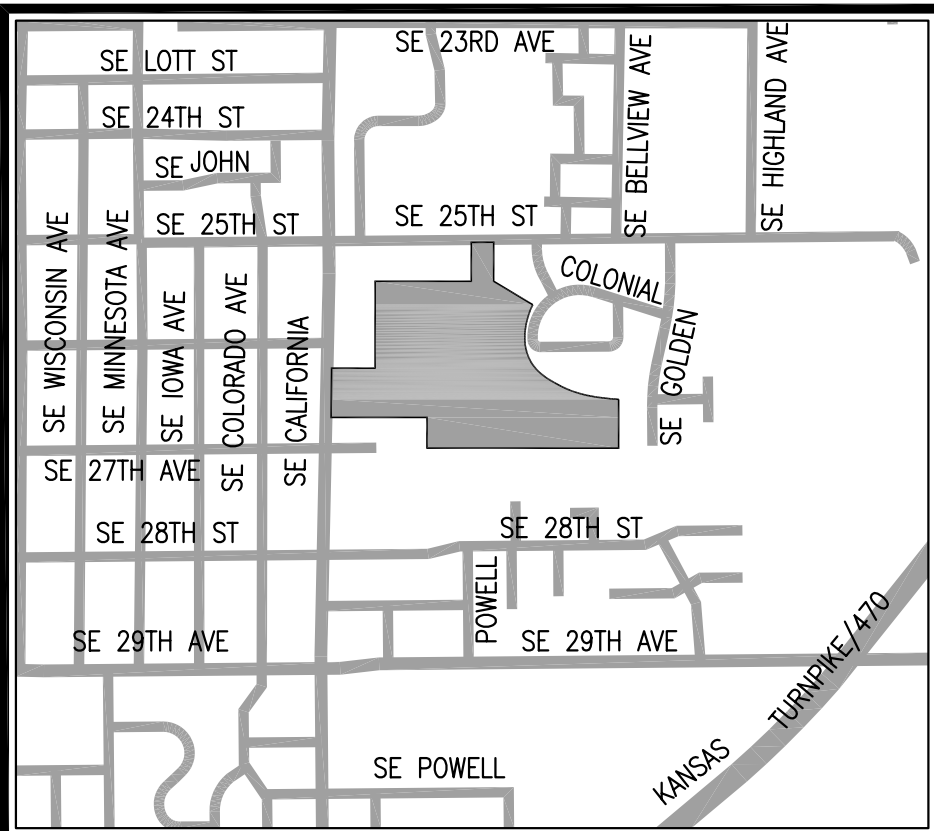
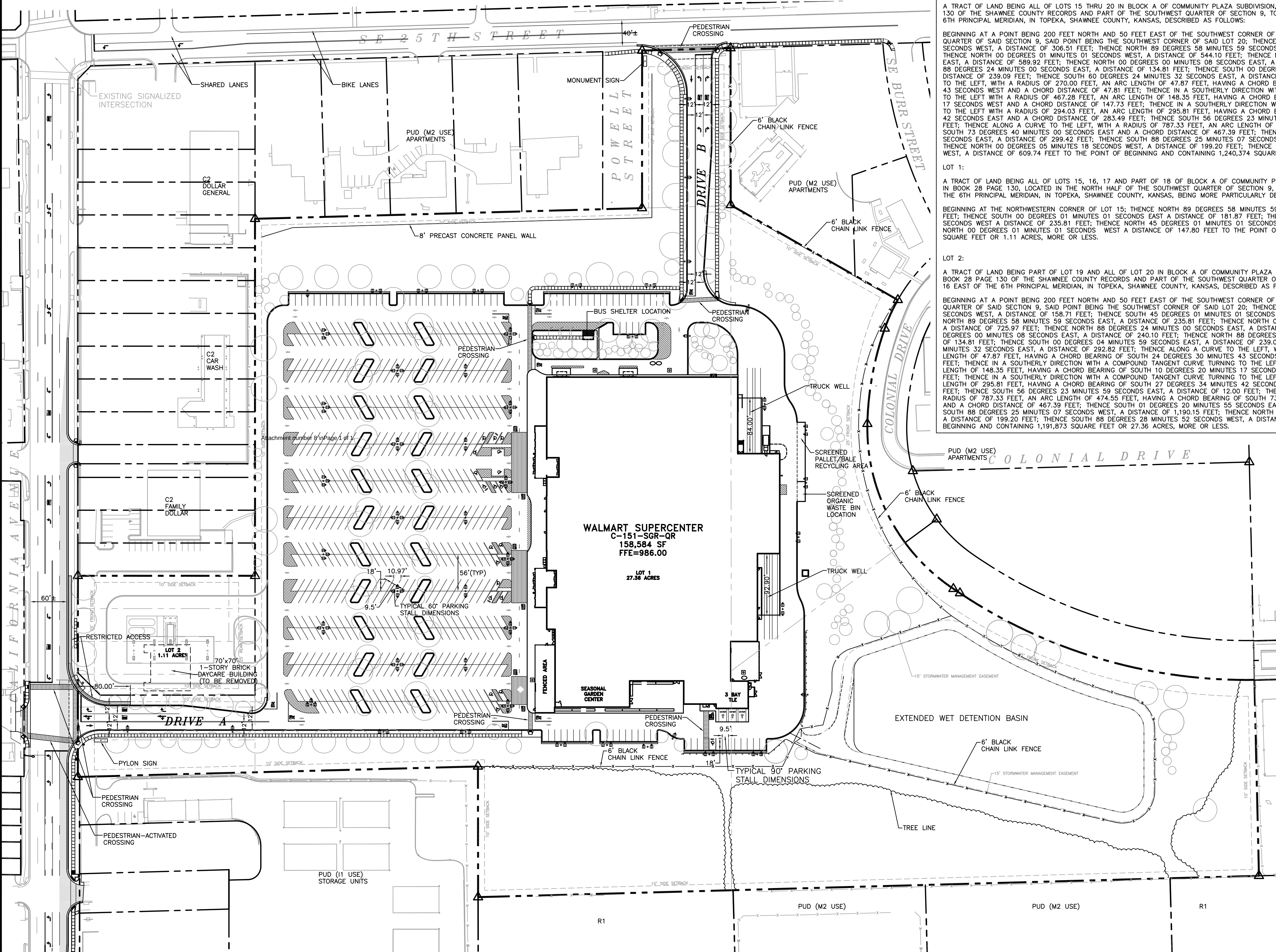
- PROPERTY LINE
- PB PIPE BOLLARD
- ♿ HANDICAP PARKING SYMBOL
- 6" RAISED CONCRETE CURB
- ▨ PAINTED TRAFFIC ISLAND
- ▨ CURBED TRAFFIC ISLAND
- CART CORRAL
- SIGN
- LIGHT POLE
- TRAFFIC FLOW ARROW (IN LOT)
- TRAFFIC FLOW ARROW (IN DRIVE)
- R.O.W. PAVEMENT
- FENCE
- RESTRICTED ACCESS

SITE ANALYSIS TABLE

WALMART	158,584 SF
*PARKING (ASSOCIATE AND CUSTOMER)	615 SPACES
ACCESSIBLE	20 SPACES
*TOTAL PARKING	635 SPACES
*RATIO	4.0/1,000 SF
CART CORRALS	14 CORRALS/28 SPACES
*PARKING SPACES OBSTRUCTED BY CART CORRALS ARE NOT INCLUDED IN OVERALL PARKING RATIO	

SITE DATA

LOT 1	27.36 AC
LOT 2	1.11 AC
TOTAL	28.48 AC



VICINITY MAP
NTS



A MASTER PLANNED UNIT DEVELOPMENT
WALMART COMMERCIAL CENTER
SHAWNEE COUNTY, KANSAS

CARLSON
CONSULTING
ENGINEERS, INC.

7068 LEDGESTONE COMMONS
TOPEKA, KANSAS 66606
PH. (901) 384-0404 • FAX (901) 384-0710

DWG: 6392 PUD DRAWINGS
SITE PLAN
DATE: AUGUST 23, 2013
SCALE: 1"=80'
SHEET 1 OF 4
CASE NUMBER: PUD 13/1

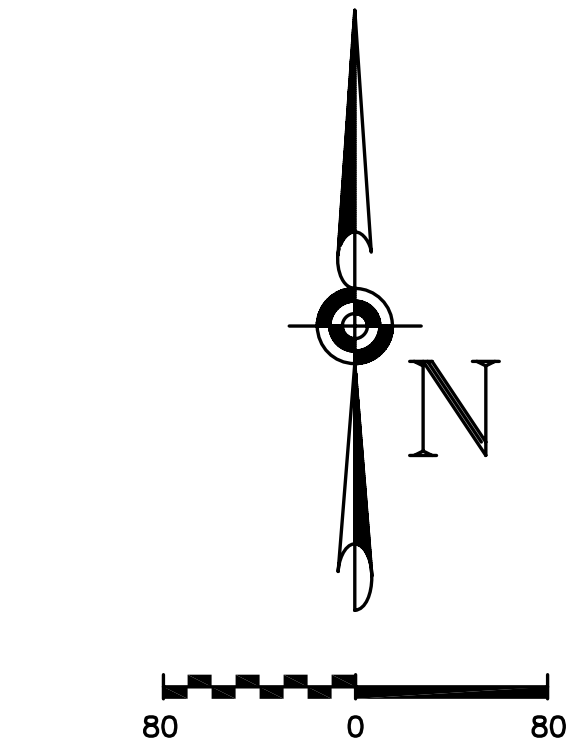
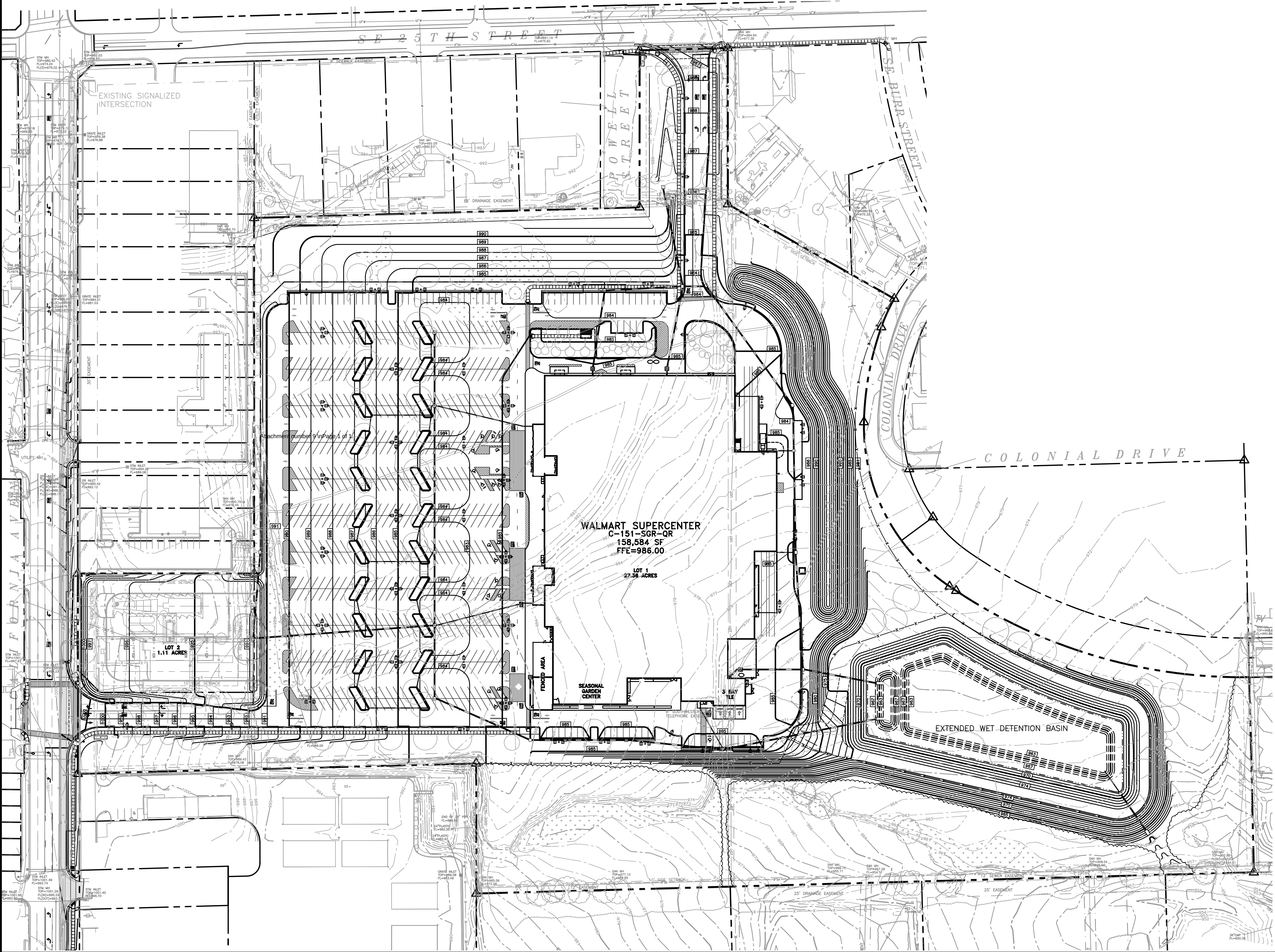
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A TRACT OF LAND IN THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 12 SOUTH,
RANGE 16 EAST OF THE SIXTH PRINCIPAL MERIDIAN, IN TOPEKA, SHAWNEE COUNTY, KANSAS.

BOOK: _____ PAGE: _____

DATE: _____ TIME: _____
RECORDED WITH THE SHAWNEE COUNTY REGISTER OF DEEDS:

REBECCA J. NIOCE—REGISTER OF DEEDS



LEGEND

- PROPERTY LINE
- PB — PIPE BOLLARD
- ⊕ — HANDICAP PARKING SYMBOL
- 6" RAISED CONCRETE CURB
- PAINTED TRAFFIC ISLAND
- CURBED TRAFFIC ISLAND
- CART CORRAL
- SIGN
- LIGHT POLE
- TRAFFIC FLOW ARROW (IN LOT)
- TRAFFIC FLOW ARROW (IN DRIVE)
- SIPHONIC MANHOLE
- EXISTING WETLAND

A MASTER PLANNED UNIT DEVELOPMENT
WALMART COMMERCIAL CENTER

CARLSON
CONSULTING
ENGINEERS, INC.

DWG: 6392 PUD DRAWINGS
GRADING PLAN
DATE: AUGUST 23, 2013
SCALE: 1"=80'
SHEET 2 OF 4
CASE NUMBER: PUD 13/1

Walmart
Save money. Live better.

SHAWNEE COUNTY, KANSAS

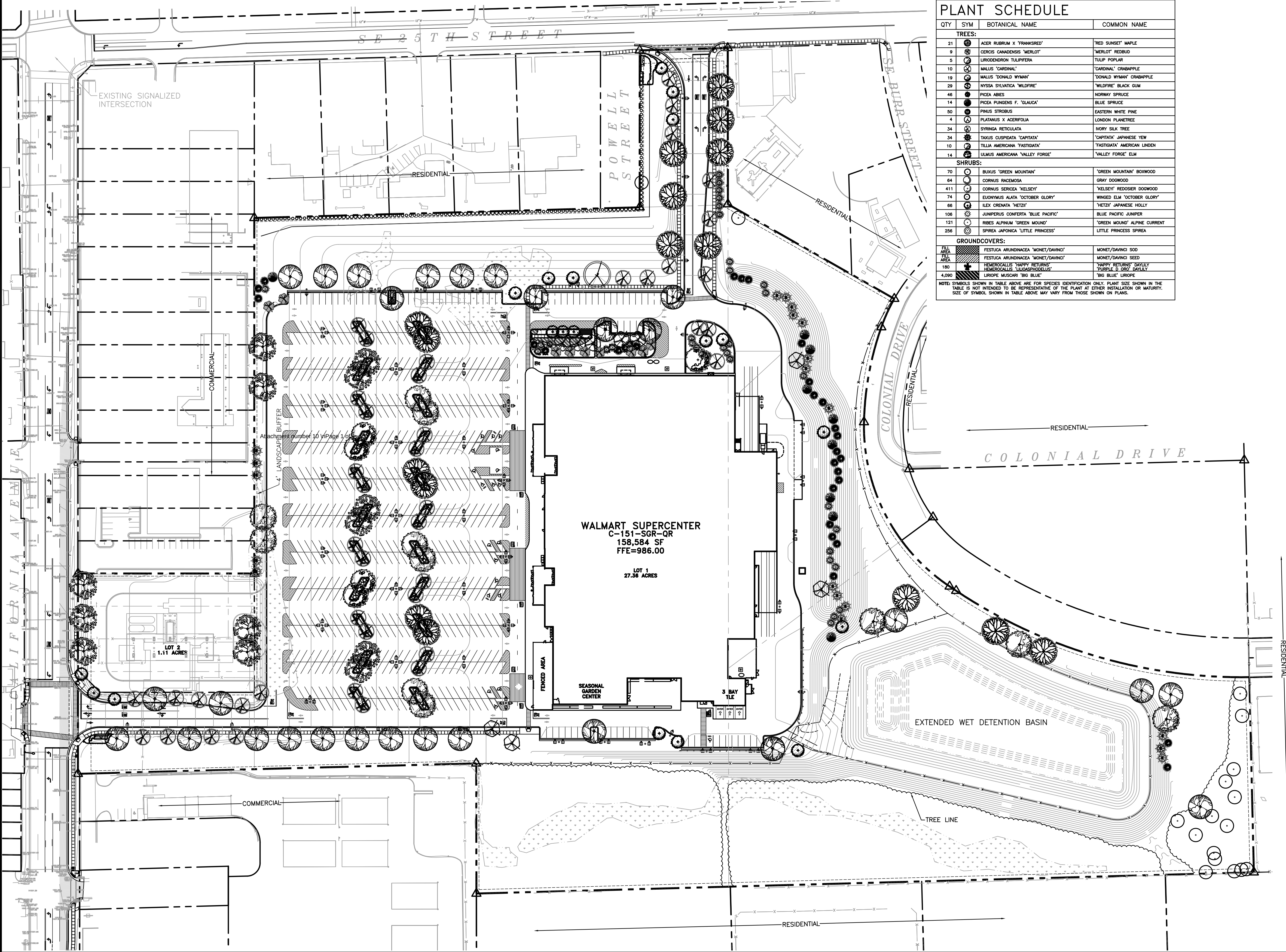
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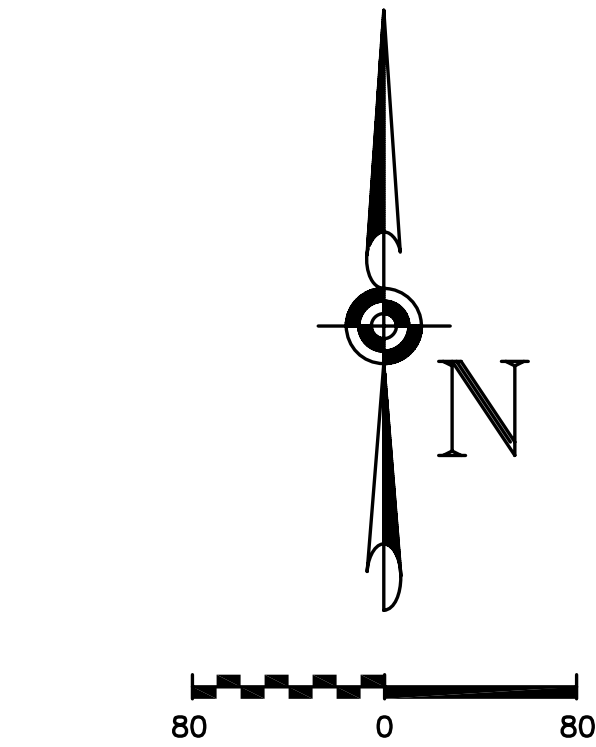
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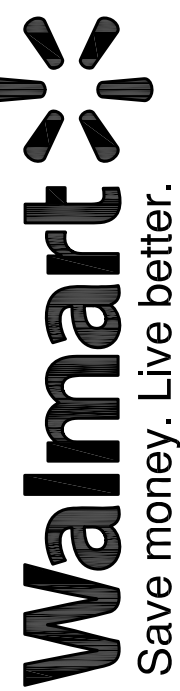


PLANT SCHEDULE			
QTY	SYM	BOTANICAL NAME	COMMON NAME
TREES:			
21	⊙	ACER RUBRUM X 'FRANKSRED'	'RED SUNSET' MAPLE
9	⊙	CERCIS CANADENSIS 'MERLOT'	'MERLOT' REDBUD
5	⊙	LIRIODENDRON TULIPIFERA	TULIP POPLAR
10	⊙	MALLUS 'CARDINAL'	'CARDINAL' CRABAPPLE
19	⊙	MALLUS 'DONALD WYMAN'	'DONALD WYMAN' CRABAPPLE
29	⊙	NYSSA SYLWATICA 'WILDFIRE'	'WILDFIRE' BLACK GUM
46	⊙	PICEA ABIES	NORWAY SPRUCE
14	⊙	PICEA PARSONS F. 'GLAUCA'	BLUE SPRUCE
50	⊙	PRINUS STROBUS	EASTERN WHITE PINE
4	⊙	PLATANUS X ACERIFOLIA	LONDON PLANETREE
34	⊙	SYRINGA RETICULATA	IVORY SILK TREE
34	⊙	TAXUS CUSPIDATA 'CAPitata'	'CAPitata' JAPANESE YEW
10	⊙	TILIA AMERICANA 'TASTIGATA'	'TASTIGATA' AMERICAN LINDEN
14	⊙	ULMUS AMERICANA 'VALLEY FORGE'	'VALLEY FORGE' ELM
SHRUBS:			
70	⊙	BUXUS 'GREEN MOUNTAIN'	'GREEN MOUNTAIN' BOXWOOD
64	⊙	CORNUS PACIFICANA	GRAY DOGWOOD
411	⊙	CORNUS SERICEA 'KELSEY'	'KELSEY' REDOSIER DOGWOOD
74	⊙	ELIONYMUS ALATA 'OCTOBER GLORY'	WINGED ELM 'OCTOBER GLORY'
66	⊙	ILEX CRENATA 'HETZT'	'HETZT' JAPANESE HOLLY
106	⊙	JUNIPERUS CONFERTA 'BLUE PACIFIC'	BLUE PACIFIC JUNIPER
121	⊙	RIBES ALPIMUM 'GREEN MOUND'	'GREEN MOUND' ALPINE CURRENT
256	⊙	SPIREA JAPONICA 'LITTLE PRINCESS'	LITTLE PRINCESS SPIREA
GROUNDCOVERS:			
754	⊙	FESTUCA ARUNDINACEA 'MONEY/DWINGO'	MONEY/DWINGO SOO
180	⊙	HEMEROCALLIS 'HAPPY RETURNS'	'HAPPY RETURNS' DAYLILY
4,090	⊙	HEMEROCALLIS 'MIDNIGHTSQUEAL'	'MIDNIGHTSQUEAL' DAYLILY
	⊙	LIROPE MUCOSUS 'BIG BLUE'	'BIG BLUE' LIRIOPE
NOTE: SYMBOLS SHOWN IN TABLE ABOVE ARE FOR SPECIES IDENTIFICATION ONLY. PLANT SIZE SHOWN IN THE TABLE IS NOT INTENDED TO BE REPRESENTATIVE OF THE PLANT AT OTHER INSTALLATION OR MATURITY. SIZE OF SYMBOL SHOWN IN TABLE ABOVE MAY VARY FROM THOSE SHOWN ON PLANS.			



LEGEND

- PROPERTY LINE
- PB — PIPE BOLLARD
- ♿ — HANDICAP PARKING SYMBOL
- 6" RAISED CONCRETE CURB
- ▨ — PAINTED TRAFFIC ISLAND
- CURBED TRAFFIC ISLAND
- C.C.C.C. — CART CORRAL
- ⊕ — SIGN
- — LIGHT POLE
- — TRAFFIC FLOW ARROW (IN LOT)
- — TRAFFIC FLOW ARROW (IN DRIVE)
- ⊗ — SIPHONIC MANHOLE
- — EXISTING WETLAND



Save money. Live better.

A MASTER PLANNED UNIT DEVELOPMENT
WALMART COMMERCIAL CENTER

SHAWNEE COUNTY, KANSAS

CARLSON
CONSULTING
ENGINEERS, INC.

7068 LEDGESTONE COMMONS
DALLAS, TEXAS 75249
PH. (901) 384-0404 • FX. (901) 384-0710

DWG: 6392 PUD DRAWINGS
LANDSCAPE PLAN
DATE: AUGUST 23, 2013
SCALE: 1"=80'
SHEET 3 OF 4
CASE NUMBER: PUD 13/1

A MASTER PLANNED UNIT DEVELOPMENT FOR: WALMART COMMERCIAL CENTER

BOOK: _____ PAGE: _____

PROJECT PERFORMANCE OBJECTIVES:

TO CREATE A REGIONAL COMMERCIAL RETAIL DEVELOPMENT BENEFICIAL TO SURROUNDING NEIGHBORHOODS AND THE CITY OF TOPEKA.

GENERAL NOTES:

1. PURSUANT TO SECTION 18.190.060, THE APPLICANT MUST PROVIDE THE PLANNING DEPARTMENT A MASTER PUD PLAN SUITABLE FOR RECORDING WITHIN 30 DAYS UPON APPROVAL BY GOVERNING BODY, RECORD IT WITH THE SHAWNEE COUNTY REGISTER OF DEEDS WITHIN 60 DAYS UPON APPROVAL BY THE GOVERNING BODY, AND PROVIDE THE PLANNING DEPARTMENT 15 COPIES OF THE RECORDED PLAN WITHIN 90 DAYS UPON APPROVAL BY THE GOVERNING BODY OR PUD SHALL BE NULL AND VOID.
2. NO BUILDING PERMITS SHALL BE ISSUED UNTIL ALL STORMWATER MANAGEMENT REQUIREMENTS SET FORTH IN TMC CHAPTER 13.35 ARE MET INCLUDING: APPROVAL OF STORMWATER MANAGEMENT PLANS AND GRANTING OF ANY NECESSARY STORMWATER MANAGEMENT EASEMENTS (SME).
3. ALL BASE ZONING USE GROUPS SHALL APPLY UNLESS STATED OTHERWISE HEREIN.
4. ALL PUBLIC IMPROVEMENTS SHALL BE MADE TO CITY STANDARDS.
5. NO BUILDING PERMITS SHALL BE ISSUED UNTIL FINAL PUD SITE DEVELOPMENT AND LANDSCAPE PLANS HAVE BEEN REVIEWED BY CITY STAFF AND APPROVED BY THE PLANNING DIRECTOR FOR COMPLIANCE TO SAID MASTER PLANNED UNIT DEVELOPMENT PLAN FOR WAL-MART COMMERCIAL CENTER.
6. NO BUILDING PERMITS SHALL BE ISSUED UNTIL THE PROPERTY IS PLATTED.

VARIANCES:

1. A VARIANCE TO REDUCE THE REQUIRED NUMBER OF OFF-STREET VEHICLE PARKING SPACES AS INDICATED IN TMC 18.240.030(D)(1) "OFF-STREET PARKING REGULATIONS" FROM 1 PER 200 SQ. FT. OF FLOOR AREA BY 20% DUE TO THE PROVISIONS FOR OTHER MODES OF TRANSPORTATION BEING PROVIDED AS STATED HEREIN.

UTILITY NOTES:

1. ALL UTILITIES SHALL BE INSTALLED UNDERGROUND PURSUANT TO THE CITY'S RIGHT-OF-WAY MANAGEMENT STANDARDS.
2. SANITARY SEWER SERVICE SHALL BE BY THE CITY OF TOPEKA.
3. WATER SERVICE SHALL BE BY THE CITY OF TOPEKA.
4. PARKING LOT LIGHTING SHALL BE DIRECTED AWAY FROM PUBLIC STREETS AND RESIDENTIAL PROPERTIES AND SHALL NOT EXCEED THREE FOOT-CANDLES AS MEASURED AT THE PROPERTY LINE. THE SOURCE OF ILLUMINATION SHALL BE SHIELDED FROM ADJACENT PROPERTIES.
5. THE PARKING LOT OF LOT 1 SHALL BE ILLUMINATED BY 42 FOOT TALL LED FIXTURES WITH 140 LED'S PER HEAD.

CIRCULATION, PARKING, AND TRAFFIC NOTES:

1. THE MAIN ENTRANCES OF THE PRINCIPAL BUILDING ON LOT 1 SHALL HAVE BICYCLE PARKING FACILITIES THAT ARE OF A TYPE, LOCATION, AND QUALITY APPROVED BY THE CITY OF TOPEKA PLANNING DIRECTOR AT THE SITE DEVELOPMENT PLAN STAGE AND PROVIDED AT 4% OF THE REQUIRED NUMBER OF AUTOMOBILE PARKING SPACES.
2. A CONCRETE BASE SHALL BE PROVIDED FOR THE INSTALLATION OF AN ON-SITE TOPEKA METRO BUS STOP FACILITY AND LOCATED AT THE NORTH END OF THE BUILDING AS APPROVED AT THE SITE DEVELOPMENT PLAN STAGE BY THE CITY OF TOPEKA PLANNING DIRECTOR AND TOPEKA METROPOLITAN AREA TRANSIT AUTHORITY. THE BUS SHELTER SHALL BE COORDINATED IN DESIGN WITH THE ARCHITECTURAL FEATURES OF THE PRINCIPAL BUILDING BY TOPEKA METRO.
3. ALL DRIVES, LANES, AND PRIVATELY OWNED ACCESS WAYS PROVIDING ACCESSIBILITY TO STRUCTURES, BUILDINGS, AND USES WITHIN THE PLANNED UNIT DEVELOPMENT SHALL BE CONSIDERED AND SERVE AS MUTUAL RIGHTS OF ACCESS FOR OWNERS, TENANTS, INVITED GUESTS, CLIENTS, CUSTOMERS, SUPPORTS AND UTILITY SERVICE PERSONNEL AND EMERGENCY SERVICE PROVIDERS, INCLUDING LAW ENFORCEMENT, FIRE PROTECTION, AND AMBULANCE SERVICES. ALL ACCESS WAYS PROVIDING GENERAL ACCESSIBILITY TO, AND CIRCULATION AMONG, THE USES WITHIN THE PLANNED UNIT DEVELOPMENT SHALL BE MAINTAINED AT ALL TIMES IN A GOOD SERVICEABLE CONDITION WITH THE MAINTENANCE OF SAID ACCESS WAYS BEING THE RESPONSIBILITY OF THE OWNER.
4. ALL TRAFFIC IMPROVEMENTS 4.1 – 4.5 STATED HEREIN SHALL BE FINISHED PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY EXCLUDING ANY DELAYS ASSOCIATED WITH GAINING RIGHT-OF-WAY.
 - 4.1. A WEST-BOUND LEFT TURN LANE FOR SE 25TH STREET WHERE IT APPROACHES SE CALIFORNIA FOR 150 FEET.
 - 4.2. A CONTINUOUS TWO-WAY CENTER TURN LANE ON SE CALIFORNIA FROM SE 25TH STREET THROUGH SE 27TH STREET SO THAT THERE IS A 50 FOOT LONG NORTHBOUND LEFT TURN LANE SOUTH OF 27TH STREET (EXCLUSIVE OF THE TAPER).
 - 4.3. SYNCHRONIZED TRAFFIC SIGNALS (INSYNC) AT DRIVE A, SE 25TH STREET, AND SE 29TH STREET.
 - 4.4. 5 FOOT WIDE BIKE LANES ON BOTH SIDES OF SE 25TH STREET FROM DRIVE B TO SE CALIFORNIA AVENUE WITH BIKE SHARROWS AS THESE LANES NEAR THE APPROACH OF CALIFORNIA AVENUE TO ACCOMMODATE THE LEFT-TURN LANE.
 - 4.5. CONSTRUCTION OF DRIVE A AS A FOUR-WAY COMMERCIAL TRAFFIC LIGHT WITH A PEDESTRIAN-ACTIVATED CROSSING ACROSS CALIFORNIA.
5. A STRIPED MID-BLOCK CROSSWALK SHALL BE PROVIDED, INCLUDING ADVANCE WARNING SIGNAGE, ACROSS SE 25TH STREET WITH THE EXACT LOCATION OF THE CROSSING TO BE DETERMINED AT THE SITE DEVELOPMENT PLAN STAGE OR WITHIN ONE MONTH OF THE STORE OPENING AFTER REVIEW BY THE CITY ENGINEER AND UNIFIED SCHOOL DISTRICT #501.

SIGNAGE NOTES:

1. ONE PYLON SIGN SHALL BE ALLOWED ON LOT 1 ALONG CALIFORNIA AVENUE. THE PYLON SIGN ALONG CALIFORNIA AVENUE SHALL NOT EXTEND HIGHER THAN 30' – 0", AND THE SIGN FACE SHALL NOT BE LARGER THAN 5' – 0" IN HEIGHT AND 20' – 0" IN WIDTH WITH A MAXIMUM OF 100 SQUARE FEET OF SIGN FACE PER SIDE. THE BASE OF THE PYLON SIGN SHALL BE LANDSCAPED WITH SHRUBS TO A HEIGHT OF 30 INCHES.
2. ONE MONUMENT SIGN SHALL BE ALLOWED ON LOT 1 ALONG SE 25TH STREET. THE MONUMENT SIGN ALONG SE 25TH STREET SHALL NOT BE LARGER THAN 8' – 0" IN HEIGHT ABOVE AVERAGE NATURAL GRADE AND 16' – 0" IN WIDTH WITH A MAXIMUM OF 64 SQUARE FEET OF SIGN FACE PER SIDE.
3. ONE MONUMENT SIGN SHALL BE ALLOWED FOR LOT 2. THE MONUMENT SIGN SHALL NOT BE LARGER THAN 8' – 0" IN HEIGHT ABOVE AVERAGE NATURAL GRADE AND 12' – 6" IN WIDTH WITH A MAXIMUM OF 60 SQUARE FEET OF SIGN FACE PER SIDE.
4. WALL SIGNS SHALL COMPLY WITH THE "C-4" BASE ZONING SIGNAGE REQUIREMENTS.
5. NO ELECTRONIC MESSAGE CENTER SIGNS SHALL BE PERMITTED AT THE SE 25TH STREET ENTRANCE.

LANDSCAPE NOTES:

1. LANDSCAPE PLANS SHALL BE SUBMITTED WITH THE SITE DEVELOPMENT PLANS AT THE TIME OF BUILDING PERMITS INDICATING SPECIFIC POINT VALUES, TYPE, AND QUANTITIES. SAID PLANS SHALL CONFORM TO THE CITY OF TOPEKA LANDSCAPE REGULATIONS, INCLUDING RESIDENTIAL BUFFER REQUIREMENTS FOR ADJACENT PROPERTIES, AND AS STATED HEREIN.
2. A 9 FT. TALL BERM SHALL EXTEND ALONG THE EAST ELEVATION AND BE PLANTED WITH 6 FT. TALL EVERGREEN PLANTINGS ACROSS THE LENGTH OF THE BERM.

BUILDING AND STRUCTURE NOTES:

1. NO STRUCTURE SHALL BE BUILT WITHIN THE FOLLOWING SETBACKS OF THE PLANNED UNIT DEVELOPMENT BOUNDARY: 25' FROM THE FRONT OR BACK, AND 10' FROM THE SIDE OF ANY LOT.
2. MAXIMUM HEIGHT OF 40'.
3. THE EXTERIOR BUILDING AND SIGN DESIGNS SHALL DEMONSTRATE SUBSTANTIAL COMPLIANCE WITH THE ELEVATIONS INCLUDED WITH THE PUD PLAN AND SHALL BE REVIEWED AND APPROVED BY THE TOPEKA PLANNING DIRECTOR PRIOR TO BUILDING PERMIT ISSUANCE.
4. THE LOCATION OF ALL TRASH ENCLOSURES SHALL BE DETERMINED AT THE SITE DEVELOPMENT PLAN STAGE TO ENSURE TRASH AREAS ARE NOT OVERLY CONCENTRATED, ARE EFFECTIVELY SCREENED FROM PUBLIC AND RESIDENTIAL AREAS, AND PROVIDE ADEQUATE CIRCULATION WITHIN THE OVERALL DEVELOPMENT. ALL SAID RECEPTACLES SHALL HAVE ENCLOSURES THAT SCREEN THE RECEPTACLES FROM VIEW AND ARE CONSTRUCTED OF MATERIALS COMPATIBLE WITH THE ARCHITECTURAL FEATURES OF THE PRINCIPAL BUILDING.
5. THE MAXIMUM BUILDING FOOTPRINT FOR LOT 1 WILL BE 175,000 SQUARE FEET.
6. NO OUTDOOR STORAGE, SALES, OR DISPLAY OF PRODUCTS, MATERIALS, AND MERCHANDISE, EXCEPT WITHIN THE FENCED AREA SHOWN ON THE PLAN AND INTENDED FOR GARDEN CENTER MERCHANDISE ONLY.
7. NO PARKING OF SEMI-TRUCK TRAILERS ON THE PREMISES, EXCEPT FOR THOSE UNLOADING AND LOADING.

A TRACT OF LAND IN THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 12 SOUTH, RANGE 16 EAST OF THE SIXTH PRINCIPAL MERIDIAN, IN TOPEKA, SHAWNEE COUNTY, KANSAS.

OWNER'S CERTIFICATE:

WAL-MART REAL ESTATE BUSINESS TRUST AGREES TO COMPLY WITH THE CONDITIONS AND RESTRICTIONS AS SET FORTH ON THE MASTER PUD PLAN.

IN TESTIMONY WHEREOF, THE OWNER, WAL-MART REAL ESTATE BUSINESS TRUST TRUSTEE, HAS SIGNED THESE PRESENTS

THIS _____ DAY OF _____, 2013

NAME: _____ TITLE: _____

BE IT REMEMBERED THAT ON THIS _____ DATE OF _____, A.D. 2013, BEFORE ME, A NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE, CAME _____, OWNER OF THE ABOVE DESCRIBED PROPERTY, WHO IS PERSONALLY KNOWN TO ME TO BE THE SAME PERSON WHO EXECUTED THE WITHIN INSTRUMENT OF WRITING, AND SUCH PERSON ONLY ACKNOWLEDGED THE EXECUTION OF THE SAME.

I HEREBY SET MY HAND, AND AFFIX MY NOTARIAL SEAL THE DAY AND YEAR LAST WRITTEN ABOVE.

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

THIS PLANNED UNIT DEVELOPMENT (PUD) MASTER PLAN HAS BEEN REVIEWED AND APPROVED IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 18.190 OF THE COMPREHENSIVE ZONING REGULATIONS OF THE CITY OF TOPEKA, KANSAS, AND MAY BE AMENDED ONLY AS PRESCRIBED IN TMC 18.190.070 OF SAID ARTICLE AND AS SET FORTH ON THIS DOCUMENT OR AS MAY SUBSEQUENTLY BE APPROVED AND RECORDED.

CERTIFICATION OF MASTER PLANNED UNIT DEVELOPMENT PLAN APPROVAL:

BILL FIANDER, PLANNING DIRECTOR,
SECRETARY, TOPEKA PLANNING COMMISSION

DATE: _____

SECRETARY TO PLANNING COMMISSION:

BE IT REMEMBERED THAT ON THIS _____ DATE OF _____, A.D. 2013, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC, IN AND FOR THE COUNTY AND STATE, CAME BILL FIANDER, WHO IS PERSONALLY KNOWN TO ME TO BE THE SAME PERSON WHO EXECUTED THE WITHIN INSTRUMENT OF WRITING, AND SUCH PERSON DULY ACKNOWLEDGED THE EXECUTION OF THE SAME.

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

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

Walmart

Save money. Live better.

REVISIONS
NO. DATE DESCRIPTION

A MASTER PLANNED UNIT DEVELOPMENT
WALMART COMMERCIAL CENTER

SHAWNEE COUNTY, KANSAS

**CARLSON
CONSULTING
ENGINEERS, INC.**

7068 LEDGESTONE COMMONS
TOPEKA, KANSAS 66606
PH: (901) 384-0404 • FX: (901) 384-0710

DWG: 6392 PUD DRAWINGS
NOTES
DATE: AUGUST 23, 2013
SCALE:
SHEET 4 OF 4
CASE NUMBER: PUD 13/1

Topeka, KS (California)
Neighborhood Meeting 7/24/13

Introduction by the City to explain the process and that the meeting was the developer's meeting for the benefit of the neighbors

Introduction by Ryan Irsik, Walmart public relations:

- The project will bring jobs to community (200-250)
- It will ease burden on customer
- It will offer the customer a better shopping opportunity

Ryan stressed that we have addressed some of the issues we've already heard, i.e., sidewalks/pedestrian access.

Ryan stated that this meeting is to hear some of the concerns we have not yet heard. After this, we will take concerns back, evaluate them and work with City and our team on those items.

- Ryan invited all to come up and review the plans and talk with the development team
 - Folks too concerned about format—the format was changed to a presentation

Casey Wilder, engineer, walked through site plan, and focused on :

- Sidewalks
- Connectivity
- Bus traffic
- Cars

The audience had many questions regarding conflicts between cars and pedestrians, especially given the location of the school.

Bob Schneider- audience member with the HANAI
 HANAI—wants us to be an active member.

Pointed out issues his group had discussed:

- Traffic
- Pedestrian safety
- Litter
- Noise
- Jobs
- Storm run-off
- Construction traffic

Several conflicting ideas about how to deal with the back of the store were discussed:

Perhaps berm/fence

Direct access from 28th (Dillons)

Access for disabled persons across the creek

Townhomes Representative

- Concrete fence on east side to protect from vagrancy
- Conducive to handicap access

Concern

About environmental aspects of project:

LEED standards- project is not being designed to be LEED certified

Casey described how storm water treatment would be handled

Many neighbors had concerns with safety and security:

Walmart's local representative was able to discuss how security is handled within the stores and on the property- and stated that they work with local police to develop security plan

Comment

North Walmart is a very nice store— the neighbors had same concerns during that process, and the project turned out great

Comment

During construction—what are the guarantees there will be no damage to neighboring buildings

Ryan—report to Walmart

Comment

Area is in decline. How many businesses on California will cease to exist?

Ryan—Walmart's business brings more shoppers

Concern

Noise—are police going to be patrolling more (car wash a problem)

Comment

This used to be a nice part of town, but has declined—excited about the development and the change it will bring

Comment/Concern

Employees from the community? Wage question—pay associates more than minimum wage?

Ryan stated that Walmart pays a very competitive wage.

Comment

North store—issues were mitigated:

- Brick wall
- Detention area

People were satisfied and Walmart followed through on commitments

Concern

About trucks on the site

Ryan explained Walmart's no idling policy

Comment

Consideration to deer and other wildlife

Concern

Echo of previous concern regarding keeping employees and customers safe in the store:

- Lighting
- Local District Manager explained how we put together loss mitigation plan w/local law enforcement

Hours of store—24 hours (maybe not—maybe 6-12 midnight)

Ryan explained the construction timeline- that Walmart is shooting Fall 2014 for opening

Concern

Water service for fire protection?

Casey—sufficient

Natural gas? Yes

Sanitary sewer? Yes

Ryan described the size of the proposed store compared to other stores

Comment

Baseball association—traffic to and from ball park

Would Walmart be a sponsor of baseball teams

Walmart public interest-service items

- Ryan explained

Comment

Loitering

- Ryan explained Walmart's policy

Comment

Security patrols

- Ryan and local representatives explained how they work

Concern

Traffic—whether Walmart trucks off of California could be limited

How many trucks a day? 4-6

Ryan and Casey explained how the site will work regarding:

- Below grade truck well screened with a soil berm
- Road condition/truck damage
- Shopping carts
- No semi-truck parking

The meeting ended, with continued general discussion with a few attendees...

What does Walmart do with dark stores?

Is Walmart here for the long haul?

3-D site plan, etc. for next meeting?

Attendance List
Walmart Topeka, KS (California) 7/24/13

<u>Name</u>	<u>Address</u>
Warren Woodruff	620 SE Madison Street
Arlene Shaffer	2522 SE Golden
George Phelps (not related)	805 SE 27 th (mailing)
Jessie Basham	2719 SE Golden
Jane Parlee	2582 SE Golden
Paul and Martha Smith	2125 SE Market
Jo Ann Peavler	3216 SE 6 th
Anita Edwards	2204 SE Swygart Street
Barbara Stevens	2684 SE Golden Ave.
Mary Handley	2201 SE 25 th (Mirror)
Bonnie B. Good	333 Green
Kathryn Reinsch	2630 SE California Ave.
Orville Buckheim	2620 SE Kentucky
Mary M. Aker	2120 SE Colorado
Sherilyn Lee	2507 Moni____
Ethel Davis	2625 Golden
Barbara Davis	2431 SE 21
Mike Rosencutter	3140 SW Grand Ct.
Highland Park Baseball Assn.	Dornwood Park
Beverlee Schneider	2110 SE Swygart (HA-NIA)
Bob Schneider	2110 SE Swygart (HANIA-FOD)
Bob & Jan Asselin	2217 SE Market St. (HA-NIA)

<u>Name</u>	<u>Address</u>
Vicki Yeckm	2502 Colonial Dr.
Mary Akerstrom	1700 SW 26 th Street
Steve Miller	3219 SW Kent St.
Melissa Goodman	2201 SE 25 th
Marjorie Wentek	1808 SE 25 th
Harry & Juanita Turney	2008 SE 21 st Terr.
R.R. Collins & Marlene A. Collins	2535 SE California Ave.
Susan Walden	1328 SE Lott St.
Flora Sue Blalock	3141 SE Colorado
Corinne Grizzard	2725 SE Golden Ave.
Marjory Evans	2424 SE Market
Robert S _____	233 SE Arthur
Kay Andersen	2724 SE Golden
John Knight Foundation	Shawnee Cty. Parks & Rec. &
Rosetta Peak	2520 SE Golden
Ken & Linda Wilson	3611 SE 28 th Terr.
Elizabeth Butler	2016 SE 21 st St.
Dixie Hilliard	2566 SE Golden Ave.
Donna Sturgeon	2634 SE Golden
Carolyn Fisher	2634 SE Golden
Judy Brockhart	2711 SE Golden
Mike Redman	2030 SE Colorado Ave.
Ronald Richey	2332 SE 22 nd Terr.

<u>Name</u>	<u>Address</u>
Navella Richey	2332 SE 22 nd Terr.
David Cullip	2230 SE 28 th , #105
Trey George	2010 SE California Ave.
Dennis & Linda Orton	2601 SE 21 st St.
Don Hoffsonmer	2124 SE 22 nd St.
Carolyn Gilmer	2594 Golden Ave.
Fred Marley	2043 SE 35 th
Bob, Susan & Jennifer Fosberg	4713 SE 61 st , Berryton, KS
Gary Kenney	2437 SE 21 st
Dena Watts	2730 SE Golden Ave.
Amanda Smith	2201 SE 25 th
M. Miller	4200 S. Topeka
Jeff Johnston	2727 California
Sheryl & Gilbert Gonzales	1804 SE Mass.
Kevin Cook	SN Co. Commission
Jennifer Laudermilk	1208 SW Tyler
Jim Parrish	700 SW Jackson
John Alcalá	520 NE Lake
Ken McGill	2201 SE 25 th St.
Anthony Hensley	2226 SE Virginia Ave.
Tonya R. Boykins	2702 SE Colorado Ave.
Bruce Bell Jr.	2702 SE Colorado Ave.
Caris Smucker (sp?)	2433 SE Colonial Dr.

NameAddress

Sarah Cobb

2433 SE Colonial Dr.

Roseanna Haugen

COT HND

Monique Glaude

COT City Mgr.

Gwen Blanchett

2220 SE Swygart

Tracy Spaulding

2666 SE Golden Ave.

Sylvester Rice

804 SE 106th

Phillip Owens

913 SE Sherman

Teresa Patterson

1703 SE Lott

Eric Mitchell/Century Plaza

2200 SE 28th St.

M. Ong

Melissa Hanger Apt., 2230 SE 28th

Sean Parks

2201 SE 25th

Angela Greenough

2201 SE 25th

James & Denise Fasse + 4 children

2706 SE Golden Ave.

ADJ. ANNIE Driver
 Bill Hoover
 Bill Flander

620 SE Madison, 3rd floor

Concerns

David Cullip: Right across the creek is a disabled community and my concern is easy access to Walmart as the current path, as is, is unacceptable.

Too much traffic for an area that has a very high number of young children and a high number of traffic accidents. 25th Street is a residential street not built for this type of traffic.

Useless meeting. Should have had a formal presentation where everyone could hear what everyone said. Useless meeting!!! Waste of time!!!

We need a Living Wage—new hires with no experience start at \$10/hr. and health care for all employees FT & PT.

On the side of property where the TLE and garden center is, the existing residential buffer in my opinion isn't enough. The wooded area only provides a visual and sound barrier when trees have foliage. During the Fall and Winter there isn't a buffer, plus the wooded area doesn't resolve our concern at Century Plaza Apts. of pedestrian traffic. I would feel more at ease with a fence or a landscape berm just like the one at the rear of the property that stops at the detention basin; it really should be carried along the south side as well. With the addition of a Walmart, pedestrian traffic will increase, subjecting our property to criminal activity. Would like if access to Walmart was restricted to its 2 main entrances. If my residents were to leave due to noise and traffic and criminal activity will Walmart subsidize my vacancy loss?

PUD 13/1

Annie Driver

From: Mary Akerstrom <mary.akerstrom@gmail.com>
Sent: Thursday, August 15, 2013 5:42 PM
To: Larry Wolgast; Jim Colson; Chad Manspeaker; Annie Driver; Scott Alisoglu
Subject: WalMart

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Dear City Leaders,

I do know there is not much else to do before WalMart begins their build on California, so I'd like to ask you to consider the planning process, and the long term impact of the construction. The EPA website states that "typical green buildings [use] careful site selection to minimize impacts on the surrounding environment." <http://www.epa.gov/oaintrnt/projects/>

This statement raises the question: Why does WalMart need to demo this natural space, when California Crossings is a stone's throw away and could be revitalized?

I urge you to adopt the Sustainability Advisory Board's goals & recommendations to "position Topeka as a leading Capital city." <http://www.topeka.org/pdfs/EECSPresentation.pdf>

WalMart could easily afford to lead the way in Topeka with a green building and live up to its own sustainability goals. <http://corporate.walmart.com/global-responsibility/environment-sustainability>

The Green Globes Green Building Initiative <http://www.thegbi.org/>

and the Living Building Challenge <http://living-future.org/lbc>

are resources WalMart & the City could use to move both this corporate giant and our small city into a truly sustainable future, not simply one that has been 'green-washed.'

Thanks you for your time & dedication,

Mary Akerstrom
1700 SW 26th St
Topeka, KS 66611
785-234-5465

PUD 13/1

Annie Driver

From: Bob Schneider [REDACTED]
Sent: Tuesday, August 06, 2013 2:03 PM
To: Chris Wickline; Bill Flander; Annie Driver
Cc: Rosie Prall; Dale Cushinberry; Mike Redmon; Ken McGill; Carolyn Fisher
Subject: PUD 13/1 Walmart
Attachments: Support_ltr_06AUG13_Walmart_APPROVED.pdf

Attached you will find a letter of support and concerns for PUD 13/1 Walmart to be considered by the Topeka Planning and Zoning Board on Monday, August 19th.

The contents of this letter was supported by a unanimous vote of the HANIA, at our meeting on August 5th.

Bob Schneider
HANIA Awareness Team
785.232.3007 (H)

PUD 13/1

Page 1 of 5



HIGHLAND ACRES NIA

%2110 SE Swygart St
Topeka, KS 66605
August 6, 2013

RE: PUD 13/1 Walmart

Topeka Planning & Zoning Board
Topeka, KS

Greetings,

Highland Acres NIA (HANIA) excitingly endorses the approval of the Walmart Commercial Center, with the following concerns and possible solutions. HANIA at our meeting on July 1st found 82% of our members felt that the Walmart development would be beneficial to our neighborhood. Nearly 53% of our members felt the development would be EXTREMELY BENEFICIAL. A copy of the recap of the survey is available at Topeka P&Z website.

HANIA had the following 4 major concerns, all of which dealt with safety issues for our neighborhood. Concern 1 & 2 were resolved and we thank City Planning and Walmart for their participation in the resolution even before the July 24th Neighborhood Meeting.

1. CONCERN: There is considerable pedestrian traffic from the multi-family units to the East of proposed WM Drive "B" on SE 25th St. There are many elderly, handicap in motorized wheelchairs and baby strollers used by pedestrians in this area. There is an above normal amount of pedestrian traffic that crosses the proposed 36'+ entrance. The concern is since the traffic study does not require a traffic signal, how can pedestrian safety be best achieved crossing this expansive entrance with three lanes of traffic?

*******THIS CONCERN HAS BEEN RESOLVED*******

2. CONCERN: The HANIA was approved by the City for a Federal Grant for 450' of sidewalk from the SE Corner of SE Burr St. west to existing sidewalk. This approval is awaiting funding from Washington, DC. With the proposed entrance the HANIA will have to reapply next year for the approximate 220' of sidewalk. If that application were approved, the sidewalk would not be installed till 2015. During this time pedestrian traffic would be on a dirt path or street, as currently transverse, to the West side of entrance "B". HANIA considers this an extreme pedestrian safety hazard and unacceptable.

*******THIS CONCERN HAS BEEN RESOLVED*******

Concerns 3 & 4 remain a high priority that HANIA hopes can be resolved and become part of the final PUD specifications.

3. CONCERN: HANIA cannot determine from the site plan, answers to our concern for above average lighting of all areas of the entrances, parking and around the building. Our neighborhood noticed a reduction of crime and increase in the sense of safety when USD 501 installed special lighting at Highland Park High School in 2011. We would like more detail and clarification about security lighting.

DISCUSSION: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN (CPTED) HAS BEEN A PART OF CRIME PREVENTION OF TPD FOR A NUMBER OF YEARS. CPTED HAS BEEN EXPLAINED IN A PROGRAM TO HANIA MEMBERSHIP AND IS EFFECTIVE FOR BOTH HOMES AND BUSINESSES. WHEN CUSTOMERS AND NEIGHBORS FEEL SAFE IT IS A WIN FOR THE BUSINESS AND THE NEIGHBORHOOD.

IT IS HANIA DESIRE THAT WALMART MEET OR EXCEEDS THE LUMEN SPECIFICATIONS OF HPHS LIGHTING, AROUND THE WALMART BUILDING, PARKING AREA AND BOTH ENTRANCES.

4. CONCERN: HANIA cannot determine from the site plan if there are sufficient barriers to restrict access to areas to the East and South of the Walmart property. Our concern is that pedestrian traffic is not accessible to the property except through the two entrances and not through Eastern and Southern areas of the property. We were encouraged by the restrictive barrier around properties to North but inquire for more details concerning barriers to residential areas to the East and South.

DISCUSSION: WALMART PROPOSES A 9 FOOT BERM WITH TREES AND LANDSCAPING ON THE TOP OF THE BERMS AT THE BACK OF THEIR BUILDING. HANIA HIGHLY ENDORSES THE BERM AND LANDSCAPING AS PROPOSED. THE BERM DOES OFFER A NOISE BARRIER AND AESTHETICALLY ENHANCES THE VIEW FOR RESIDENTS LIVING EAST OF THE STORE. UNFORTUNATELY, IT WILL DO LITTLE TO IMPEDE ILLICIT PEDESTRIAN TRAFFIC TO AND FROM THE NEIGHBORHOODS TO THE EAST AND SOUTH.

AFTER CONSIDERABLE DISCUSSION AT THE AUGUST 5TH HANIA MEETING, AND UPON A UNANIMOUS VOTE OF THE MEMBERS PRESENT, HANIA HIGHLY RECOMMENDS THE FOLLOWING TO DETER ILLICIT PEDESTRIAN TRAFFIC THRU THE NEIGHBORHOODS TO THE EAST AND SOUTH OF THE WALMART COMMERCIAL COMPLEX.

HANIA RESPECTFULLY REQUESTS A WROUGHT IRON FENCE, AT LEAST EIGHT (8) FEET HIGH, AROUND THE ENTIRE PERIMETER OF THE WALMART EAST AND SOUTH PROPERTY LINES. STARTING FROM THE POINT AT THE 25TH ST ENTRANCE WHERE PROPERTY LINE TURNS SOUTHEAST NEAR THE DEER CREEK COMMUNITY CENTER, PROCEEDING ALONG THE PROPERTY LINE TO THE MOST EASTERN PROPERTY LINE, THEN SOUTH TO THE SOUTH PROPERTY LINE, THEN WEST UNTIL IT INTERSECTS WITH THE WROUGHT IRON FENCE OF THE EXISTING STORAGE LOT FACILITY.

Page 3 of 5

ATTACHMENTS:

The following (2) written attachments are from adjoining property owner:

1. Attachment (1) is from Dr. Beryl New, Principal, Highland Park High School

From: [BERYL NEW](#)

To: [Bob Schneider](#)

On Aug 6, 2013, at 8:05 AM, "BERYL NEW" <bnew@topeka.k12.ks.us> wrote:

To Whom It May Concern:

The administrative leadership of Highland Park High School is in full support of the construction of the Walmart at 27th and California Avenue. We believe that this store will provide families on the east side of Topeka with excellent shopping options. We will be active in communicating to our high school students the importance of entering and exiting the facility and the adjacent grounds safely and appropriately. Students will be instructed to use the sidewalks, cross the street at the crosswalks, and use the pedestrian lights when directed to do so. This information will be reviewed at the beginning of the school year and throughout the year as opportunities arise. Our school resource officers will also be available throughout the day to monitor appropriate visits to the store, such as at lunchtime for those students who have open lunch privileges.

The HANIA voted unanimously to request an 8' wrought iron fence around the entire east and south Walmart property line and keep berms and landscaping proposed. Highland Park staff support the plan to install the 8' wrought iron fence and to maintain an open view of the area for neighborhood security and beautification reasons. It was really great to see the different interests of the neighborhood discuss and agree. We are excited to join in this partnership to support the Walmart store.

> --submitted by Dr. Beryl New, Principal of Highland Park High School

Page 4 of 5

2. Attachment (2) is from Eric Mitchell, Property Manager, Century Plaza Apartments

From: Century Plaza

To: Bob Schneider

Hi Bob,

Just wanted to take a moment and express our concerns of the Wal Mart that is to be built in the future off of 25th Street. Our property is located on SE 28th Street the north end of our property will be close to the south end of Wal Mart's property. Our concerns are pedestrian traffic and noise, Century Plaza Apartments is a quiet senior community all of our residents are 62 years of age or older and/or disabled. We already get some pedestrian traffic from people going to/from Dillons with the addition of a Wal Mart that will significantly increase quite a bit with this increase in traffic it could possibly subject our residents and property to criminal activity which is a serious concern. A portion of the north end of our property is fenced in however there are two vacant lots of land on either side of us and no barrier to prevent people from neighboring homes and surrounding communities from cutting through to get to their destination. We want our residents to have comfort and security in their home and would feel more at ease if there was a barrier preventing people from trekking through the two adjacent vacant fields leaving them only access to Wal Mart through their main entrances.

Thank you,

Eric Mitchell

Property Manager

Century Plaza Apartments

2200 SE 28th St

Topeka, KS 66605

CONCLUSION:

Again, HANIA ENTHUSIASTICALLY SUPPORTS THE APPROVAL of the PUD 13/1, but asks the P&Z Board to carefully consider the additions herein to the PUD specifications and thus increase the safety of our neighborhood.

HANIA is thankful that Walmart sees the economic opportunity that exists in the underserved eastside of Topeka. Our membership survey showed that 93% want Walmart to become an ACTIVE member of the HANIA. We observed, in our limited time, working with the Walmart Corporate staff that they truly desire to be a good neighbor. HANIA looks forward to working in partnership with Walmart and exemplifying the HANIA motto "Together We Can Do It".

This communication was unanimously approved by HANIA membership at our August 5th meeting.

Respectfully,

s/s

Beverlee Schneider, President
Highland Acres NIA

pud13/1

Recap of HA-NIA Wal-Mart Development Questionnaire

7/1/2013

Bob Schneider, HA-NIA Awareness Team

Overview

1. On July 1, 2013 at the Highland Acres NIA meeting the group discussed their feelings and concerns over the Wal-Mart proposed development on SE California. After the discussion attendees were asked to fill out and return the questionnaire. *(Page 6)* Only 4 of the 30 returned questionnaires did not have the name of the responder.
 2. This is a recap of the results of the 30 questionnaires returned at the end of the meeting. Nearly 95% of the attendees completed the questionnaire.
 3. 100% of the questionnaires returned lived or had business interest within the HA-NIA geographical boundaries. Only 1 was not a registered member of the HA-NIA.
 4. On Question 2, the results are listed as the fraction of the 30 returns and the percentage.
 5. On Question 3, the moderator did not do an adequate job of explaining how to list the individual priorities. Only 16 of the participants answered the questions in a priority from 1 – 7 manner. 14 respondents had multiple same number answers similar to the scale question responses asked in Question 2. Therefore the results are only shown for the 16 correctly completed questionnaires.
- The results were given a raw score by adding the number of priority given to each of the 7 questions. Those raw numbers are shown. The rank was determined by the lowest numbered raw score, which would be the highest priority.
6. In Comments and Concerns 16 of the 30 questionnaires had comments in that area. Every comment has been included in this report.
 7. This report DOES NOT have any scientific significance, but is a report of the questionnaires returned at the HA-NIA July meeting. As a personal observation the report does reflect the group's feelings and concerns at that meeting.
 8. Page 6 of this report is a blank copy of the questionnaire.

Respectfully submitted

Bob Schneider
HA-NIA Awareness Team

Highland Acres NIA Wal-Mart Questionnaire July 1, 2013 **RECAP**

UNIVERSE OF 30 FILLED OUT QUESTIONAIRES

1. Do you live or have a business interest within the *geographical boundaries* of the Highland Acres NIA?

YES **30/30** NO **0/30** If yes, are you a member of the HANIA? YES **29/30** NO **1/30**

2. On a scale from 1 to 5 (*1 being LEAST Agree, 5 being MOST Agree*) please circle your agreement with the following statements.

(A) Wal-Mart development is beneficial for the neighborhood.

(1) **2/30 - 6.6 %** (2) **3/30 - 10%** (3) **6/30 - 20%** (4) **2/30 - 6.6%** (5) **17/30 - 56.6%**

(B) Wal-Mart should become an active member of HANIA.

(1) **2/30 - 6.6%** (2) **0/30 - 0%** (3) **3/30 - 10%** (4) **3/30 - 10%** (5) **22/30 - 73.3%**

3. Please list the following areas of concern in priority from **1 to 7** (*1 being highest, 7 being least priority*)

RANK RAW

- | | | |
|-----------|------|-------------------------------------|
| #1 | (43) | Traffic congestion (43) |
| #2 | (44) | Pedestrian safety (44) |
| #4 | (63) | Noise pollution (63) |
| #3 | (60) | Litter pollution (60) |
| #6 | (75) | Storm water runoff (75) |
| #7 | (93) | Construction inconvenience (93) |
| #5 | (66) | Neighborhood job opportunities (66) |

**MANY ATTENDEES DID NOT UNDERSTAND
ONLY 16 OF 30 WERE FILLED OUT CORRECTLY
SEE OVERVIEW OF THIS REPORT**

Please list any other comments or concerns you have on the proposed Wal-Mart development below.

SEE ADDITIONAL PAGE FOR COMPILATION OF COMMENTS & CONCERNS

Following Information not required:

Name: _____ Address: _____
(Please Print) (Please Print)

COMMENTS AND CONCERNS

16 of 30 questionnaires had the following comments, every comment is listed.

"I think it will be good for the neighborhood"

"School children walking safety"

"Job opportunities"

"Neighborhood development"

"Scholarships for school"

"Business development"

"Good lighting for entire area"

"Need buffer around the area"

"Plenty of lighting to secure safety of others that are walking to Wal-Mart from their neighborhood."

"Blind spots behind the building that kids use as hangout spots."

"Procedure for carts being returned or picked up once people are through shopping and head back home."

"Parking lot safety...lighting...security patrol"

"Will they have gas?"

"I would like to see a partnership with HPHS/USD501 teaching marketing/business aspects."

"Concern for increase crime – which happens with any additional business."

"Sidewalk to SE Burr St. with handicap access."

"Sidewalks to store with bike lock up area."

"Shopping Cart control"

"No 24/7 truck loading/unloading"

"Work with HPHS on getting student jobs"

"Partnership with HPHS student groups on litter control"

"Will it be a 24hour operation...will WalMart be responsible for any damage that is done to streets and surrounding building during construction"

"Very concerned about appropriate barriers (Walls) with neighbors to prevent unauthorized pedestrian access across apartment lots and business/landowners."

"Sidewalk on 25th street/lighting/carts"

Page 5 of 6

"Truck traffic – noisy/stinky"...carts- keep on property...trash-keep clean-dumpster stench"

"Security – don't want OUR security threatened"... "fencing – don't want to see or hear or smell the store"... "25th St entrance- NO!- too small of a street, too much pedestrian traffic"

"Cart- keep carts on their property – do like Dillon's and restrict their removal from lot."

"Semi's – traffic- restrict to California Ave. Noise and pollution"

"Security"... "I oppose 25th Street access"...Fencing-need concrete fencing with bushes/trees between residential properties...Also provide security to Wal-Mart in that thieves can't run into residential areas"... "lights from parking lot invading residential homes – by shining into homes...kids skipping school and loitering in and around Wal-Mart."

"pollution from the stores trucks and trash, killing off animals over in the trails in Dornwood and the water runoff getting polluted...Topeka does not need 4 Wal-Marts!!!!"...Teenage crossing 25th people will not stop and we will more accidents."

Following Information not required:

AUD 13/1

Annie Driver

From: Carolyn Fisher [REDACTED]
Sent: Monday, August 05, 2013 3:20 PM
To: Chris Wickline
Cc: bobschneider43@yahoo.com; Annie Driver; Annie Driver; bflander@topeka.org
Subject: PUD13-1 WALMART

To Whom it May Concern;

I represent the Colonial Park Townhomes as President of the Board of Directors and would like to express our concerns regarding the Walmart development. Our property is located along 25th Street, Golden Ave and Colonial Drive.

We are very concerned about the area that is directly behind some of our buildings, which are east of where the detention pond will be located. Walmart did not have any additional berm or fencing along this portion of land and will only have our existing fence and tree line. We would like to preserve the trees but also like to have some additional noise protection and feel the addition of a berm would help, preferably between the pond and our property. The residents of those buildings are also concerned about any possible flooding of their basements should we experience a wet season.

Fencing and berms - We feel that in addition to the planned berms there should also be a fence along the east and south property lines. The berms will help to provide a noise barrier while the fencing will help to reduce illicit pedestrian traffic. There has been some talk of placing the fencing along the top of the berms, our concern there is that the berms do not align the entire property line and will not serve the intended purpose unless they include the entire property line.

Traffic concerns - 25th street is a very busy street with foot traffic and school traffic. Walmart has made it clear that they intend to have trucks entering and exiting the store from 25th street, there were many individuals at the community meeting that were concerned due to the number of students on foot and autos picking up and dropping off of students. Also, during the tennis and football season there are numerous cars parking along 25th street during practice, meets and football games. There is also concern as to whether the truck traffic will be traveling along Highland Ave, currently the road is not wide enough nor in a condition that will tolerate the heavy vehicles. With the homes on the east side of the road in the 2100 and 2200 block many times there are vehicles parking in the street as well. We would prefer that truck traffic be limited to the California entrance and California Ave.

Property value - while there are both pros and cons to having a Walmart close, our board of directors is also worried about our ability to market our property to potential new members. Colonial Park Townhomes is a cooperative housing complex where members buy into our cooperative, we are not the typical "rental" property. We have enjoyed a quiet existence here with quality members and don't want to see either of those things diminished in any way.

Carolyn Fisher
Colonial Park Townhomes
President, Board of Directors

AUD 13/1

Annie Driver

From: BERYL NEW <~~bnew@topeka.k12.ks.us~~>
Sent: Wednesday, July 31, 2013 8:14 AM
To: Annie Driver
Subject: Statement Re: New Walmart

Good morning! Attached is a statement Bob Schneider asked me to forward to you. Please let me know if you need anything additional.

The administrative leadership of Highland Park High School is in full support of the construction of the Walmart at 27th and California Avenue. We believe that this store will provide families on the east side of Topeka with excellent shopping options. We will be active in communicating to our high school students the importance of entering and exiting the facility and the adjacent grounds safely and appropriately. Students will be instructed to use the sidewalks, cross the street at the crosswalks, and use the pedestrian lights when directed to do so. This information will be reviewed at the beginning of the school year and throughout the year as opportunities arise. Our school resource officers will also be available throughout the day to monitor appropriate visits to the store, such as at lunchtime for those students who have open lunch privileges. For these reasons, we would wholeheartedly endorse the fence on the berms to prevent students from climbing over the berm as a shortcut and damaging the vegetation that will be planted to enhance the effectiveness and the aesthetics of the berm. We are excited to join in this partnership to support the Walmart store.

> --submitted by Dr. Beryl New, Principal of Highland Park High School

PUD 13 / 1

Annie Driver

From: Bob <[REDACTED]@yahoo.com>
Sent: Monday, July 22, 2013 4:25 PM
To: Annie Driver
Subject: Fwd: Concerns of Walmart

FYI

Century Plaza concerns to HANIA.
 Thought you might want it for your records.

I advised that management talk to you directly on options they and adjacent properties might desire.

bob

Sent from my iPad

Begin forwarded message:

From: Century Plaza <[REDACTED]@dalmarkgroup.com>
Date: July 22, 2013, 3:09:23 PM CDT
To: "[REDACTED]@yahoo.com" <[REDACTED]@yahoo.com>
Subject: Concerns of Walmart

Hi Bob,

Just wanted to take a moment and express our concerns of the Wal Mart that is to be built in the future off of 25th Street. Our property is located on SE 28th Street the north end of our property will be close to the south end of Wal Mart's property. Our concerns are pedestrian traffic and noise, Century Plaza Apartments is a quiet senior community all of our residents are 62 years of age or older and/or disabled. We already get some pedestrian traffic from people going to/from Dillons with the addition of a Wal Mart that will significantly increase quite a bit with this increase in traffic it could possibly subject our residents and property to criminal activity which is a serious concern. A portion of the north end of our property is fenced in however there are two vacant lots of land on either side of us and no barrier to prevent people from neighboring homes and surrounding communities from cutting through to get to their destination. We want our residents to have comfort and security in their home and would feel more at ease if there was a barrier preventing people from trekking through the two adjacent vacant fields leaving them only access to Wal Mart through their main entrances.

Thank you,

Eric Mitchell
 Property Manager
 Century Plaza Apartments
 2200 SE 28th St
 Topeka, KS 66605
 (785) [REDACTED] Office
 (785) [REDACTED] Fax
 (785) [REDACTED] Cell

Annie Driver

From: Suzie Gilbert
Sent: Monday, July 22, 2013 1:53 PM
To: Bill Fiander; Bill Hoover; Annie Driver
Subject: FW: New Walmart Store at 2630 SE California St, Topeka KS

FYI – but you already know this!

From: Kevin Boughton [mailto:Kevin.Boughton@kansasfirstnews.com]
Sent: Monday, July 22, 2013 1:50 PM
To: Suzie Gilbert
Subject: Fwd: New Walmart Store at 2630 SE California St, Topeka KS

Sent from my iPhone

Begin forwarded message:

From: Rachel Wall <Rachel.Wall@wal-mart.com>
Date: July 19, 2013, 4:05:17 PM CDT
To: "kboughton@kansasfirstnews.com" <kboughton@kansasfirstnews.com>
Subject: New Walmart Store at 2630 SE California St, Topeka KS

Hey Kevin,

I got your inquiry and checked in with our team. Here is a statement attributable to me or Walmart as needed:

We appreciate the feedback on the planned store and look forward to being a good neighbor for years to come. We will submit plans soon that address anticipated pedestrian traffic and help achieve pedestrian safety.

Proposed changes will include

- a striped pedestrian crosswalk protected by a stop sign for exiting vehicles,
- sidewalks down the east and west sides of the 25th street entrance
- as well as a sidewalk along the south side of 25th Street from the 25th Street entrance to SE Burr Street.

Please let me know if any questions.

Thanks!

Rachel Wall Sr. Manager of Communications
 Public Affairs & Government Relations
 Cell: 213.280.5019
rachel.wall@wal-mart.com

Media Relations Hotline: 1.800.331.0085
news.walmart.com/reporter

PUD 13/1

Annie Driver

From: Bob <bobschneider43@yahoo.com>
Sent: Monday, July 22, 2013 1:08 PM
To: Annie Driver
Cc: ~~centuryplaza@dalmargroup.com~~
Subject: Concern of Century Plaza/Walmart

Annie,

I am on the Board of Century Plaza, 2200 SE 28th, a Section 8, 62+ age community, consisting of 41 single level apartment units. The property is within HANIA geographic boundaries though the management is not a registered member of HANIA.

The management has notified me that they have strong concerns about pedestrian traffic, some even criminal, using access or egress through their and adjoining vacant properties to WalMart's south side.

Century Plaza has built a wooden privacy fence to protect their rear property line, and a very small area of their East and West property line. In the past there have been concerns that transient persons who lived in the nearby woods and pass between the dwelling units would enter some of the units. Fortunately that has not been the reality.

With the proposed addition of Walmart their concerns have intensified, believing that more people will find the trek through adjacent vacant fields much easier. Thus intensifying the fear of their residents and possible increase of criminal activity.

HANIA has been on record, supporting pedestrian traffic only through the main entrances and especially supporting barriers to the East. We are now asking for consideration for attention to South areas as expressed by Century Plaza.

Thank you,
Bob Schneider
HANIA Awareness Team

Sent from my iPad

PUD/B/1

Annie Driver

From: Elizabeth Beutler <#2016@chcglobal.net>
Sent: Saturday, July 20, 2013 9:04 AM
To: Annie Driver
Subject: Wal-mart # 4 questions

Follow Up Flag: Follow Up
Due By: Saturday, July 20, 2013 10:03 AM
Flag Status: Flagged

I am a member of HA-NIA--

Yes, we would like to have more business in Highland Park. 25th & California is still not East Topeka--It is Highland Park (originally a village) .

Question #1--Do we need 4 Wal-Mart's in Topeka??

answer--I am not a Wal-Mart Shopper--this business will be within 5 blocks of my house--same side of the street--I have lived here 50 years.

Look at Wal-Mart on 37th--it is very separate from the neighborhood and is among businesses of its category

Maybe the people on 37th would not agreed with me.

Question #2--will I shop at Wal-Mart on California--probably not

Question # 3---I really need some convincing about being so close to HPHS (Highland Park High School) city bus'es let students out at 24th and California--there is quit a bit of foot traffic at certain times of the day--I assume Wal-Mart hopes the traffic will increase all day long.

What I would like--smaller shops such as Shimer's who have been here forever.

Why is California Crossing almost empty??

Will Shawnee Heights population use this Wal-Mart??

probably not--

see again traffic configuration.

I speak only for myself

Elizabeth Beutler

PUD 13/1

Annie Driver

From: Lin and Linda [REDACTED]
Sent: Thursday, July 11, 2013 7:54 AM
To: Annie Driver
Subject: Highland Park Improvement

My husband and I have lived in Highland Park for almost 40 years and it is about time we are getting some economic development in our area. We think it is fantastic that there will be a Walmart here. I do know that a lot of people in this area would rather drive to Lawrence instead of driving on Wanamaker to do their shopping or going out to eat. The city has ignored Highland Park long enough. If the city would make the 2 buildings at I-70 and California clean up and not look like slum buildings we may get more people to come off of the interstate. Then if they would make the people clean up the houses on 25th and California clean them up we could improve our neighborhood 1000%. Thank you for finally getting some improvements here.

Linden and Linda Simmonds

[REDACTED]
[REDACTED]

PUD 13/1

Annie Driver

From: Bill Hoover
Sent: Monday, July 15, 2013 8:15 AM
To: Annie Driver; Bill Fiander; JR Willhite (JRWillhite@carlsonconsulting.net)
Subject: FW: WalMart Site Plan Considerations

FYI.

Bill Hoover

-----Original Message-----

From: Bob [mailto:bobschneider43@yahoo.com]
 Sent: Sunday, July 14, 2013 3:30 PM
 To: Bill Hoover
 Cc: Rachelle Biondo
 Subject: WalMart Site Plan Considerations

After looking at the site plan a number of Highland Acres NIA members expressed the following concerns. The reasons for the concerns will be given in in each area and hopefully these concerns can be answered at the Neighborhood Meeting if not before.

1. CONCERN: There is considerable pedestrian traffic from the multi-family units to the East of proposed WM Drive "B" on SE 25th St. There are many elderly, handicap in motorized wheelchairs and baby strollers used by pedestrians in this area. There is an above normal amount of pedestrian traffic that crosses the proposed 36' entrance. The concern is since the traffic study does not require a traffic signal how can pedestrian safety be best achieved crossing this expansive entrance with three lanes of traffic?
2. CONCERN: The HANIA was approved by the City for a Federal Grant for 450' of sidewalk from the SE Corner of SE Burr St. west to existing sidewalk. This approval is awaiting funding from Washington, DC. With the proposed entrance the HANIA will have to reapply next year for the approximate 220' of sidewalk. If that application were approved, the sidewalk would not be installed till 2015. During this time pedestrian traffic would be on a dirt path or street, as currently transversed, to the West side of entrance "B". HANIA considers this an extreme pedestrian safety hazard and unacceptable.
3. CONCERN: HANIA cannot determine from the site plan, answers to our concern for above average lighting of all areas of the entrances, parking and around the building. Our neighborhood noticed a reduction of crime and increase in the sense of safety when USD 501 installed special lighting at Highland Park High School in 2011. We would like more detail and clarification about security lighting.
4. CONCERN: HANIA cannot determine from the site plan if there are sufficient barriers to restrict access to areas to the East of the Walmart property. Our concern is that pedestrian traffic is not accessible to the property except through the two entrances and not through eastern areas of the property. We were encouraged by the restrictive barrier around properties to North but inquire for more details concerning barriers to residential areas to the East.

HANIA is proud to work in partnership with businesses in our neighborhood. Reference to the HANIA Questionnaire Recap of July 1, 2013 shows overwhelming support for the proposed Walmart Commercial Center. Hopefully we can work together to address these concerns of Highland Acres NIA.

**Minutes of the
Topeka Planning Commission
Monday, August 19, 2013**

PUD 13/1 Walmart Commercial Center Planned Unit Development by William A. & Kathryn D. Reinsch; Darrel E. Simnitt Trust; Richard & Patricia Lake; Elwanda M. Rogers, Trustee of the Elwanda M. Rogers Revocable Trust and DR-DL Building; Flarice Phillips; and Unified School District #501 requesting to amend the District Zoning Classification from “C-2” Commercial District “C-4” Commercial District, “M-2” Multiple Family Dwelling District, “R-1” Single Family Residential Dwelling District, and “PUD” Planned Unit Development (“M-2” use group) **ALL TO** “PUD” Planned Unit Development (“C-4” and “C-2” Commercial use groups) on property located along the east side of California Avenue, all lying between 25th Street and 27th Street. **(Driver)**

Discussion by members: Annie Driver summarized the staff report for the case. Mrs. Driver explained that Staff recommends approval.

Dennis Haugh asked for clarification of the landscaping screen on the North side of the store. Ms. Driver stated it will be an eight-foot, screened wall with landscaping between it and the parking. Ms Driver added there will be trees along the north parking lot also.

Richard Beardmore asked if there was a seven foot difference in elevation. Ms. Driver confirmed.

Bret Klausman asked if the applicant is in agreement with all recommendations. Ms. Driver confirmed.

Mike Lackey asked if the City Engineering Department had any questions about the truck traffic on 25th Street. Ms. Driver stated Walmart is extending the turn lane on 25th Street but there were no additional comments from Engineering.

Mr. Lackey asked how many trucks would be expected per day. Ryan Irsik, Senior Manager for Walmart, stated approximately four to six large Walmart trucks per day should be expected, which includes slammer bread and beverage type trucks. Mr. Irsik added there are approximately 20-25 trucks per day total.

Nicholas Jefferson asked if 25th Street would be the most direct route to the store. Mr. Irsik answered either street could be depending on the incoming route of the truck but access to the store is available on both sides of the store.

Kevin Beck asked if there were any improvements to 25th. Ms. Driver answered the only changes would only be re-striping. Mr. Beck stated he was concerned with the ability of the street to take on the traffic. Mr. Beck stated he was also concerned the radius measures do not meet the requirements for heavy truck traffic.

Mr. Jefferson asked about the spacing of the trees on the berm. Ms. Driver explained there will be an impervious barrier and spacing would be tight. Ms. Driver stated the types of trees would be further reviewed during the site plan review.

Ryan Irsik, Senior Manager of Walmart Public Affairs, appeared, on behalf of the applicant, to answer any questions regarding the proposal. Mr. Irsik stated that Walmart will bring 200-300 jobs to the community. Mr. Irsik stated that the applicant has agreed with all stipulations requested by City Staff and addressed the concerns of the citizens. Mr. Irsik stated there have been many changes to the initial application to meet the needs of the community, to include pedestrian, traffic and safety concerns.

Mr. Lackey asked for specific information regarding 25th Street being able to handle the heavy truck traffic.

Casey Wilder, Civil Engineer of the project explained the details of the routed traffic for truck traffic on 25th Street, which is a 40-foot wide road. Mr. Wilder stated he has not received any comments from the City Engineer but would be happy to address any additional concerns.

Mr. Lackey stated he is concerned with an older road that is 7 inches thick and the ability to handle the heavy truck traffic.

Mr. Jefferson asked what the pavement thickness would be for the California Avenue entrance. Mr. Wilder stated it would be the thicker heavy duty with 5-7 inches. Mr. Jefferson asked if this would be at the loading docks. Mr. Wilder confirmed and added the entrances also.

Michelle Cuevas-Stubblefield asked if Mr. Wilder anticipated more traffic from 25th or California. Mr. Wilder stated it would most likely be split however if the delivery was for general retail, they would come off California. Mr. Wilder concluded that if the delivery was for grocery merchandise, the delivery would most likely be from 25th Street.

Mr. Beardmore asked if Walmart had plans for lot two of the proposal. Mr. Wilder stated there are no plans at this time. Mr. Wilder stated it is for future development.

Mr. Jefferson asked if the detention size would meet the needs. Mr. Wilder confirmed.

Mr. Beck stated he had reviewed the area of 25th and California and has concerns of trucks navigating around other cars on the roadway. Mr. Beck stated a 25 foot radius is small and may be difficult for drivers. Mr. Beck stated this may need further consideration from the Traffic Engineer.

Dennis Haugh asked for a description of light shielding in the proposed project and how the lighting will assist with security. Mr. Wilder stated the proposal will provide 42- foot tall on LED poles. Mr. Wilder stated the light meets North American Lighting for security standards. Mr. Wilder explained that this lighting will minimizes hot spots in the parking lot and LED parking field. Mr. Wilder stated the LED lights provide a lot of control over lighting fields.

Mr. Lackey asked how semi-truck parking overnight would be regulated and enforced. Mr. Wilder stated it would be constantly monitored and addressed.

Mr. Beardmore stated a light pole position is right over some trees. Mr. Wilder stated the landscaping plan is still being addressed and changed.

Mr. Beck stated these are preliminary plans and they are not final plans.

Bill Hoover stated the Zoning Inspector would enforce the semi-truck parking requirements.

Mr. Lackey stated that Walmart is tolerant of people to stay in the parking lot with campers. Mr. Lackey asked if this location will allow campers overnight.

Mr. Irsik explained that Walmart does not have an official policy and is at the discretion of the store manager. Mr. Irsik stated he would work with Code Compliance and local law enforcement to ensure all laws are followed. Mr. Irsik added that Walmart has a strict policy regarding the amount of trucks allowed to go to Walmart per day. Mr. Irsik stated Walmart is concerned with neighbors.

Mr. Beck stated there is a concern with truck parking overnight from other businesses, not just Walmart.

Mr. Jefferson asked about the retention basin. Mr. Jefferson asked if the lower four feet will be dry most of the time. Mr. Wilder stated it will be a wet basin. Mr. Wilder explained the retention plan. Mr. Jefferson asked how many acre feet that would store. Mr. Wilder stated he did not have

the information available during the meeting.

Mr. Haugh asked why Walmart chose wet storage. Mr. Wilder stated this allows for dealing with heavy pollutants and allows the appropriate fall out time provides high quality water. Mr. Beck asked if the water could go stagnate. Mr. Wilder stated the water coming into the area will be well served through the small cheval in the pond. Mr. Beck asked if there would be aquatic plants. Mr. Wilder confirmed.

Mr. Haugh asked if entrance off 25th Street would address the pedestrian traffic, taking into account of safety of pedestrians and how do they control visibility for pedestrians. Mr. Wilder stated the vegetation was away from the pedestrian area to ensure those issues are addressed. Mr. Wilder added the sidewalks are illuminated for safety.

Mr. Beck asked about a maintenance plan for the trees. Mr. Wilder stated there will be ongoing maintenance planned on-site.

Mr. Beck asked about the center turn-lane agreement regarding 27th Street and south, with the street tapering. Mr. Beck stated it makes sense to widen and keep the center turn-lane consistent down the road. Mr. Wilder explained the traffic report only indicated a turn lane at California was recommended. Mr. Wilder added that Walmart worked with the City of Topeka Staff to go beyond that study and provide additional traffic safety. Mr. Wilder stated the scope went above budget, especially to accommodate going further than planned with widening and adding the In-sync system for three traffic lights.

Mr. Beck asked if the traffic signals being coordinated would be coordinated at 24th street when the students are entering and exiting Highland Park High School, especially at the end of the school day. Mr. Wilder explained Walmart were would sync with the traffic signals at 25th Street and SE 29th Street. Mr. Beck stated he is concerned there will be a syncing issue with the students and a back-up at 24th Street into 25th Street.

Mr. Hoover explained that staff has studied the area and analyzed the student release time. Mr. Hoover stated the Walmart peak-hours start at 4:00 pm. Mr. Hoover stated the school traffic has, by observation, disseminated by that time.

Mr. Beck asked if City staff was in agreement or not concerned. Mr. Hoover confirmed.

Proponents:

Beverly Schneider, President of Highland Acres NIA, spoke in favor of

the proposal. Ms. Schneider stated homeowners, renters and citizens are aware of the challenges a new business will bring. The majority of concerns were about safety. Ms. Schneider stated the concerns were all addressed quickly by the Walmart staff and City Planning Staff. Walmart has worked above the call of duty and Ms. Schneider thanked Walmart for the opportunity to serve an under-served area. Ms. Schneider stated that the association's motto is "Together We Can Do It". Ms. Schneider, on behalf of Highland Acres NIA, asked the Planning Commission for approval.

Larry Cushinberry, resident of the area, spoke in favor of the proposed in regards to the heavy truck traffic along SE 25th Street. Mr. Cushinberry stated the trucks have handled the turns very well. Mr. Cushinberry attested to the Topeka Metro busses being able to handle the turns at California Ave & SE 25th Street.

Mr. Cushinberry stated he believes the area can handle the additional truck traffic. Mr. Cushinberry addressed the traffic for students and parents. Mr. Cushinberry stated he cannot imagine the traffic being an issue.

Mr. Beck asked if there are other vehicles in the intersection when the buses made the turns he has witnessed. Mr. Cushinberry stated there has been other traffic when the busses were there.

Robert Cushinberry, resident of the area, spoke in favor of the proposed. Mr. Cushinberry repeated the heavy truck issues and stated it happens at Dillons on 29th and California. Mr. Cushinberry explained the similarity to the heavy truck traffic on 28th Street.

Mr. Cushinberry spoke about the lighting. Mr. Cushinberry stated the lighting at Highland Park High School is very bright and he believes the lighting at Walmart would be similar.

Mr. Cushinberry stated they need the store in the area for more competition because the prices at the other stores are too high. Mr. Cushinberry asked the Planning Commission to approve the proposal.

Bill Fiander stated there is a Topeka Metro bus shelter on 25th and California and the shelter will be moved to avoid the bus backing up traffic. Mr. Fiander stated the bus shelter will be moved into the Walmart parking lot. Ms. Driver added the route will not change.

Doug Glenn, resident of the area, spoke in favor of the proposed. Mr. Glen asked for approval of the zoning change. Mr. Glen has been a resident of the community most of his life and stated we have a company

willing to invest millions of dollars in an addition to this community. Mr. Glen spoke of a number of advantages of the addition and how accommodating Walmart has been in their plans.

Dustin Dick, Associate Principal of HPHS, spoke on behalf of the project. Mr. Dick stated Highland Park High School sees this as an excellent opportunity for the students and families of the school. Mr. Dick stated they support the proposal.

Mr. Haugh asked if there are any concerns of students going over during lunch. Mr. Dick stated there are no concerns due to the open lunch policy and there have never been any concerns. Mr. Dick stated there are numerous students who frequent the businesses in the area and he does not foresee any problems.

Anthony Hensley, State Senator of Kansas and resident of Highland Park, spoke in favor of the proposal. Senator Hensley stated he is excited to see retail return to the area. Senator Hensley explained that Walmart has informed the community of grant program opportunities for programs such as Dornwood baseball. Senator Hensley stated there are opportunities for scholarships for the community in the minimum amount of \$25,000.

Kellis Bayless, resident of Topeka, spoke in favor of the proposal. Mr. Bayless stated he is a former member of the Topeka Sustainability Board. Mr. Bayless stated that one of the main strategies of sustainability is to boost environmentally friendly design in commercial construction. Mr. Bayless stated the retention plan for storm-water runoff is good. Mr. Bayless state he supports the proposed because the area is under-served for retail. Mr. Bayless stated he consulted the Walmart website and they are environmentally friendly.

Scott Gales asked if Mr. Bayless had any conversations with Walmart? Mr. Bayless stated he had not.

Marlene Garland, resident of the area, spoke in favor of the proposed. Ms. Garland stated she moved from Ottawa. Ms. Garland asked if this location was the only location that Walmart has looked at? Ms. Garland asked how the lighting will affect the townhomes behind the proposed.

Mr. Irsik stated this is a multimillion dollar investment. Mr. Irsik stated there were many locations considered and this location was deemed the best location for an addition to Topeka. Mr. Irsik stated Walmart looked at the availability of the location, who will be best served and what facilities are currently in the area. Mr. Irsik stated the location is more convenient for residents.

Mr. Gales asked if the concern was more about access or lighting. Ms. Garland stated she was concerned with the lighting. Ms. Garland stated she chose that home due to the quietness of the location.

(Kevin Beck reminded Ms. Garland to address the Planning Commission).

Mr. Beardmore explained there is a requirement for the lighting to be shielded or pointing downwards.

Kathy Lopez, resident of the area, spoke in favor of the proposed. Ms. Lopez asked about the access road on California and what the time line was for construction. Ms. Lopez asked about the ability to get in and out for other businesses.

Mr. Wilder explained the access would be extended to the Walmart property. Mr. Wilder explained there will be access to all businesses during construction. Mr. Wilder stated the construction project could be around one year which includes road improvements and building the store.

Mr. Lackey commended Walmart for the willingness to work with the community and the accommodations Walmart have made for the project.

Mr. Beardmore stated the citizen participation has been good for this project and has been done with transparency for the community. Mr. Beardmore stated that all concerns and questions have been addressed by either Walmart or City Planning Department Staff.

Mr. Haugh stated there has been a lot of concern regarding safety in the area and whether Walmart will maintain safety. Mr. Haugh stated that if store and safety concerns are maintained then this will be good.

Mr. Beck asked how accessibility is being addressed. Mr. Wilder explained all ADA requirements are being complied with.

Mr. Gales asked for clarification of primary pedestrian access. Mr. Wilder stated there has been extensive work with the city to address those issues.

Ken McGill, business owner in the area, spoke in favor of the proposed. Mr. McGill stated he is very impressed with Walmart accommodating their requests and concerns. Mr. McGill stated all concerns were addressed and he appreciated that. Mr. McGill offered his support of the proposed.

Mr. Beck stated the relocation of the Topeka Metro would be to the Walmart parking lot

Kathryn Reinsch, owner of business in the area, spoke in favor of the proposal. Ms. Reinsch stated that the families that use her facility are going to benefit from the addition of the Walmart. Ms. Reinsch stated the growth in the area is much-needed. Ms. Reinsch attested that the lower income families that will be walking to get their shopping needs have had their concerns addressed by Walmart.

Testimonies:

David Cullip, resident of the area testified regarding the proposed. Mr. Cullip stated there is gang activity in the area and he wants to know what Walmart is going to do about security at night. (Mr. Cullip was reminded to address the Commission, not the applicant). Mr. Cullip stated he represents the disabled community members. Mr. Cullip stated he wanted to address the accessibility issues from 28th Street due to the roads being undeveloped. Mr. Cullip requested a low-impact, beautiful alternative route to be added to access the Walmart location from the south. Mr. Cullip stated 28th Street needed to be developed for safety reasons.

Mr. Beck asked how Mr. Cullip's requests related to the proposed. Mr. Cullip stated 28th Street is undeveloped, needs lighting, due to natural shadows. Mr. Cullip stated he does not want to be on California Avenue after dark due to almost being robbed at McDonalds during the daylight.

Mr. Beck asked Mr. Cullip how these issues were related to the case. Mr. Cullip stated accessibility, safety and development. Mr. Cullip stated the whole area should be developed at once. Mr. Cullip stated there are many local artists and writers that are unused talent. Mr. Cullip stated he would like to have a cultural center to discuss ideas.

Mr. Beck reminded Mr. Cullip to focus his comments on Walmart case and not on the cultural ideas. Mr. Cullip responded that it is all interrelated because it is an improvement. Mr. Cullip stated the area has been abandoned and forgotten due to White Lakes. Mr. Cullip stated he would like to work with the City to bring projects in to improve Topeka. Mr. Cullip stated he is currently working with Shawnee County Parks on projects near his home.

Mr. Beck offered for Mr. Cullip to address Walmart and not his personal agenda.

Mr. Cullip stated it is not his agenda but it should be Topeka's agenda.

Opponents:

Mary Ackerstrom, spoke in opposition of the proposal. Ms. Ackerstrom spoke in regards to, LEED, Leadership of Energy Efficiency and Environmental Design. Ms. Ackerstrom stated Walmart has taken steps with the LED lighting and using fly ash in the concrete. However, Ms. Ackerstrom requested the Planning Department and Walmart to set a higher standard. Ms. Ackerstrom stated Walmart can afford to operate more efficiently.

Ms. Ackerstrom asked why Walmart should demolish a perfect-green space instead of building at California Crossing where there are vacant buildings already established. Ms. Ackerstrom stated real sustainability is not just shutting off the truck motors at the loading dock but eliminating plastic bags. Ms. Ackerstrom addressed water conservation and suggested Walmart capturing rainwater through a living roof.

Ms. Ackerstrom stated that it is not that she doesn't want Highland Park to improve, but there should be "good" economic development. Ms. Ackerstrom explained her concern about wastewater. Ms. Ackerstrom stated that she sent Ms. Driver the links for Green-building guides.

Ms. Ackerstrom stated she challenges Walmart to embrace a sustainable future.

Mr. Beardmore asked if Ms. Ackerstrom had any conversations with Walmart? Ms. Ackerstrom stated she had not but received the information from their website.

Mr. Beck asked the applicants for a response. Mr. Wilder stated there are many things that Walmart is doing such as the LED lighting and how it is controlled. Mr. Wilder explained there are buffers such as the location of the retention pond that was changed to save trees. Mr. Wilder spoke about the wet retention pond, bike racks, public bus stop on site, pedestrian access, and reduced parking area which all address the sustainability initiative.

Mr. Lackey added that Walmart has agreed to the In-sync system for the traffic signals with reduces motorists fuel usage.

Mr. Gales asked if Walmart has explored, globally, building design initiatives for sustainability. Mr. Irsik stated sustainability is one of Walmart's core principles. Mr. Irsik explained that it has been reviewed worldwide and to tackle specific issues or opportunities. Mr. Irsik stated what works in one area may not work in another, such as solar panels. Irsik stated Walmart works closely with cities in order to meet the needs of the community.

Mr. Beardmore asked if high efficiency lighting is used in the stores. Mr. Irsik confirmed.

Mr. Beardmore asked if there is an extensive automation for heating and cooling. Mr. Irsik confirmed.

Bret Klausman moved to approve revised staff recommendations, seconded by Mike Lackey. **APPROVAL. (9-0-0)**



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 16, 2013

☐ Back ☐ Print

DATE: September 24, 2013
CONTACT PERSON: Mary Feighny, Deputy City Attorney
DOCUMENT #:
SECOND PARTY/SUBJECT: PROJECT #:
CATEGORY/SUBCATEGORY 013 Ordinances - Codified / 160 Franchises
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Jim Colson, granting to Westar Energy, Inc., an electric franchise including the right to construct, operate and maintain electric transmission, distribution and street lighting facilities within the corporate limits of the City of Topeka, Kansas, and specifically repealing Ordinance No.18297. First Reading.

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

(Approval of the 20-year agreement would increase the Westar Energy franchise fee payable to the City from 5% to 6% increasing the City's annual revenue by \$600,000.)

POLICY ISSUE:

Approval of the 20-year franchise agreement with Westar Energy increases the franchise fee payable to the City from 5% to 6% of Westar's gross receipts collected within the city.

STAFF RECOMMENDATION:

Staff is recommending the Council move to adopt the ordinance.

BACKGROUND:

Westar Energy currently pays to the City franchise fees in the amount of 5% of its gross receipts collected within the city. During the budget process, the City's revenue projections included an increase in franchise fees from Westar. This franchise agreement implements that plan.

BUDGETARY IMPACT:

Approval would increase annual revenue to the City by \$600,000.

Item #28

SOURCE OF FUNDING:

n/a

ATTACHMENTS:

[Ordinances](#)

ORDINANCE NO. _____

AN ORDINANCE introduced by Jim Colson, City Manager, granting to Westar Energy, Inc. an electric franchise including the right to construct, operate and maintain electric transmission, distribution and street lighting facilities within the corporate limits of the City of Topeka, Kansas, and specifically repealing Franchise Ordinance No.18297.

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

Section 1. Definitions.

For purposes of this Franchise, the following words and phrases shall have the meanings given herein:

City as the Grantor – shall mean the City of Topeka, Kansas.

Company as the Grantee – shall mean Westar Energy, Inc., a Kansas Corporation.

Distributed or Distribution – shall mean all sales, distribution, or transportation by the Company or by others through the Facilities of the Company in the Right-of-Way to any consumer for use within the City.

Facilities – shall mean all electric distribution lines, substations, works, and plants together with all necessary appurtenances thereto.

Gross receipts – shall mean any and all compensation and other consideration derived directly by the Company from any Distribution of electric energy to a consumer for any use within the City, including domestic, commercial and industrial purposes, through charges as provided in tariffs filed and approved, and including without limitation interruptible sales and single sales; except that such term shall not include revenues from any operation or use of any or all of the Facilities in the Right-of-Way by

others nor shall such term include revenue from certain miscellaneous charges and accounts, including but not limited to delayed or late payment charges, connection and disconnection fees, reconnection fees, customer project contributions, returned check charges, and temporary service charges.

Public Improvement – shall mean any existing or contemplated public facility, building, or capital improvement project, financed by the City, including without limitation, streets, alleys, sidewalks, sewer, water, drainage, Right-of-Way improvement, and Public Projects.

Public Project – shall mean any project planned or undertaken and financed by the City or any governmental entity for construction, reconstruction, maintenance, or repair of public facilities or improvements, or any other purpose of a public nature paid for with public funds.

Public Project for Private Development – shall mean a Public Project, or that portion thereof, that primarily benefits a third (3rd) party.

Right-of-Way – shall mean present and future streets, alleys, rights-of-way, and public easements, including easements dedicated to the City in plats of the City for streets and alleys.

Street Right-of-Way – shall mean the entire width between property lines of land, property, or an interest therein of every way publicly maintained where any part thereof is open to the use of the public for purposes of vehicular traffic, including street, avenue, boulevard, highway, expressway, alley, or any other public way for vehicular travel by whatever name.

50 *Utility Easement* – shall mean an easement owned by or dedicated to the City for
51 the purpose of providing the Company and other utilities access to customers and users
52 of any utility service.

53 Section 2. Grant.

54 There is hereby granted to Company, the non-exclusive right, privilege, and
55 franchise to construct, maintain, extend, and operate its Facilities in, through, and along
56 the Right-of-Way of the City for the purpose of supplying electric energy to the City and
57 the inhabitants thereof for the full term of this Franchise; subject, however, to the terms
58 and conditions herein set forth. Nothing in this grant shall be construed to franchise or
59 authorize the use of the Company's Facilities or the Right-of-Way by the Company or
60 others, for any purpose not related to the provision of electric energy. The Company
61 may not allow a subsidiary, affiliate, or a third (3rd) party to acquire rights to occupy the
62 Rights-of-Way under this Franchise; provided, that nothing in this section shall prevent
63 Company from allowing the use of its Facilities by others when such use is
64 compensated to the City under the provisions of a franchise granted by the City to any
65 such third party.

66 Section 3. Term.

67 a. The term of this Franchise shall be twenty (20) years from the effective
68 date of this Ordinance.

69 b. Upon written request of either the City or the Company, the franchise shall
70 be reopened and renegotiated at any time upon any of the following events:

- 71 1. Change in federal, state, or local law, regulation, or order which
72 materially affects any rights or obligations of either the City or the Company,

73 including but not limited to the scope of the grant to the Company or the
74 compensation to be received by the City; or

75 2. Change in the structure or operation of the electrical energy
76 industry which materially affects any rights or obligations of either the City or the
77 Company, including but not limited to the scope of the grant to the Company or
78 the compensation to be received by the City; or

79 3. Any other material and unintended change or shift in the economic
80 benefit to the City or a change the Company did not anticipate upon accepting
81 the grant of this Franchise.

82 c. Amendments under this section, if any, shall be made by ordinance as
83 prescribed by statute. The franchise shall remain in effect according to its terms
84 pending completion of any review or renegotiation pursuant to subsection (b).

85 Section 4. Compensation to the City.

86 a. In consideration of and as compensation for the franchise hereby granted
87 to the Company by the City, the Company shall make an accounting on a monthly basis
88 to the City of all electric energy that has been distributed within the City. The Company
89 shall pay the City:

90 A sum equal to six percent (6%) of the Gross Receipts received from such
91 Distribution of electric energy; and the above sum shall be adjusted for
92 uncollectible receivables and for receivables which are later collected.

93 b. Payment of the compensation above shall be effective on the first day of
94 the first month after approval by the City governing body and acceptance by the
95 Company. Prior to that date, payments shall continue to be calculated and be paid in

the manner previously provided in Ordinance 18297. Such payments shall be made to the City under procedures, which are mutually agreed to by the Company and the City within thirty (30) days of the last day of the month to which such accounting shall apply.

c. Notwithstanding anything to the contrary in this Franchise, the fee provided for in this Section 4 shall not become effective within any area annexed by the City until 30 days after the City provides the Company with a certified copy of the annexation ordinance, proof of publication as required by law and a map of the city detailing the annexed area.

d. Company will use commercially reasonable efforts to ensure the accuracy of its records and of the determination of the amount of Gross Receipts subject to the fee provided for in this Section 4. In the event and to the extent the accounting rendered to the City by the Company is found to be incorrect due to Company's failure to use commercially reasonable efforts as provided herein, then payment shall be made on the corrected amount, it being agreed that the City may accept any amount offered by the Company, but the acceptance thereof by the City shall not be deemed a settlement of such item if the amount is in dispute or later found to be incorrect. The Company agrees that all of its books, records, documents, contracts and agreements as may be reasonably necessary for an effective compliance review of this Ordinance shall upon reasonable notice and at all reasonable times be opened to the inspection and examination of the officers of the City and its duly authorized agents, auditor, and employees for the purpose of verifying said accounting. Notwithstanding the obligation herein, the Company shall have the right to require the reasonable protection of proprietary information of the Company.

119 Section 5. Payment, Charges, and Permits.

120 The payments and compensation herein provided shall be in lieu of all other
121 licenses, taxes, charges, permits, and fees, except that the usual general property taxes
122 and special ad valorem property assessments, sales and excise taxes, or charges
123 made for privileges which are not connected with the electric energy business, will be
124 imposed on the Company and are not covered by the payments herein. The Company
125 shall not be required to obtain an excavation permit for poles located in the Right-of-
126 Way or Utility Easement provided Company attends and participates in Utility
127 Coordination Committee meetings.

128 Section 6. Use of Right-of-Way.

129 a. The use of the Right-of-Way under this Franchise by the Company shall
130 be subject to all rules, regulations, policies, resolutions, and ordinances now or
131 hereafter adopted or promulgated by the City in the reasonable exercise of its police
132 power relating to use, placement, location, or management of utilities located in the
133 City's Right-of-way. In addition, the Company shall be subject to all laws, rules,
134 regulations, policies, resolutions, and ordinances now or hereafter adopted or
135 promulgated by the City in the reasonable exercise of its police power relating to
136 permits, fees, sidewalk and pavement cuts, utility location, construction coordination,
137 screening, and other requirements on the use of the Right-of-Way; provided, however,
138 that nothing contained herein shall constitute a waiver of or be construed as waiving the
139 right of the Company to oppose, challenge, or seek judicial review of, in such manner as
140 is now or may hereafter be provided by law, any such rules, regulation, policy,

141 resolution, or ordinance proposed, adopted, or promulgated by the City. Further, the
142 Company shall comply with the following:

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

150 c. All earth, materials, sidewalks, paving, crossings, utilities, Public
151 Improvements, or improvements of any kind located within the Right-of-Way damaged
152 or removed by the Company in its activities under this Franchise shall be fully repaired
153 or replaced promptly by the Company without cost to the City, however, when such
154 activity is a joint project of utilities or franchise holders, the expenses thereof shall be
155 prorated among the participants, and to the reasonable satisfaction of the City in
156 accordance with the ordinances and regulations of the City pertaining thereto. Nothing
157 in this Franchise shall require the Company to repair or replace any materials, trees,
158 flowers, shrubs, landscaping or structures that interfere with the Company's access to
159 any of its Facilities located in a Utility Easement.

160 d. Except in the event of an emergency, as reasonably determined by the
161 Company, the Company shall comply with all laws, rules, regulations, policies,
162 resolutions, or ordinances now or hereinafter adopted or promulgated by the City
163 relating to any construction, reconstruction, repair, or relocation of Facilities which would

164 require any street closure which reduces traffic flow. Notwithstanding the foregoing
165 exception all work, including emergency work performed in the traveled way or which in
166 any way impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and
167 otherwise protected.

168 e. The Company shall cooperate promptly and fully with the City and take all
169 reasonable measures necessary to provide accurate and complete information
170 regarding the location of its Facilities located within the Right-of-Way when requested
171 by the City or its authorized agents for a Public Project. Such location and identification
172 shall be promptly communicated in writing to the City without cost to the City, its
173 employees, agents, or authorized contractors. The Company shall designate and
174 maintain an agent, familiar with the Facilities, who is responsible for providing timely
175 information needed by the City for the design and replacement of Facilities in the Right-
176 of-Way during and for the design of Public Improvements. At the request of the
177 Company, the City may include design for Facilities in the design of Public Projects.
178 Also at the request of the Company, the City and/or its contractor(s) or agent(s) shall
179 provide accurate and timely field locations of proposed Public Projects in the event the
180 Company is required to install new and/or relocate its Facilities.

181 f. For Public Projects, Company shall locate, remove, relocate, or adjust any
182 Facilities located in the Right-of-Way within the time period specified in City's written
183 request. Such location removal, relocation, or adjustment for a particular Public Project
184 shall be performed by the Company without expense to the City, its employees, agents,
185 or authorized contractors, and shall be specifically subject to rules and regulations of
186 the City pertaining to such. If additional location, removal, relocation, or adjustment is

the result of the inaccurate or mistaken information of the Company, the Company shall be responsible for costs associated with such without expense to the City. Likewise, if additional location, removal, relocations or adjustment is the result of inaccurate or mistaken information of the City, the City shall reimburse the Company for any additional expense necessarily incurred by the Company directly due to such inaccurate or mistaken information. The Company shall only be responsible for removal, relocation, or adjustment of Facilities located in the Right-of-Way at the Company's sole cost once each five (5) years for that particular facility. The City shall reimburse the Company for the removal, relocation, or adjustment of the Company's Facilities located in the Right-of-Way if required before the expiration of five (5) years from the date of the last relocation, removal, or adjustment of that particular facility.

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

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

213 i. It shall be the responsibility of the Company to take adequate measures to
214 protect and defend its Facilities in the Right-of-Way from harm or damage. If the
215 Company fails to accurately locate Facilities when requested, it shall have no claim for
216 costs or damages against the City. The Company shall be responsible to the City and
217 its agents, representatives, and authorized contractors for all damages including, but
218 not limited to, delay damages, repair costs, down time, construction delays, penalties or
219 other expenses of any kind arising out of the failure of the Company to perform any of
220 its obligations under this Ordinance. The above general provisions notwithstanding, the
221 City and its authorized contractors shall take reasonable precautionary measures
222 including calling for utility locations through Kansas One Call and exercising due caution
223 when working near the Company's Facilities.

224 j. All technical standards governing construction, reconstruction, installation,
225 operation, testing, use, maintenance, and dismantling of the Facilities in the Right-of-
226 Way shall be in accordance with applicable present and future federal, state, and City
227 laws and regulations, including but not limited to the most recent standards of the
228 Kansas Corporation Commission, U.S. Department of Transportation, and City's
229 standard technical specifications unless inconsistent with state or federal laws. It is
230 understood that the standards established in this paragraph are minimum standards

and the requirements established or referenced in this Franchise may be additional to or stricter than such minimum standards.

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

l. Permission is hereby granted to the Company to trim trees upon and overhanging the right-of-way and utility easements. The Company shall perform line clearance work in accordance with regulations established under OSHA 29 CFR 1910.269. All pruning operations shall be performed by personnel qualified to perform the work and in accordance with the latest versions of ANSI Z133.1 (Safety Requirements for Pruning, Repairing, Maintaining and Removing Trees, and Cutting Brush) and ANSI A300 (Part 1) (Standard Practices for Tree, Shrub, and Other Woody Plant Maintenance). For routine trimming operations, customers shall be contacted at least one (1) week in advance by either personal contact or by informational door hanger.

Section 7. Indemnity and Hold Harmless.

The Company shall indemnify and hold and save the City, its officers, employees, agents, and authorized contractors, harmless from and against all claims, damages, expense, liability, and costs including reasonable attorney fees, to the extent occasioned in any manner by the Company's occupancy of the Right-of-Way. In the

event a claim shall be made or an action shall be instituted against the City growing out of such occupancy of the Right-of-Way by Facilities of the Company, then upon notice by the City to the Company, the Company shall assume responsibility for the defense of such actions at the cost of the Company, subject to the option of the City to appear and defend.

Section 8. Right of Assignment.

This Franchise shall be assignable only in accordance with the laws of the State of Kansas, as the same may exist at the time when any assignment is made.

Section 9. Termination and Forfeiture of Franchise.

In case of failure on the part of the Company, its successors, and assigns to comply with any of the provisions of this Ordinance, or if the Company, its successors, and assigns should do or cause to be done any act or thing prohibited by or in violation of the terms of this Ordinance, the Company, its successors, and assigns shall forfeit all rights and privileges granted by this Ordinance and all rights hereunder shall cease, terminate and become and null and void, provided that said forfeiture shall not take effect until the City serves a written notice upon the manager of the Company, at its principal office in the City, setting forth in detail in such notice, the neglect or failure complained of, and the Company shall have thirty (30) days thereafter in which to comply with the conditions of this Franchise.

If at the end of such thirty (30) day period the City deems that the conditions of this Franchise have not been complied with by the Company, the City may cancel this Franchise in accordance with the following procedure:

1. Before the City terminates the franchise, it shall first serve a written notice upon Company setting forth in such notice the neglect or failure alleged to have occurred.

2. Company shall have ninety (90) calendar days in which to comply with the conditions of the franchise.

3. If within ninety (90) calendar days after receipt of the notice, Company has not instituted an action in a court of competent jurisdiction to determine whether Company has violated the terms of this franchise, such franchise shall be terminated at the end of the ninety (90) calendar day period.

4. If within ninety (90) calendar days, Company does institute an action in a court of competent jurisdiction to determine whether Company has violated the terms of this franchise and that the franchise is subject to termination by reason of a violation of the terms, then, in such event, the franchise will terminate thirty (30) calendar days after the final judgment is rendered.

Nothing herein shall serve to bar either party from pursuing any legal or equitable remedy available in a court of competent jurisdiction.

Section 10. Rights and Duties of Company Upon Termination of Franchise.

Upon termination of this Franchise, whether by lapse of time, by agreement between the Company and the City, or by forfeiture thereof, the Company shall have the right to remove any and all of its facilities and equipment used in its business within a reasonable time after such expiration, but in such event, it shall be the duty of the Company, immediately upon and during such removal; (a) to cooperate with the City and its agents to permit the installation of all necessary facilities and other equipment

necessary or convenient for the provision of electric energy to residents of the City; and
(b) to restore the streets, avenues, alleys, parks, and other public ways and grounds from which said facilities, and other equipment have been removed, to the equivalent condition as the same were before said removal was effected.

Section 11. Acceptance of Terms by Company.

Within thirty (30) days after approval of this Ordinance by the governing body, the Company shall file with the City Clerk of the City its acceptance in writing of the provisions, terms and conditions of this Ordinance. This Ordinance shall constitute a non-exclusive contract between the City and the Company.

Section 12. Conditions of Franchise.

This non-exclusive franchise, grant, and privilege is granted under and subject to all applicable laws and under and subject to all of the orders, rules, and regulations now or hereafter adopted by governmental bodies now or hereafter having jurisdiction.

Section 13. Invalidity of Ordinance.

If any clause, sentence, or section of this Ordinance shall be held to be invalid, it shall not affect the remaining provisions of this Ordinance.

Section 14. Effective Date of Ordinance.

This Ordinance shall take effect and be in force on the first day of the first month after its approval by the City governing body, publication in the official city newspaper, and acceptance by the Company.

Section 15. Repeal of Conflicting Ordinances.

Ordinance No. 18297, which heretofore granted a non-exclusive franchise to the Company, and which became a contract between the City and the Company is hereby canceled and repealed.

PASSED and APPROVED by the Governing Body on the ____ day of _____, 2013.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 17, 2013

☐ Back ☐ Print

DATE: September 24, 2013
CONTACT PERSON: Mary Feighny, Deputy City Attorney
DOCUMENT #:
SECOND PARTY/SUBJECT: Topeka Zoo
PROJECT #:
CATEGORY/SUBCATEGORY 013 Ordinances - Codified / 102 Parks and Recreation
CIP PROJECT: No
ACTION OF COUNCIL:
JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Jim Colson, concerning concessions and admission fees at the Topeka Zoo, amending City of Topeka Code Sections 11.35.010, 11.35.040, 11.35.050, 11.35.060 and 11.35.080 and specifically repealing said original sections, as well as, repealing Section 11.35.070. First Reading.

(Approval would authorize the City Manager to enter into an agreement with a third party to operate admissions and concessions at the Topeka Zoological Park. The City would realize a savings of \$120,964 in Zoo operating expenses.)

POLICY ISSUE:

Approval would authorize a third party (Friends of the Topeka Zoo) to operate admissions and concessions for the Topeka Zoo generating a savings of \$120,964 in Zoo operating expenses.

STAFF RECOMMENDATION:

Staff is recommending the Council move to adopt the ordinance.

BACKGROUND:

The Zoo Director has advised that savings could be realized by outsourcing guest service functions to the Friends of the Topeka Zoo. However, the ordinance must be amended to facilitate this endeavor by doing the following:

1. Authorizing a third party to operate admissions;
2. Authorizing the city manager or designee to establish admission fees, waive fees, and offer admission discounts; and
3. Change the ordinance to allow costs incurred in collecting admission fees to be deducted before the funds

Item #29

are deposited in the general fund. Currently, all admission fees must be deposited in the general fund, with no deductions allowed.

BUDGETARY IMPACT:

The City would realize a savings of \$120,964 in Zoo operating expenses.

SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

[Ordinance](#)

[Summary Report](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Jim Colson, concerning concessions and admission fees at the Topeka Zoo, amending City of Topeka Code § 11.35.010, § 11.35.040, § 11.35.050, § 11.35.060 and § 11.35.080 and specifically repealing said original sections, as well as repealing § 11.35.070.

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

Section 1. That section 11.35.010, Statement of Purpose, of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Statement of purpose

(a) The ~~governing body~~city council hereby finds that the Topeka Zoological Park, dedicated and established pursuant to TMC 11.35.020, shall be utilized for the purpose of providing the citizens of Topeka and others with opportunities to learn about our natural world, to increase scientific knowledge that benefits nature conservation, to support conservation of endangered populations and habitats, and to participate in activities that improve the quality of life in the community.

(b) These opportunities can best be provided in partnerships with support groups such as the Friends of the Topeka Zoo, Inc., and the Topeka Zoological Foundation, and in cooperation with local, state, national and international education, and conservation institutions, organizations and governments.

Section 2. That section 11.35.040, Protection of zoo, is hereby amended to read as follows:

Protection of zoo.

29 The ~~governing body~~city council shall, when deemed necessary, pass such
 30 ordinances as will enable the zoological park department and the Topeka Friends of the
 31 Zoo, Inc., to efficiently protect and care for the dedicated property and to promote the
 32 purposes of the Topeka Zoological Park.

33 Section 3. That section 11.35.050, Concessions, of The Code of the City of
 34 Topeka, Kansas, is hereby amended to read as follows:

35 **Concessions and admissions.**

36 The zoological park department is hereby granted exclusive authority to operate
 37 admissions and concessions by way of purchasing and selling products or by
 38 authorizing a third party to provide admissions and concessions services at the Topeka
 39 Zoological Park. Proceeds from such ~~concessions~~services, if operated by the zoological
 40 park department, shall be credited to the revenue account fund established by the
 41 director of budget and financial services pursuant to TMC 3.25.010 and shall first be
 42 used to pay the expenses thereof, and any excess shall be used for the operation,
 43 maintenance, and improvement of the Topeka Zoological Park. Any authorization
 44 allowing third party provision of admissions and/or concessions operations must be
 45 approved by the City Manager.

46 Section 4. That section 11.35.060, Admission fees, of The Code of the City of
 47 Topeka, Kansas, is hereby amended to read as follows:

48 **Admission fees.**

49 The ~~director of the zoological park department~~City Manager or designee shall
 50 establish all fees for admission to the Topeka Zoological Park ~~which shall be subject to~~
 51 ~~the review and approval of the city council as part of the budget process. No changes~~

~~may be made to the admission fees without the consent of the city council~~ and shall have full discretion to waive fees and offer discounts and promotions.

Section 5. That section 11.35.070, Waiver of fees, of The Code of the City of Topeka, Kansas, is hereby repealed.

Waiver of fees.

~~The director of the zoological park department shall have, during winter months and other periods of inclement weather, full discretion to determine what days and what hours the admission fees established under TMC 11.35.060 shall be charged; and the director of the zoological park department shall have full discretion, during such winter months and other periods of inclement weather, to allow admission to the Topeka Zoological Park without charge.~~

Section 6. That section 11.35.080, Disposition of fees, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Disposition of fees.

~~(a)~~ All moneys derived from the fees established in TMC 11.35.060 less operational costs of the collection thereof shall be deposited into the city's general fund.

~~(b) Any remaining balance in the zoo fund as of January 1, 2010, shall be transferred to the city's general fund.~~

Section 7. That original § 11.35.010, § 11.35.040, § 11.35.050, § 11.35.060 and § 11.35.080 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

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

Section 9. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

PASSED AND APPROVED by the City Council on _____.

Larry E. Wolgast, Mayor

Brenda Younger, City Clerk

**Topeka Zoological Park
Guest Service Transition Plan
24 September 2013**

During the 2014 budget planning process, the Council reviewed a zoo cost saving measure to contract out four guest service components to Friends of the Topeka Zoo. Below is general information pertaining to the background and strategy of the concept.

Dilemma – How does an organization grow with flat or reduced resources?

- With a 75% increase in attendance since 2010, how do we pay for the additional guest needs: hot dogs, hand sanitizer, trash bags, toilet paper, seasonal staff, etc.? Change the model.

Initiative – Consolidate zoo guest service functions under one organization at the zoo for the following purposes:

- Elimination of inefficient redundancies.
- Creates budget authority or captures savings.
- Streamlines training, communication and direction.
- Provides a more effective guest service experience.

Services to transition –

- Operating the admission process.
- Operating the concession operation.
- Event Rentals.
- Custodial service of public areas.
- (Gift Store and Member Services are already operated by Friends of the Zoo.)

Why Friends of the Zoo?

- Current overlap of functions currently exists.
- Consolidation of services can make both the Zoo and FOTZ more efficient.
- FOTZ's operating model allows for compensating changes in expenditures that relate to changes in revenue.
- Creates more opportunity for direct reinvestment back into the zoo.

Who is Friends of the Zoo?

- FOTZ is a 501(c)3 whose mission is to support and improve the zoo first incorporated in 1964
- FOTZ has operated the Leopard Spot (zoo gift store) for more than thirty years.

- FOTZ is governed by a community board and manages a staff that operates at the zoo.
- FOTZ operates a membership program, offers marketing support, funds capital projects and supports special events and exhibits.

Financial Break Down –

- FOTZ will receive \$25,000 annually to perform the described duties.
- FOTZ will keep 5% of the admission revenue and transfer 95% to the general fund.
 - In the event the zoo exceeds its attendance revenue goal for a month, FOTZ will receive 20% of the portion of attendance revenue that exceeds a predetermined goal.
- FOTZ will keep all revenue generated from food, gift and event related activities.
- FOTZ will purchase all merchandise and commodities needed to operate related functions.
- City will maintain and provide existing facilities for FOTZ to operate from.

Explanation of Financial Breakdown –

- The \$25,000 fee helps offset costs associated with the custodial function of the agreement.
- The 5% share of admission revenue helps offset staffing costs associated with the admission process.

Performance Based Initiative –

- Offers higher financial return to FOTZ when monthly goals are exceeded.
- Offers multiple opportunities for the City to measure success of guest services offered by FOTZ.
- Offers both parties the opportunity to opt out of contract if performance measures are not being met.
- Net benefits increase for both organizations as annual attendance rises.



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September 4, 2013

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SECOND PARTY/SUBJECT:		PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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