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City Council Agenda

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

November 21, 2006
6:00 PM

City Manager: Norton N. Bonaparte, Jr.

Mayor: William W. Bunten

Councilmembers

Lana Kennedy	District No. 1	Clark Duffy	District No. 6
John Alcala	District No. 2	Brett Blackburn	District No. 7
Sylvia E. Ortiz	District No. 3	Jeff Preisner	District No. 8
John Nave	District No. 4	Richard Harmon	District No. 9
Bill Haynes	District No. 5		

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

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

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

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

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

INVOCATION:

PLEDGE OF ALLEGIANCE:

- 1. **PROCLAMATIONS:**
- 2. **SWEARING IN CERMONY:**
Mayor's Youth Council
- 3. **ROLL CALL:**
- 4. **CONSENT AGENDA:**
A. **APPLICATIONS:**

B. **MINUTES** of the regular meeting of November 14, 2006

5. **UNFINISHED BUSINESS:**

A. **Final Plat - Northridge Heights Subdivision (P06/18)**

 [ATTACHMENTS](#)

A FINAL PLAT for Northridge Heights Subdivision located north of NW 50th Street between NW Green Hills Road and NW Rochester road the centerline of which being approximately 2,400' east of the intersection of NW 50th Street and NW Green Hills Road within unincorporated Shawnee County. (P06/18) (The Planning Commission recommended approval by a vote of 7-1-0.) (The Planning Department recommended disapproval.) (Deferred from the meeting of November 14, 2006.)

(The proposal would plat 340 lots for single-family residential development.)

B. **Resolution - Implementation of a code of ethics policy**

 [ATTACHMENTS](#)

A RESOLUTION relating to the implementation of a code of ethics policy for the City of Topeka, its elected officials, appointees and employees. (The Economic and Community Development Committee recommended "Do Pass" by a vote of 2-0-0 on November 6, 2006.)

C. **Contract Amendment - Rural Water District #8**

 [ATTACHMENTS](#)

A COMMUNICATION authorizing the amendment to the contract between the City of Topeka and Rural Water District No. 8 for the sale of water and specifically authorizing City Manager Norton N. Bonaparte to execute the contract amendment. (Removed from the Policy and Finance Committee "Without Recommendation" by a vote of 2-0-1 on November 6, 2006.)

(The amendment would permit the District to continue to serve its current customers in the event the City annexes a portion of the land served by the District.)

D. **Ordinance - Condemnation Proceedings - Topeka Boulevard Bridge Replacement Project No. 12053-03**

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing the initiation of condemnation proceedings to acquire property by eminent domain for City of Topeka Improvement Project No. 12053-03 which provides for the removal and replacement of the Topeka Boulevard Bridge over the Kansas River. Final Reading. (Council District No. 1)

(This Ordinance will initiate condemnation proceedings to acquire property for the removal and replacement of the Topeka Boulevard Bridge over the Kansas River.)

E. **Annexation - Legend Ridge Estates (A06/17)**

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, as amended, generally located at

the northwest corner of SW Arvonla Place and SW 21st Street within unincorporated Shawnee County, Kansas and surrounded by the City of Topeka corporate limits, and said land being annexed for all City purposes. Final Reading. (A06/17) (Council District No. 8)

(The property owners have granted their consent to annexation. Approval would annex a 16.30 acre-tract for potential commercial, office, and multi-family residential uses.)

F. Ordinance - Mandatory minimum punishment of violation of animal ordinances

 [ATTACHMENTS](#)

AN ORDINANCE introduced by Councilmember Brett Blackburn amending City of Topeka Code Section 18-2 concerning mandatory minimum punishment of the owner, harbinger or possessor of an animal violating the animal ordinance Chapter 18, except subsection 18-8 and 18-145, and repealing said original section. Final Reading.

(Approval will amend the sentencing provisions for minor animal offenses and make them consistent with the general penalty provisions of City Code thereby eliminating mandatory court appearances and allowing persons charged with these minor violations to pay their fines and fees by mail or at the Municipal Court Clerk's Office. This change will not alter the penalties or required court appearances for Pit Bull or Vicious Animal violations.)

6. NEW BUSINESS:

A. Set Public Hearing on Amendment of 2006 Budget

 [ATTACHMENTS](#)

A COMMUNICATION from City Manager Norton N. Bonaparte, Jr., requesting that a public hearing be set for December 5, 2006, at 6:00 pm at the City Council Chambers, 214 E. Eighth Street, to hear and answer objections of taxpayers to proposed amendments to the 2006 Budget.

(Kansas law requires local governments to hold a public hearing to receive input from the public on proposed budget amendments. Notice must be published at least 10 days prior to the hearing. Approving the communication would authorize publication of the Notice of Public Hearing in the November 24, 2006 edition of the Metro News.)

B. Authorization of Weekly Expenditures for Week Ended November 5, 2006

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period October 30, 2006, through November 5, 2006, and enumerating said expenditures therein. First and Final Reading.

C. Authorization of Weekly Expenditures for Week Ended November 12, 2006

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period November 6, 2006, through November 12, 2006, and enumerating said expenditures therein. First and Final Reading.

7. ZONING:

A. Ordinance - Topeka Planning Commission (Z06/17)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at the northwest corner of SW 10th Avenue and SW Urish Road in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "R-1" Single Family Dwelling District. Final Reading (Z06/17) (Council District No. 9) *(The Planning Commission recommended approval by a vote of 7-0-1 on October 16, 2006.) (The Planning Department recommended approval.)*

(The zoning change is being sought in conjunction with the development of Gail Subdivision to be more reflective of an urbanizing single-family area within the City.)

B. Ordinance - Topeka Planning Commission (Z06/21)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located south of SE 29th Street about 1/4 mile west of SE West Edge Road and east of Kansas Turnpike in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "R-1"

Single Family Dwelling District. Final Reading. (Z06/21) (Council District No. 4) (The Planning Commission recommended approval by a vote of 7-0-1 on October 16, 2006.) (The Planning Department recommended approval.)

(The zoning change is being sought in conjunction with the development of Woodland Trail Subdivision to be more reflective of an urbanizing single-family area within the City.)

C. Ordinance - Topeka Planning Commission (Z06/22)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located south of SE 29th Street about 1/4 mile west of SE West Edge Road and east of Kansas Turnpike in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "OS-1" Open Space District. **Final Reading** (Z06/22) (Council District No. 4) (The Planning Commission recommended approval by a vote of 8-0-0 on October 16, 2006.) (The Planning Department recommended approval.)

(Approval would zone a portion of the Woodland Trail Subdivision consistent with the use of parks, trails and open space.)

D. Ordinance - Topeka Planning Commission (Z06/24)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located between SW Marlboro and SW Shenandoah Roads and SW 43rd Terrace and SW 46th Street in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "R-1" Single Family Dwelling District. **Final reading.** (Z06/24) (Council District No. 7) (The Planning Commission recommended approval by a vote of 7-0-1 on October 16, 2006.) (The Planning Department recommended approval.)

(The zoning change is being sought in conjunction with the development of Lauren's Bay Subdivision to be more reflective of an urbanizing single-family area within the City.)

E. Ordinance - Topeka Planning Commission (Z06/26)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made a part of the Zoning Ordinance by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at the corners of SW 42nd Lane and SW Shenandoah Road and SW 43rd Terrace and SW Shenandoah Road in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "R-1" Single Family Dwelling District. **Final Reading.** (Z06/26) (Council District No. 7) (The Planning Commission recommended approval by a vote of 8-0-0 on October 16, 2006.) (The Planning Department recommended approval.)

(The zoning change is being sought in conjunction with the development of Brian's Addition No. 3 to be more reflective of an urbanizing single-family area within the City.)

F. Ordinance - Topeka Planning Commission (Z06/29)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made part of the Zoning Ordinance by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located between SE 23rd Terrace and K-4 Highway (Kansas Turnpike) approximately 1,320 feet west of SE Croco Road in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "R-1" Single Family Dwelling District. **Final Reading.** (Z06/29) (Council District No. 4) (The Planning Commission recommended approval by a vote of 8-0-0 on October 16, 2006.) (The Planning Department recommended approval.)

(The zoning change is being sought in conjunction with the development of Capricorn Woods Subdivision No. 3 to be more reflective of an urbanizing single-family area within the City.)

8. MISCELLANEOUS:

-

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

COUNCIL:

-

10. PUBLIC COMMENT:

-



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 7, 2006

 + Back  Print

DATE:	November 7, 2006	DOCUMENT #:
CONTACT PERSON:		PROJECT #:
SECOND PARTY/SUBJECT:		
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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November 15, 2006

 + Back  Print

DATE:	November 7, 2006	DOCUMENT #:
CONTACT PERSON:		PROJECT #:
SECOND PARTY/SUBJECT:		
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

Mayor's Youth Council

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

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November 7, 2006

 + Back  Print

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November 7, 2006

 + Back  Print

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+ Back Print

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Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 15, 2006

+ Back Print

DATE: November 7, 2006

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

SECOND PARTY/SUBJECT: Northridge Heights **PROJECT #:** P08/18
Subdivision

CATEGORY/SUBCATEGORY: 017 Plats/002 Final

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

A FINAL PLAT for Northridge Heights Subdivision located north of NW 50th Street between NW Green Hills Road and NW Rochester road the centerline of which being approximately 2,400' east of the intersection of NW 50th Street and NW Green Hills Road within unincorporated Shawnee County. (P06/18) (The Planning Commission recommended approval by a vote of 7-1-0.) (The Planning Department recommended disapproval.) (Deferred from the meeting of November 14, 2006.)

(The proposal would plat 340 lots for single-family residential development.)

POLICY ISSUE:

The *Comprehensive Plan* supports annexation prior to urbanized development such as this and having a commensurate urban service package in place or at least programmed in the near future. The proposal is **inconsistent** with both of these policies. The property is located outside the Municipal Service Area (MSA) and is approximately 2 miles from the City limits. Current City Code does not require annexation prior to receiving sanitary sewer service outside the MSA therefore there is no guarantee for annexation to occur in the near future.

If approved, the City will not be able to collect parkland development fees at the time of building permits due to the property's location outside the city. The fee of \$76,500 will instead need to be collected upon recording of the final plat by the City Clerk as required by ordinance. The Planning Commission recommended against collection of the fee at the time of recording.

STAFF RECOMMENDATION:

The **Final Plat of North Ridge Heights Subdivision** was reviewed by the Planning Commission at their regular monthly meeting on September 18, 2006. At that time, the Planning Commission took the following action on the plat: **APPROVAL (7-1-0)** as referenced in their attached minutes dated **September 18, 2006**. The Planning Department evaluated this proposal relative to the standards and provisions of the Subdivision Regulations and recommended the Planning Commission **DISAPPROVE** the proposal as referenced in the attached staff report.

BACKGROUND:

Item #8

- See attached Staff Report.
- The applicant has consented to annexation with recording of the final plat and by separate instrument.

- City Council options:
 - Accept the plat as presented for recording by the Shawnee County Register of Deeds.
 - Reject the plat so it would **not** be eligible for recording by the Shawnee County Register of Deeds.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Staff Report](#)

[Aerial](#)

[Vicinity Map](#)

[Minutes](#)

[Plat Sheets 1-7](#)

September 18, 2006
Agenda Item #E-1

SUBDIVISION REPORT

(Major Plats)

CITY OF TOPEKA PLANNING DEPARTMENT

Preliminary Plat Phase

Preliminary and Final Plat Phase

Final Plat Phase

NAME: Northridge Heights Subdivision - [P06/18]

OWNER/DEVELOPER: Kent and Linda G. Stancliffe/Shawnee Terra, LLC

ENGINEER/SURVEYOR Bartlett and West Engineers, Inc.

GENERAL LOCATION: Property is located north of NW 50th Street between NW Green Hills Road and NW Rochester road the centerline of which being approximately 2,400' east of the intersection of NW 50th Street and NW Green Hills Road within unincorporated Shawnee County.

PARCEL ID NUMBERS: 0272504001010000, 0193102001002000, 0273601001001000.

JURISDICTION: Class "C" subdivision within the three-mile extra territorial jurisdiction of the City of Topeka not contiguous to the city limits and outside the City's Municipal Service Area (MSA).

ANNEXATION: Class "C" subdivisions do not require consent to annexation per the Subdivision Regulations. The applicant has however granted their written consent to annexation with the recording of the final plat which is required by the city code since the property is within the primary urban service area for sewer. Annexation prior to receiving sewer service is not required under current City regulations since the property is located outside the MSA.

Area	# of Lots	Density	Proposed Land Use	Zoning
163 acres	340	2.09 units per acre	Residential	"RR-1" Residential Reserve District

Pending Zoning Case: None.

Design: The subject plat contains 163 acres, more or less and is irregular in shape, measuring approximately 2,235' x 3,950' with its greatest length running perpendicular to SW 50th Street. The proposal consists of an eleven block 340-lot subdivision with Block "A" containing 17 Lots, Block "B" containing 27 Lots, Block "C" containing 28 Lots, Block "D" containing 7 Lots, Block "E" containing 42 Lots, Block "F" containing 10 Lots, Block "G" containing 20 Lots, Block "H" containing 43 Lots, Block "I" containing 40 Lots, Block "J" containing 58 Lots, and Block "K" containing 45 Lots. Having an average lot size of 9,750 square feet. The purpose of the plat is to establish a 340-lot subdivision of single-family residential dwellings.

BACKGROUND: A pre-application plat was submitted on March 17, 2006. The preliminary plat was approved by the Planning Commission on July 17, 2006.

September 18, 2006
Agenda Item #E-1

SERVICES AND FACILITIES:

1. WATER SERVICE: Shawnee County Rural Water District No. 4 water supply and distribution system by means of connection to an existing 8" water main located along the south side of NW 50th Street with all main extensions at developer expense.
2. SEWAGE DISPOSAL: North Topeka Sewage Treatment plant via the Half-Day Creek Interceptor by connecting to and extending a line from, the pump station located at NW 50th Street and NW Kendall Drive, with all sewer main installation being at developer expense. It is planned for 2007 with the County's approval to remove the pump station and put in gravity flow lines.
3. WASTEWATER PLAN SERVICE AREA: The property is located within the Primary Urban Service Area as reflected by the Amended Shawnee County Wastewater Management Plan (1995). The proposal appears to be in full compliance with said Plan.
4. DRAINAGE CONDITIONS: The drainage report as submitted by the Consultant to the City of Topeka Department of Public Works has been approved per memo dated May 8, 2006.
5. STREET PLAN/ACCESS: The preliminary street plans as submitted by the developer to the Shawnee County Public Works Department have been reviewed by that department. Vehicular access to the subdivision is being proposed from a total of five points two on NW 50th Street (collector). One from NW 52nd Street (local) which will need to be extended from NW Kendall Drive at the developers expense, one from NW 53rd Terrace (local) and NW 52nd Terrace (local). A Traffic Impact Analysis (TIA) was performed due to the potential impact this size of development could pose on the street system in the surrounding area. The TIA indicates that the developer must provide proper passing and site distance at points of access to NW 50th Street. The TIA also indicates that the future level of service for the intersection of NW 46th Street and NW Green Hills Road and NW 46th Street and NW Rochester Road would be adversely impacted. The applicant is, therefore, including on the plat the following note: *"Property owner(s) agree(s) to irrevocably consent to the inclusion in a benefit or impact fee district for the payment of improvements to the intersection of NW 46th Street and NW Green Hills Road and NW 46th Street and NW Rochester Road. Additionally, the Property Owner hereby irrevocably consents to the waiver of objection to participation in a benefit or impact fee district for improvements to the intersections of NW 46th Street and NW Green Hills Road and NW 46th Street and NW Rochester Road. Property Owner agrees that said consent to inclusion in the benefit or impact fee districts and waiver of objection of inclusion shall be deemed covenants running with the land and shall be binding on all subsequent property owners."*
6. FIRE DISTRICT: Soldier Township Fire District
7. STREAM BUFFER: The subdivision is impacted by a Type II Stream and while the subdivision is not subject to the stream buffer ordinance the applicant has willingly complied with the ordinance.
8. SCHOOL DISTRICT: USD No. 345 – Seaman.
9. PARKS/OPEN SPACE: No suitable public accessible parks or open spaces are proposed. The Subdivision Regulations require a parkland development fee of \$225.00 per single family dwelling unit in lieu of dedication. Since this development occurs outside the city limits, the fee can not be collected by the city at the time of building permits; and instead, it is recommended that the total fee be collected by the City Clerk prior to recording of the final plat. This fee is calculated at \$76,500 based on 340 single family lots.

September 18, 2006
Agenda Item #E-1

WAIVER/VARIANCE TO STANDARDS: Pursuant to the provisions of Section 134-4 of the City of Topeka Subdivision Regulations the applicant is seeking the following design variances:

The applicant is requesting that a design variance be granted to the provisions of code Section 134-134 of the City of Topeka Subdivision Regulations to allow block lengths in excess of 1,200 feet for Blocks "A", "B", and "C due to adverse topography.

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

CAPITAL IMPROVEMENT PLAN (CIP): There are currently no transportation projects in the City's or County's CIP (2006-2010) affecting this area.

CONFORMANCE TO COMPREHENSIVE PLAN: The *Comprehensive Plan* establishes this area for *Urban Suburban Low Density Residential* land use. The proposed subdivision is located outside the MSA boundary, and a part of the proposed area (the north 40 acres) is also located outside the North Planned Growth Area boundary. While the Comprehensive Plan indicates that this subject area is planned for *Urban Suburban Low Density Residential* land use timing of such development is also a factor as the Plan states: "...this Plan does not indicate that simply because a certain parcel of land is planned for a certain type of use that it is actually ready for that type of development. Rather, this Plan states that before land is developed for urban purposes it needs to have a package of urban services available to support it." Staff does not believe these conditions for timing have been met with this subdivision extending beyond the city's northern limits and MSA by two miles.

In addition, the Comprehensive Plan supports annexation prior to urbanized development such as this and having a commensurate urban service package in place or at least programmed in the near future. The proposal is **inconsistent** with both of these policies since there are no guarantees for annexation to occur with a property located two miles from the city limits and one that relies on several miles of rural standard streets to access the property.

STAFF ANALYSIS:

Staff does not believe Comprehensive Plan conditions for such large-scale urbanized development have been met. The property is two miles from the City limits and leapfrogs beyond undeveloped planned growth areas, thus establishing a major precedent to encourage more urban sprawl without adequate urban infrastructure and services without the ability to be annexed. This is not a sustainable pattern of growth that is in the best interest of the community. Allowing urban development in areas without the full complement of urban services in place, or planned in the near future, increases the cost to all tax payers, both those inside and outside the city limits. Recent Council decisions have established a "de facto" policy of not supporting urbanized-type development that is not annexable to the City or that the City is not contractually obligated to provide service to. The City would only realize sewer fees which can only be used for sewer improvements/maintenance and cannot be used for other urban services provided to new residents who work, shop, and travel to destinations within the city. The Planning Department recommended **disapproval of the preliminary plat**. However, the Planning Commission approved the preliminary plat and the proposed final plat is consistent with that recommendation and may be approved, subject to the following conditions:

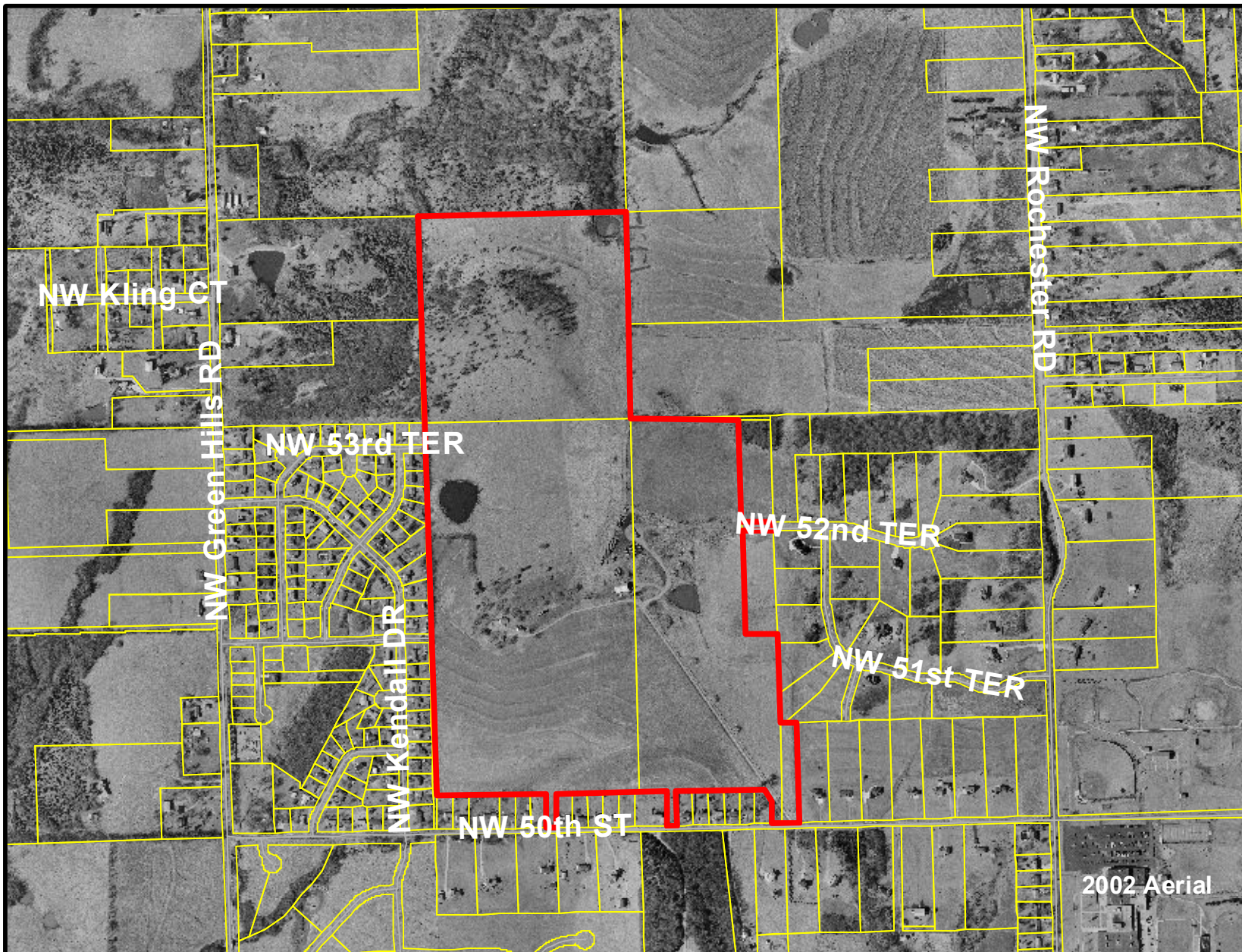
1. The Planning Commission granting the following design variances:
 - to allow block lengths in excess of 1,200 feet for Blocks "A", "B", and "C due to adverse topography and appropriate variance note is shown on final plat.
2. Compliance with requirements of TIA.
3. Add plat note: "No building permits shall be issued until arrangements for fire hydrant installation per Soldier Township

September 18, 2006
Agenda Item #E-1

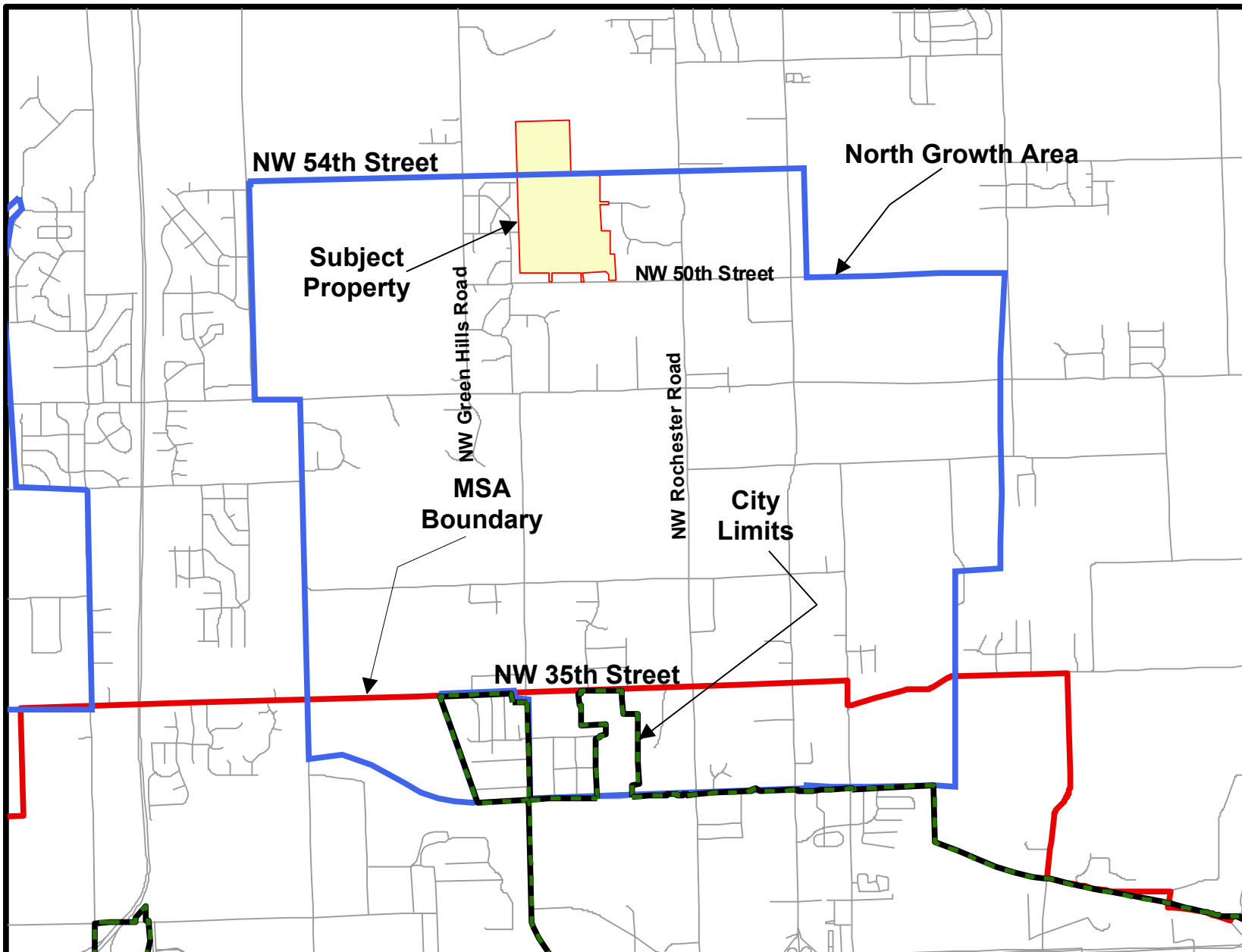
requirements have been met."

4. Payment of parkland development fees in the amount of \$76,500 (based on 340 single-family lots) is paid to the Topeka City Clerk prior to the recording of the final plat by the Shawnee County Register of Deeds or at another legally acceptable time approved by the City Council, whichever comes first.
5. Correctly depict stream buffer on final plat.
6. Correct lot numbering and show block designation on final plat.
7. North arrow needs to be correctly shown on all sheets of the final plat.
8. Case number [P06/18] is to be shown in lower right hand corner on all sheets of final plat.
9. Correct typos and over-lapping text.

Prepared by: Dean W. Diediker
Planner II



P06/18 Northridge Heights Subdivision



P06/18 Northridge Heights Subdivision

**Minutes of the
Of the
Topeka Planning Commission
July 17, 2006**

Northridge Heights Subdivision (Preliminary Plat Phase)(P06/18) by Kent and Linda G. Stancliffe on property located at 1720 NW 50th Street, within unincorporated Shawnee County, Kansas. **(Diediker)** Dean Diediker summarized the staff report.

Discussion by members:

Terry Simnitt said he doesn't believe the MSA (Municipal Service Area) was to be a tool to prevent growth. Mr. Diediker said it is a projection line for the City to be able to extend services within a timely manner. Mr. Diediker said the map included in the packet shows the MSA boundary in red and the north growth area in blue. Mr. Simnitt asked where water and sewer would be from for this subdivision? Mr. Diediker replied Rural Water District No. 4 and ½ Day Creek interceptor for the sewer. Mark Boyd asked how long the MSA has been in affect? David Thurbon replied two years. Mr. Boyd asked how long the north growth area has been in affect? Mr. Thurbon replied three years. Mr. Boyd asked if any adjustments had been made to these boundaries since they were established? Mr. Thurbon replied not really, just some property alignments. Mr. Boyd asked what the process is to get them adjusted? Mr. Thurbon replied the request has to go to the City Council as an ordinance. Mr. Boyd asked how and who initiates it? Mr. Thurbon replied the Planning Department or Planning Commission with review by Public Works. Mr. Boyd said the MSA sits as is until someone says it needs to be reviewed. Mr. Thurbon said that is correct. He added changing the north boundary would mean an amendment to the Comprehensive Plan. Mr. Boyd asked what the north growth boundary is? Mr. Thurbon said it was established when the Comprehensive Plan was adopted. The growth rate was projected at 1.5% annually which has actually only been .5%. Based on the 1.5% growth projection these are the areas where development can be accommodated within the next 30 years. Mr. Boyd asked if this line should never move? Is there no provision in the Comp Plan for this type of development? Mr. Thurbon said it is just a plan. It is policy and if there are findings to deviate from it then it would be appropriate. Ralph Skoog asked if the growth areas existed before they implemented the MSA? Mr. Thurbon replied yes. Mr. Skoog added only a small portion of the north growth area was part of the MSA. What was the projected time for MSA? Mr. Thurbon replied 10 years. Mr. Thurbon added remember the actual growth has been .5% not the estimated 1.5% which would take 90 years to fill the growth areas. Fred Sanders said market driven growth would be able to pull the MSA line in and out? Would it be reasonable to expect to move the boundary regularly? Mr. Thurbon replied yes the growth area boundaries should be reviewed at least every 5 years and the MSA perhaps every two years. If you allow this type of development it may never be annexed. Mr. Thurbon said how far are we going to allow our urban services without being part of the city? The extension of services helps to guide growth. Mr. Sanders said the city has control of the 3 mile area. Mr. Thurbon said only subdivision jurisdiction. Mr. Sanders added if we have control of the 3 mile area, aren't we in charge of putting the services out there? Mr. Thurbon said it is better for the City to create development closer to the City limits as possible. Mr. Simnitt asked what cost would there be to the City to extend services? Mr. Thurbon said the developer would have to pay for it but it will not promote tax base to the City. He added urban development needs to be in the MSA or adjacent to it. Mr. Simnitt said they could connect to sewer? Mr. Thurbon replied they aren't currently connected but could be. Howard Blackmon said we want to be in charge of the 3 mile limit and we are having a problem with allowing development within it? We are supposed to take care of the 3 mile area. Mr. Thurbon reiterated we only have subdivision authority and part of that authority is to determine appropriate areas for urban development.

Proponents

Mike Engler, Bartlett & West Engineers, spoke in favor of the proposal. He said since the application the property owner has changed. It is now owned by Shane Hack and Carl Capps. They have been looking for a development site. He said they don't agree with staff report. This property meets all the planning goals. We haven't leap frogged to get here. There are 3 subdivisions that butt up to this property. This whole area is highly developed. The property goes a little outside the north growth zone. Hope you find that this is a flexible zone. This is in the urban service zone for sewer. The decision to serve with city sewer was decided 20 years ago. This property is not in the MSA but as the MSA was being developed it was in and then out. Services are already there. What is the cost to tax payers since this property can't be annexed? It will cost more to not allow this development because the sewers are already there and paid for. The wastewater treatment plant was expanded to provide service. The money is in the ground. If no one connects to the lines then city pays for the maintenance of the mains. If you let this property be served there will be more people to help pay off the bonds. The plans were written to be followed and we are in conformance of them. He asked the Commission to approve the proposal with the exception of staff note #5.

Mr. Skoog asked what about the roads? Mr. Engler replied there was a TIA done and we will follow the requirements of the TIA. Mr. Boyd asked if the TIA included the intersection of 50th & Rochester? Steve LaCasse, Bartlett & West, replied no. Mr. Boyd said he thinks it should have been included due to the traffic at school times. Mr. Engler said staff set the parameters of the TIA. Mr. Boyd said there should be an urban service package. We should look at for

conditions of the road ways and 50th Street. Mr. Engler said the standards should be the same throughout the county. Mr. Boyd said he doesn't understand why this project does not have to take into account a major intersection? Mr. Engler stated the development is in the north part of the county and is good for the community. We all would like better roads but for the density in the area the roads are good enough. Mr. Boyd said how can roads improve if the development is way past the road needing to be improved?

Mr. Engler said he believes staff is trying to follow the defacto policy of City Council to recommend rejection of this plat. Mr. Engler said he would like the Commission to use planning principles to approve this plat and let us fight out the defacto policy with City Council.

Mr. Thurbon said it is important to understand our plans. The line on the map can't be taken in isolation. It must be used along with the plan text which says until growth works its way out to the further areas in the growth areas that developments should not be approved.

Mr. Engler says he agrees 100% but the map shows there is already growth in this area. We are just finishing out an area that has been building up in that past few years.

Mr. Boyd announced there would be a 10 minute break from the meeting.

Carl Capps, property owner, spoke in favor of the proposal. He said he has attended many discussions on the fringe growth policy. We picked this property due to available connection to sewer and water. Mr. Skoog asked what consideration was given with regards to the school? Mr. Capps said as a developer he looks for property to develop close to schools. That is where the growth is.

Pam Simecka, WPC representative said there have been administrative problems finding and billing customers for connections. We just found 100 people getting services without being charged. We have a problem with RWD #4 with ownership tracking. There have been connections without going through the proper channels. This is more of a problem in rural areas. There are Half Day Creek sewer agreements to get properties off of septic. The lines are Shawnee County financed but the City runs the system. The City does the preventative maintenance. The north Topeka plant expanded to accommodate properties to the north. The Half Day contract states the City will do preventative maintenance and billings. The pump at 50th & Kendall needs to be replaced. The pump station is owned by the County but they think the City should pay for the replacement. Mr. Boyd asked if all connections need to go through the City? Ms. Simecka replied yes. The problems we are having are illegal connections. Mr. Boyd said the City installed the lines, how was it paid for? Ms. Simecka replied we own Half Day Creek inceptor. We are paying for the lines with bonds. Mr. Thurbon asked if the dollars coming in from property owners was enough to cover the note? Ms. Simecka replied that is a good question. Sewer cost to property owners out in the county is 75% more than in the City. Mr. Boyd asked if the property in this proposal was included in the plans for the Half Day interceptor? Ms. Simecka replied yes. Mr. Engler said when the plans for the interceptor were being proposed they were proposed at 50% of the area developing. The payments on the note will not be made if 50% of the area is not connected.

No one spoke in opposition to the proposal.

Terry Simnitt moved approval, seconded by Theron Sims. **APPROVAL. (8-0-0)** Subject to conditions in the staff report, omitting condition #5.

Mr. Sims stated he thinks this is a policy issue. Urban development is driven by market demand and developers risk. Look at the facts. There is sunken cost in the sewer. The 40 acres outside the growth area should come in. All the infrastructure is there, water, sewer, roads and schools.

Mr. Boyd said this proposal is adjacent to infrastructure and development is or already has happened. It is hard to draw a line with regards to property taxes. What is best for the city is much more than collection of property taxes. He said he doesn't understand why the MSA stops at 35th Street; he doesn't understand the lines that were drawn at all. Mr. Thurbon said the reason the MSA stops at 35th Street is due to the need for a fire station and sewer system connection is limited due to topography. Mr. Boyd said if infrastructure is in place it should be included in the MSA.

**Minutes of the
Of the
Topeka Planning Commission
September 18, 2006**

Northridge Heights Subdivision (Final Plat Phase)(P06/18) by Kent and Linda G. Stancliffe on property located at 1720 NW 50th Street, within unincorporated Shawnee County, Kansas. **(Diediker)** Dean Diediker summarized the staff report.

MOTION:

Theron Sims moved approval, seconded by Ralph Skoog.

Discussion by members:

Mark Boyd questioned the condition regarding payment of the parkland fee. He asked if the Commission has ever made this a condition? Bill Fiander replied no, parkland fees are part of the subdivision regulations. There are two ways to pay, prior to recording at the City Clerk or when building permits are applied for. Since this subdivision is outside the city building permits will not be applied for with the city. The fee will have to be paid prior to recording with the Register of Deeds at the City Clerk's office. Mr. Boyd said this is more of a recommendation to the city council and if and if they and if the City Council decide to approve this plat then they are the ones to decide how payment will be made. Mr. Fiander added the city attorney will be consulted with to help to make that decision. Ralph Skoog asked if staff's recommendation for disapproval is due to the location? He said the planning commission recommended approval of the preliminary plat. I feel commissioners should state why they are in favor even though the staff is recommending disapproval. There is a great deal of development going on around this property. This property is served by sewer. Mr. Boyd said the minutes from the preliminary plat states the reason for approval. He requested the minutes for the preliminary plat be presented to city council. Fred Sanders asked if the city will retain the parkland fee money? Mr. Fiander replied yes. Mr. Sanders said the property isn't in the city. If they don't put a park in we will charge them? They will be charged \$225 per lot? Mr. Fiander replied yes because we have subdivision authority in the 3 mile area. Mr. Sanders said he heard the city doesn't want any more parks. Mr. Skoog added it isn't because they don't want them it is they can't maintain more parks with their budget. He added as a planning commission we have done very little when it comes to where parks and schools should be located. The city is growing and we should plan for it. Mr. Sanders stated he would like to have discussions on parks in the near future. Mr. Skoog said it is on the agenda for next Monday night.

SUBSTITUTE MOTION:

Mark Boyd made a substitute motion to approve the plat minus staff condition #4 regarding payment of the parkland fee, seconded by Fred Sanders.

Mr. Skoog said he believes it is out of the commission's hands to do that. He said this motion won't make them responsible for paying the fees. Mr. Boyd said he is against them paying the fees because there is no plan for the money. Mr. Skoog said he will oppose the substitute motion because it seems they aren't being obligated to pay the fees.

Mr. Boyd said to clarify the motion, he feels they are obligated to pay but since there is no plan for the money after it is received he doesn't feel they should have to pay. Kimberly Scott asked how can we charge them a fee? Mr. Boyd said in the subdivision regulations there is a fee requirement but no plans of how the money will be spent. Mr. Skoog said there is a plan. Mr. Boyd added it is not approved by the council. Mr. Fiander said the parkland fee was in place prior to the Parks Plan being adopted by city council. There was a revision collect and distribute the monies according to the plan but that was put on hold. The money is being collected to create new parks. Everyone must pay the fee. It is required at the time of building permits but in this case there are no building permits to be issued with this subdivision. Ms. Scott said no matter what they will have to pay this fee. Mr. Fiander said the commission can not vary the fee it is not a design variance. Only city council can change the fee requirements and that ordinance revision is before you for input next Monday.

Theron Sims withdrew his original motion.

No one spoke in favor or in opposition to the proposal.

RESTATED SUBSTITUTE MOTION:

Mark Boyd made a substitute motion to approve the plat minus staff condition #4 regarding payment of the parkland fee, seconded by Fred Sanders. **APPROVAL. (7-1-0) Commissioner Skoog voted no.**



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 1, 2006

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DATE: November 7, 2006

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

SECOND PARTY/SUBJECT: Implementation of a code
of ethics policy for the City
of Topeka **PROJECT #:**

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL: Referred to the Economic
and Community Dev.
Comm. 07/11/06 Referred
to the Economic and
Community Dev. Comm.
09/12/06 **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION relating to the implementation of a code of ethics policy for the City of Topeka, its elected officials, appointees and employees. *(The Economic and Community Development Committee recommended "Do Pass" by a vote of 2-0-0 on November 6, 2006.)*

POLICY ISSUE:

Whether the City Council wants to require that all elected and appointed officials of the City to be bound by a code of ethics.

STAFF RECOMMENDATION:

None

BACKGROUND:

City of Topeka Resolution No. 7473 established a code of ethics policy for the City of Topeka and applies to all public officials and employees of the City of Topeka. This Resolution requires that all elected and appointed officials receive a copy of Resolution 7473 and that all elected and appointed officials certify that they will conform to that ethics policy before assuming their elected or appointed position.

BUDGETARY IMPACT:

None

SOURCE OF FUNDING:

N/A

Item #9

ATTACHMENTS:

[Resolution](#)

[Committee Referral Sheet](#)

[11/06/06 Committee Referral Sheet](#)

RESOLUTION NO. _____

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr. relating to the implementation of a code of ethics policy for the City of Topeka, its elected officials, appointees and employees.

WHEREAS, the City of Topeka passed Resolution No. 7473 which established a code of ethics policy for the City of Topeka; and

WHEREAS, Resolution No. 7473 applies to the public officials and employees of the City of Topeka; and

WHEREAS, the special Council committee on diversity recommended, among other things, that all elected and appointed leaders of the City agree to conform to an ethics policy; and

WHEREAS, the Council believes that all elected and appointed officials of the City of Topeka should be aware of and be bound by the terms of the ethics policy.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS, that all elected and appointed officials be required to receive a copy of Resolution 7473 establishing a code of ethics policy and certify that they will conform to that ethics policy before assuming their elected or appointed position.

19 ADOPTED and APPROVED by the City Council _____.

20 CITY OF TOPEKA, KANSAS

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William W. Bunten, Mayor

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27 ATTEST:

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Iris E. Walker, City Clerk

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APPROVED AS TO FORM AND LEGALITY

DATE_____BY_____

COMMITTEE REFERRAL SHEET COMMITTEE REPORT

Name of Committee: Economic and Community Development

Referred by Deputy Mayor at Council meeting: May 23, 2006

Assigned to Committee by: _____

Date referred from Committee: June 28, 2006

Title: A Resolution regarding the implementation of a code of ethics policy for the City of Topeka, its elected officials, appointees and employees

Committee Action:

☐ Do Pass
☒ Do Not Pass
☐ Without Recommendation

Comments: Committee and staff will continue to work on a draft ordinance and resolution that will be brought forth as workable documents to the full City Council for consideration in the near future.

Amendments: None

Vote: 3-0

Members of Committee:

Chairperson John Nave

Lana Kennedy

Brett Blackburn

Signed: _____, Committee Chair

**Agenda Date Requested: July 11, 2006

COMMITTEE REFERRAL SHEET COMMITTEE REPORT

Name of Committee:	Economic and Community Development
Referred by City Council at Council meeting:	September 12, 2006
Date referred from Committee:	November 8, 2006
Title:	Resolution relating to the implementation of a code of ethics policy for the City of Topeka, its elected officials, appointees and employees
Committee Action:	Do Pass as amended
Vote:	2-0 in favor (Kennedy absent)
Comments:	None
Amendments:	See attached document
Members of Committee:	Chair John Nave, Brett Blackburn, Lana Kennedy
Agenda Date Requested:	November 21, 2006



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 1, 2006

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DATE: November 7, 2006

CONTACT PERSON: Don Rankin/Mike Teply **DOCUMENT #:**

SECOND PARTY/SUBJECT: Rural Water District #8 **PROJECT #:**

CATEGORY/SUBCATEGORY

CIP PROJECT: Yes

ACTION OF COUNCIL: Defer for one week.
08/01/06 Referred to the
Policy and Finance
Committee 08/08/09
Referred to the Policy and
Finance Com. 10/03/06 **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

A COMMUNICATION authorizing the amendment to the contract between the City of Topeka and Rural Water District No. 8 for the sale of water and specifically authorizing City Manager Norton N. Bonaparte to execute the contract amendment. (Removed from the Policy and Finance Committee "Without Recommendation" by a vote of 2-0-1 on November 6, 2006.)

(The amendment would permit the District to continue to serve its current customers in the event the City annexes a portion of the land served by the District.)

POLICY ISSUE:

State Statutes (K.S.A. 12-527) allow the City to assume water service to customers annexed into the City even if the customer was previously served by a Rural Water District. This contract amendment allows the City's rights to be exercised in a logical manner to the benefit of the City and the District and their customers.

Water rates of customers annexed into the City and served the District will be higher than other inside City water rates but this precedence is established by inside City wastewater customers of the Sherwood Wastewater Treatment Plant.

STAFF RECOMMENDATION:

Staff recommends approval for the following reasons:

- Existing District water system can be kept intact and absorbed into the City's water system in a more logical manner.
- Improvements to the District's water system can be accomplished as needed for customers annexed to ensure inside City fire protection.
- Reduces opposition to annexation.

BACKGROUND:

Item #10

Annexations within a Rural Water District generally create negative and costly effects upon the District's water distribution

system as well as cause the City to make expensive improvements to serve the new customers. In addition, the District may lose a substantial amount of their customer base and revenue without a significant reduction in costs. These negative effects naturally cause the District to oppose annexation by the City. This contract amendment allows the District the exclusive right to serve water within their boundaries for successive ten year periods until the City annexes a majority of their customers. If the City annexes a majority of the District's customers, the City can, at a 10 year period, assume all water service to customers annexed.

BUDGETARY IMPACT:

This action minimizes budgetary impacts to the water utility for annexation of areas within the District. Payment for District water assets per State Statutes and contract agreements will not have to be paid to the District upon annexation. Capital improvements to connect to the annexed areas will not have to be expended.

SOURCE OF FUNDING:

Water Utility Fund

ATTACHMENTS:

[Amendment to Contract](#)

[Map](#)

[Committee referral sheet](#)

[Committee referral sheet](#)

CITY OF TOPEKA CONTRACT NO. _____

AMENDMENT No. 2 TO CONTRACT WITH RURAL WATER
DISTRICT NO. 8 SHAWNEE COUNTY, KANSAS

THIS AMENDMENT to Contract No. 31696 is entered into this ____ day of _____, 2006, by and between the City of Topeka, Kansas, a duly organized Municipal Corporation hereinafter referred to as the "City" and Rural Water District No. 8, Shawnee County, Kansas hereinafter referred to as the "District."

WHEREAS the City of Topeka owns and operates a waterworks and water distribution system which produces an adequate supply of water by means, in part, of a filtration plant, which water has been approved by the Kansas Department of Health and Environment for domestic uses; and

WHEREAS, the District owns, operates, and maintains a water system, consisting of water mains and distribution lines within the District, which District is located outside the corporate limits of the City of Topeka and is shown on Exhibit A attached; and

WHEREAS, the City and the District are parties to the City of Topeka Contract No. 31696, dated February 8, 2002, as amended, which Contract remains in full force and affect. The term of that Contract is until February 8, 2022, subject to renewal or extension by agreement of the parties as provided in that Contract; and

WHEREAS, the parties further anticipate the possibility that the City may annex additional land located within the territory of the District and desire to create an environment which provides some assurance to both the City and the District about the

integrity of water service territories and the reasonable transfer of those service areas to the City if and when it becomes reasonable to do so. This Amendment is intended to address these goals.

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

1. Definitions.

The following words and phrases as used in this Contract shall have the meanings as follows:

“District Territory” shall mean the territory of the District as it existed on January 1, 2005. A map of the District Territory as defined herein is attached as Exhibit A.

“The Contract” shall mean the City of Topeka Contract No. 31696 between the City and the District dated February 8, 2002, as amended.

“Potential Annexed Area” shall mean that area shaded on the attached Exhibit A.

2. Water service to areas within the territory of the District following annexation by the City.

(a) In the event that the City annexes District Territory, the District shall provide water service to the annexed territory. Such service shall be in accordance with the by-laws, rules and regulations and policies of the District. The District has the facilities and capacity to provide water service throughout its territory in its present use. District policies generally require that owners of land pay for any improvements within a new subdivision and to pay for or contribute to certain improvements that may be required

outside of a new subdivision or water line extensions that may be needed to serve a particular property. The City shall grant the District an exclusive right, subject to the limitations contained herein, to provide water service to any area within the territory of the District which is annexed by the City.

(b) Notwithstanding the above, the exclusive right to provide water service in the event of annexation shall not include the portion of Exhibit A, labeled "Rockfire II." The parties anticipate and agree that if such area is annexed by the City, that the City shall have the right to provide water service to that area, to the exclusion of the District.

(c) No fees will be payable to the City pursuant to any such exclusive right to serve.

3. Exclusive right to serve; termination of exclusive right to serve.

For a period of ten (10) years following the date of this Contract, the District shall have the exclusive right to provide water service within the District Territory, and the City shall not provide or offer to provide water service to any land located within the District Territory, except as otherwise provided in 2.(b), above.

(a) This exclusive right to serve water to land located within the territory of the District may be terminated effective on the tenth anniversary of this Contract for the Potential Annexed Area, if each of the following conditions has been met:

- (1) Not less than ninety percent (90%) of all residential water services on land located within the Potential Annexed Area have been annexed by the City
- (2) The City has given the District written notice of its intent to exercise its option to terminate the District's exclusive right to provide service within the territory of the District not later than six (6) months prior to the tenth anniversary of this Contract; and
- (3) The City has satisfied one or more of those alternatives for protection of the District customers, paragraph 5.(a) through (d), below.

(b) If the City has not met the criteria for termination of the District's exclusive right to provide water service to the territory of the District as set out above, then the District's exclusive right to provide water service within the territory of the District shall be extended for an additional five (5) years, and for successive additional terms of five (5) years each thereafter throughout the term of this Contract until an election has been made and all criteria as provided in paragraph (a) subparagraphs (1)-(3), above are met by the City.

4. No duty to compensate.

Annexation of any portion of the shaded area on Exhibit A while the District retains the exclusive right to serve shall relieve the City from any duty to compensate the District per K.S.A. § 12-527 or Section 9 of the Contract.

5. Protection of District customers.

As assurance to the District that its water customers will not be unduly impacted as a result of a termination of the District's exclusive right to provide water service to the territory of the District, and for the City to be entitled to assume that right to provide water service to the Potential Annexed Area, and the termination of the District's right to provide service to that area, such action by the City shall be conditioned upon satisfying one or more of the following:

(a) The City shall acquire the remainder of the District Territory (that portion not shaded on Exhibit A). The parties acknowledge and agree that such acquisition is governed by K.S.A. (2005 Supp.) § 82a-649 and would require the approval of the governing body of the City, the Board of Directors of the District and the participating members of the District. In the event of acquisition of the District as provided in this subparagraph, no compensation shall be payable by the City to the District for annexation of District Territory pursuant to K.S.A. § 12-527 or paragraph 9 of the Contract.

(b) The City and the District contract for the City to provide operation and maintenance of the District and to provide a supply of water to the District upon terms and conditions agreeable to the City and the District. In

the event of such agreement for the City operation and maintenance of the District, no compensation shall be payable by the City to the District for annexation of District Territory pursuant to K.S.A. § 12-527 or paragraph 9 of the Contract.

(c) The remaining District shall consolidate the portion of the District outside the Potential Annexed Area with another Rural Water District.

(d) Payment to the District by the City for the annexed area of those amounts as provided in paragraph 9 of the Contract, adjusted for changes to the Consumer Price Index, Kansas City Region, between February, 2002 and the date of the City's election.

6. Release of land from the District.

The parties agree that upon effective exercise of the City's option to assume water service to the Potential Annexed Area and expiration or no renewal of any exclusive right to provide water service to that area, that by operation of law and this Contract that portion of the District's territory so annexed by the City will be automatically deleted from the territory of the District.

7. City Improvements to District facilities.

The parties acknowledge that the City may determine it necessary or desirable to improve or enhance District facilities located within annexed areas during the District's exclusive right to serve such areas and any such improvements shall be made at no cost to the District. The parties agree that in such event, the District shall grant the City, its engineers, agents, employees and contractors access to such facilities for the

purpose of evaluation and measurement, inspection, enhancements and/or improvements as reasonably determined necessary or advisable by the City. Plans and specifications for any such enhancements and/or improvements shall be subject to review and approval by the District, and once installed, shall be maintained by the District, at the expense of the District, as an integral part of the District's system. Provided, that title to any such enhancements and/or improvements shall belong to the City.

8. Term.

The term of the Contract as amended, shall be for twenty (20) years from the date of this Amendment.

9. Effect of Amendment.

This Amendment shall supplement the Contract, and shall supersede any terms contained in the Contract that are in conflict herewith. All other terms and conditions of the Contract not amended herein shall remain in full force and effect.

10. Miscellaneous.

The parties hereto agree that this Amendment, by mutual consent of the parties, may be amended by a document of equal formality. The parties further agree to consider any requests by the other party for an amendment and to negotiate the same in good faith. The Contract, as amended, shall bind the successors of the respective parties hereto to the same degree and extent to which the parties are themselves bound. This Contract is executed in duplicate, one (1) copy hereof for the City and one (1) copy hereof for the District.

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

CITY OF TOPEKA, KANSAS

Norton N. Bonaparte, Jr., City Manager

ATTEST:

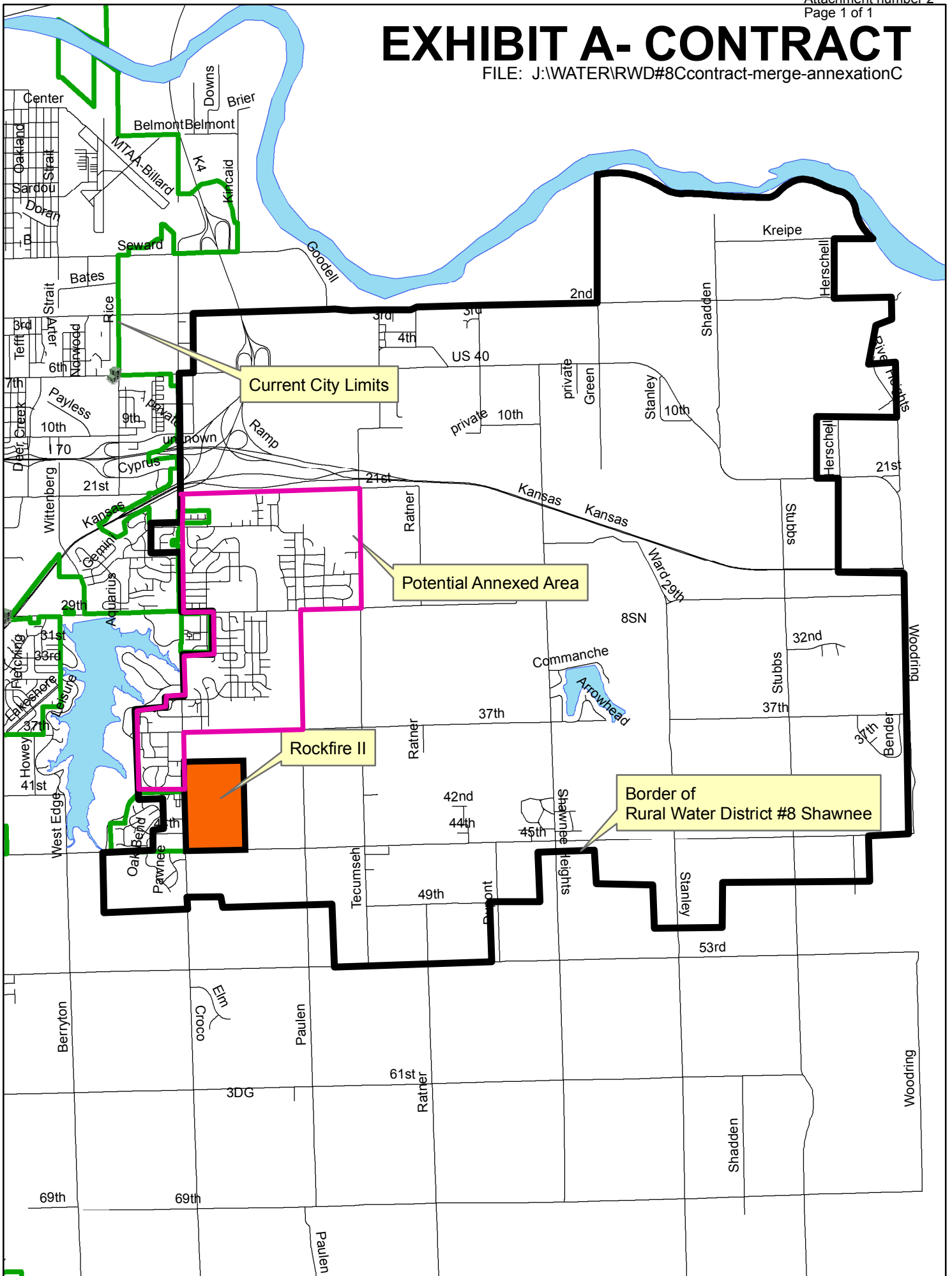
Iris E. Walker, City Clerk

RURAL WATER DISTRICT NO. 8
SHAWNEE COUNTY, KANSAS

David Rutkowski, Chairman

EXHIBIT A- CONTRACT

FILE: J:\WATER\RWD#8Contract-merge-annexationC



COMMITTEE REFERRAL SHEET COMMITTEE REPORT

**Name of
Committee:**

Policy and Finance

Title:

Contract amendment – Rural Water District # 8

**Date referred
from Council
meeting:**

August 8, 2006

**Date referred
from
Committee:**

September 11, 2006

**Committee
Action:**

Duffy moved that the item be sent out of Committee with no recommendation to the full Council. Motion passed 2-0 (Harmon absent). Guidance to staff to prepare a new contract with Committee amendments which are to be provided to RWD #8 Board Members for their consideration. Committee Members request that Council remand the issue back to the Policy and Finance Committee for further review.

Comments:

Amendments:

- 1) Approval of the contract amendment is conditioned upon the unilateral annexation of all contiguous, platted tracts of land located within the "Potential Annexed Area" and which also lie within the area subject to City of Topeka Contract No. 30746 (Sewer District No. 33). Land to be taken in one annexation action.
- 2) Limit to 200 the maximum number of new hookups in the area outside of the "Potential Annexed Area" as set out in Exhibit A.
- 3) Contract to include new Section 8 language: District's Opposition to future City Annexation.

**Members of
Committee:**

Chair Richard Harmon, Jeff Preisner, Clark Duffy

**Agenda Date
Requested:**

On or before 10/3/06

COMMITTEE REFERRAL SHEET

COMMITTEE REPORT

**Name of
Committee:**

Policy and Finance

Title:

Contract amendment – Rural Water District # 8

**Date referred
from Council
meeting:**

Remanded back October 3, 2006

**Date referred
from
Committee:**

November 6, 2006

**Committee
Action:**

Duffy moved to recommend do not approve to the full Council.

Harmon made a substitute motion to send the ordinance to the full Council as amended without recommendation. Motion passed 2-1 (Duffy voting no).

Comments:

Amendments:

- 1) Approval of the contract amendment is conditioned upon the unilateral annexation of all contiguous, platted tracts of land located within the "Potential Annexed Area" and which also lie within the area subject to City of Topeka Contract No. 30746 (Sewer District No. 33). Land to be taken in one annexation action.
- 2) Limit to 200 the maximum number of new hookups in the area outside of the "Potential Annexed Area" as set out in Exhibit A.
- 3) Contract to include new Section 8 language: District's Opposition to future City Annexation.

**Members of
Committee:**

Chair Richard Harmon, Jeff Preisner, Clark Duffy

**Agenda Date
Requested:**

On or before December 5, 2006



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 8, 2006

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DATE: November 7, 2006

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

SECOND PARTY/SUBJECT: Condemnation Ordinance **PROJECT #:** 12053-03

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

CIP PROJECT: Yes

ACTION OF COUNCIL: Approve the **JOURNAL #:**
Condemnation Ordinance

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing the initiation of condemnation proceedings to acquire property by eminent domain for City of Topeka Improvement Project No. 12053-03 which provides for the removal and replacement of the Topeka Boulevard Bridge over the Kansas River.
Final Reading. (Council District No. 1)

(This Ordinance will initiate condemnation proceedings to acquire property for the removal and replacement of the Topeka Boulevard Bridge over the Kansas River.)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

Staff recommends Council approve Condemnation Ordinance.

BACKGROUND:

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

BUDGETARY IMPACT:

To be determined by Condemnation appraisers.

SOURCE OF FUNDING:

Approved project budget - revenue bonds serviced from 1/2 cent county - wide sales tax; Federal Funds; and direct payment from 1/2 cent county - wide sales tax.

ATTACHMENTS:

[Ordinance](#)

Item #11

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing the initiation of condemnation proceedings to acquire property by eminent domain for City of Topeka Improvement Project No. 12053-03 which provides for the removal and replacement of the Topeka Boulevard Bridge over the Kansas River.

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

Section 1. That it is hereby declared necessary to condemn and appropriate for the use of the City of Topeka certain lands within the City of Topeka for Improvement Project No. 12053-03, and for other public purposes, said lands being described as follows:

Parcel No. 1

Owner of Record: Dirt and Gravel, Inc.
c/o Edward F. Murray, Jr.
402 Bluemont Circle
Manhattan, KS 66502

Contract Purchaser: NONE

Lienholder of Record: NONE

Party in Possession:

1. Vacant Lot
2. Union Pacific Railroad
c/o Legal Department
1400 Douglas Street
Omaha, NE 68179
3. International Mining Corporation
c/o Pacific Holding Corporation
10900 Wilshire Blvd
Los Angeles, CA 90024

PROPERTY INTEREST TO BE ACQUIRED:

Easement Interest of Party in Possession Nos. 2 and 3:

Beginning at the intersection of the Grantor's former main line track and a line 848 feet Southerly of the North line of Section 13, Township 11 South, Range 15 East, as measured along said former main track centerline; thence Northerly along said centerline through Sections 13, 12, and 1, Township 11 South, Range 15 East; thence Northerly through Sections 35, 26, 23, 14, 11 and 2, Township 10 South, Range 15 East to the Termination at the North line of said Section 2, being the North line of Shawnee County, Kansas.

Being a part of those interests Grantor's predecessor Chicago, Kansas & Nebraska Railway and Chicago, Rock island and Pacific Railway acquired through instruments filed with the Shawnee County, Kansas Recorder at the following book and page:

<u>Book</u>	<u>Page</u>
128	17
123	264
123	329
131	142
123	229
131	141
123	216
128	577

Parcel No. 11

Owner of Record: Rachel E. Hays
1411 NW Taylor Street, Lot 1011
Topeka, KS 66608

Contract Purchaser: NONE

Lienholder of Record: NONE

Party in Possession: Vacant land

PROPERTY TO BE ACQUIRED:

Fee Simple:

Tract 1:

Lots 170 and 172 on Topeka Avenue, in Curtis Addition to the City of Topeka, Shawnee County, Kansas.

Tract 2:

Lot 174 on Topeka Avenue, in Curtis Addition to the City of Topeka, Shawnee County, Kansas.

Parcel No. 12

Owner of Record:

1. Larry Joe Burge
1632 SW Oakley
Topeka, KS 66604

and at

713 Beatrice Street
Benton, IL 62812
2. Jessie Munoz Cortez
Address Unknown
3. Jesse M. Cortez
Address Unknown
4. Maria Munoz Cortez
Address Unknown
5. Gloria Munoz Cortez
Address Unknown
6. Gloria Deghand
Address Unknown
7. Monica Munoz Cortez
Address Unknown

120 8. Ricardo Munoz Cortez
121 Address Unknown
122
123 9. Richardo Cortez a/k/a Ricardo Cortez
124 Address Unknown
125
126 Contract Purchaser: NONE
127
128 Lienholder of Record: 1. Shawnee County Treasurer (Real Estate Taxes)
129 Shawnee County Courthouse
130 200 SE 7th St.
131 Topeka, KS 66603
132
133 2. Bankers Trust Co. of CA, N.A.
134 c/o Deutsche Bank National Trust Co.
135 300 S Grand Ave
136 Las Angles, CA 90071
137
138 Party in Possession: Vacant land
139
140 PROPERTY TO BE ACQUIRED:
141
142 **Fee Simple:**
143
144 Lots 176, 178 and 180 on Topeka Avenue, in Curtis Addition to the City of Topeka,
145 Shawnee County, Kansas, along with a strip of land between said Lot 180 and the
146 South side of Railroad Street.
147
148 **Parcel No. 17**
149
150 Owner of Record: United States Postal Service Washington, D.C.
151 PO Box 249502
152 Omaha, NE 68124-9505
153
154 Contract Purchaser: NONE
155
156 Lienholder of Record: NONE
157
158 Party in Possession: Owner of record
159

PROPERTY TO BE ACQUIRED:

Temporary Construction Easement:

A tract of land in the Southeast Quarter of Section 30, Township 11 South, Range 16 East of the 6th Principal Meridian, Shawnee County, Kansas, described as follows: Beginning at the intersection of the North line of West First Street with the West line of West Harrison Street which is also the southeast corner of Shrake Subdivision No. 2; thence N 70°-52'-16" W (from plat of subdivision) along the North line of West First Street a distance of 49.0 feet to the true point of beginning; thence N 19°-02'-19" E a distance of 24.0 feet; thence N 70°-52'-16" W a distance of 20 feet; thence S 19°-02'-19" W a distance of 24.0 feet to the North line of West First Street; thence S 70°-52'-16" E along the North line of West First Street to the point of beginning.

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

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

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

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

191 PASSED and APPROVED by the City Council_____.

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William W. Bunten, Mayor

196 ATTEST:

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200 _____
Iris E. Walker, City Clerk



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November 8, 2006

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DATE: November 7, 2006
CONTACT PERSON: Bill Fiander/David Thurbon **DOCUMENT #:**
SECOND PARTY/SUBJECT: Legend Ridge Estates **PROJECT #:** A06/17
CATEGORY/SUBCATEGORY: 014 Ordinances – Non-Codified / 001 Annexation
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, as amended, generally located at the northwest corner of SW Arvon Place and SW 21st Street within unincorporated Shawnee County, Kansas and surrounded by the City of Topeka corporate limits, and said land being annexed for all City purposes. **Final Reading.** (A06/17) (Council District No. 8)

(The property owners have granted their consent to annexation. Approval would annex a 16.30 acre-tract for potential commercial, office, and multi-family residential uses.)

POLICY ISSUE:

The proposed annexation is consistent with the City's Comprehensive Plan policy for annexation since the property is surrounded by the city corporate limits, and is already adequately provided with municipal services.

STAFF RECOMMENDATION:

In conjunction with all City reviewing departments, staff recommends that this request be **APPROVED**.

BACKGROUND:

- The property is surrounded by the City corporate limits.
- The property owners have granted their consent to annexation and have applied for a re-zoning to Planned Unit Development District which would allow an assisted living facility, multiple family residential, and supportive office/commercial uses.
- The property is already adequately provided with municipal services.
- City Council options:
 - **Adopt** the Ordinance taking such land into and making it a part of the City for all City purposes and assigning it to City Council District No. 8; or
 - **Disapprove** the Ordinance and the site would not be annexed into the City of Topeka.

BUDGETARY IMPACT:

Upon annexation, the subject property will be made a part of the City for all City purposes. A detailed service plan is not required for "consent" annexations.

Item #12

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Aerial](#)

[Consent to Annexation](#)

[Ordinance](#)



A06/17 - Legend Ridge Estates Annexation

PETITION FOR ANNEXATION

Now on this 7th day of September, 2006, comes Donald Schwart, Trustee of the Hall E. Harrison Family Trust, and Benjamin F. Blair, Trustee of the Benjamin F. Blair Trust, as owners of record of the following described real estate, by and through its duly authorized officers, having granted consent to annexation in writing and/or by recording of the plat of subdivision of _____, does hereby petition for annexation by the City of Topeka in accordance with the K.S.A. 12-520, *et seq.* as amended and any other laws of the State of Kansas of the following described real estate to wit:

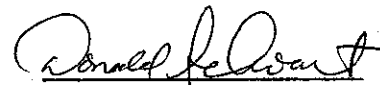
LEGAL DESCRIPTION:

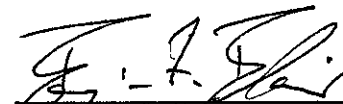
A PORTION OF THE SOUTH HALF OF THE WEST 40 ACRES OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 12 SOUTH, RANGE 15 EAST OF THE SIXTH PRINCIPAL MERIDIAN, SHAWNEE COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SOUTHEAST QUARTER; THENCE ON AN ASSUMED NORTH AZIMUTH OF 01 DEGREES 38 MINUTES 43 SECONDS, COINCIDENT WITH THE WEST LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 1335.37 FEET ALONG SAID WEST LINE TO THE SOUTHWEST CORNER OF LOT 1, BLOCK 'A' CAPITOL VIEW SUBDIVISION NO.1, AS RECORDED IN PLAT BOOK 39, PAGE 95, IN THE PUBLIC RECORDS OF SAID COUNTY; THENCE ON AZIMUTH 89 DEGREES 18 MINUTES 24 SECONDS, COINCIDENT WITH THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 662.77 FEET TO THE SOUTHEAST CORNER OF SAID LOT 1, COINCIDENT WITH THE WEST LINE OF WEST RIDGE MALL SUBDIVISION, AS RECORDED IN PLAT BOOK 31, PAGE 46, IN SAID PUBLIC RECORDS; THENCE ON AZIMUTH 181 DEGREES 34 MINUTES 23 SECONDS, COINCIDENT WITH THE EAST LINE OF SAID WEST 40 ACRES, ALSO BEING THE WEST LINE OF WEST RIDGE MALL SUBDIVISION, AS RECORDED IN BOOK 31, PAGE 46 OFFICIAL RECORDS OF SHAWNEE COUNTY, A DISTANCE OF 958.64 FEET TO THE NORTHEAST CORNER OF LOT 2 WESTRIDGE BUSINESS PARK NO. 2, AS RECORDED IN BOOK 38, PAGE 92 IN SAID PUBLIC RECORDS; THENCE ON AZIMUTH 269 DEGREES 11 MINUTES 37 SECONDS, COINCIDENT WITH THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 464.53 FEET TO THE NORTHWEST CORNER OF SAID LOT 2; THENCE ON AZIMUTH 181 DEGREES 25 MINUTES 35 SECONDS, A DISTANCE OF 374.96 FEET TO THE SOUTH LINE OF SAID SOUTHEAST QUARTER; THENCE ON AZIMUTH 269 DEGREES 09 MINUTES 42 SECONDS, A DISTANCE OF 199.89 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED PARCEL CONTAINING 16.30 ACRES, MORE OR LESS.

The undersigned owner of record of the above described real estate does hereby waive any right under K.S.A. 12-520(h) as amended to maintain an action challenging the authority of the City to annex the land described herein or the regularity of the proceedings had in connection therewith

This Petition for annexation shall run with the land described above and shall be binding upon the heirs, successors and assigns of the undersigned and shall be filed of record with the Shawnee County Register of Deeds upon execution.


Donald Schwart, Trustee
Hall E. Harrison Family Trust


Benjamin F. Blair, Trustee
Benjamin F. Blair Trust

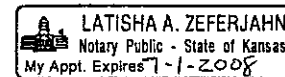
STATE OF KANSAS)
) SS:
COUNTY OF SHAWNEE)

BE IT REMEMBERED, that on this 1st day of September A.D., 2006, before me the undersigned, a Notary Public, in and for the County and State aforesaid, came Donald Schwart, Trustee of the Hall E. Harrison Family Trust who is personally known to me to be the individual, Trustee of the named trust, who executed the foregoing Petition for Annexation, on behalf of said trust, and such person duly acknowledged the execution of the same.

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

Latisha A. Zeferjahn
Notary Public
7-1-2008
Term Expires

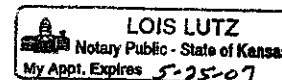
STATE OF KANSAS)
) SS:
COUNTY OF SHAWNEE)



BE IT REMEMBERED, that on this 7 day of September A.D., 2006, before me the undersigned, a Notary Public, in and for the County and State aforesaid, came Benjamin F. Blair, Trustee of the Benjamin F. Blair Trust, who is personally known to me to be the individual, Trustee of the named trust, who executed the foregoing Petition for Annexation, on behalf of said trust, and such person duly acknowledged the execution of the same.

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

Lois Lutz
Notary Public
5-25-07
Term Expires



(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, as amended, generally located at the northwest corner of SW Arvon Place and SW 21st Street within unincorporated Shawnee County, Kansas and surrounded by the City of Topeka corporate limits, and said land being annexed for all City purposes **(A06/17) (Council District No. 8)**

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

Section 1. That the following described land, meeting the conditions for annexation prescribed in K.S.A. 12-520(a)(7), as amended, is hereby annexed and made a part of the City of Topeka, Kansas:

A tract in the South Half of the West 40 Acres of the Southeast Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M., in Shawnee County, Kansas, described as: Beginning at the intersection of the West line of the Southeast Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M. with a line which is 30 feet north of the South line of said Southeast Quarter; thence northerly to the Southwest corner of the North Half of the West 40 Acres of said Southeast Quarter; thence easterly, to the Southeast corner of the North Half of the West 40 Acres of said Southeast Quarter; thence southerly, to the Northeast corner of Lot 2 in Westridge Business Park; thence westerly, on the North line of Westridge Business Park, and its extension, to an intersection with a line which is 25 feet west of the West line of Westridge Business Park; thence southerly, on a line which is 25 feet west of the West line of Westridge Business Park, to an intersection with a line which is 30 feet north of the South line of said Southeast Quarter; thence westerly, to the point of beginning. Contains 15.98 acres, more or less.

Section 2. That all land described in Section 1 of this Ordinance is taken into and made a

part of the City for all City purposes and is assigned to City Council District No. 8.

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

PASSED AND APPROVED by the Council of the City of Topeka, _____, 2006.

William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk

To Be Codified _____
Not To Be Codified X



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Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 8, 2006

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DATE: November 7, 2006
CONTACT PERSON: Brett Blackburn **DOCUMENT #:**
SECOND PARTY/SUBJECT: Violation of Animal Ordinance **PROJECT #:**
CATEGORY/SUBCATEGORY 013 Ordinances - Codified / 018 Animals
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by Councilmember Brett Blackburn amending City of Topeka Code Section 18-2 concerning mandatory minimum punishment of the owner, harbinger or possessor of an animal violating the animal ordinance Chapter 18, except subsection 18-8 and 18-145, and repealing said original section. Final Reading.

(Approval will amend the sentencing provisions for minor animal offenses and make them consistent with the general penalty provisions of City Code thereby eliminating mandatory court appearances and allowing persons charged with these minor violations to pay their fines and fees by mail or at the Municipal Court Clerk's Office. This change will not alter the penalties or required court appearances for Pit Bull or Vicious Animal violations.)

POLICY ISSUE:

Whether or not to change the fine and imprisonment sentencing limits.

STAFF RECOMMENDATION:

BACKGROUND:

The judge of the municipal court of the city shall upon a conviction of any section in this chapter, other than sections 18-8 and 18-145, sentence the owner, harbinger or possessor of the animal to a fine of not less than one \$1.00 or more than \$499.00 or imprisonment in the city jail for not more than 179 days, or both fine and imprisonment not to exceed \$499.00 or 179 days in the city jail.

BUDGETARY IMPACT:

None

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

Item #13

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Councilmember Brett Blackburn amending City of Topeka Code §18-2 concerning mandatory minimum punishment of the owner, harbinger or possessor of an animal violating the animal ordinance Chapter 18, except §§ 18-8 and 18-145, and repealing said original section.

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

Section 1. That City of Topeka Code § 18-2, Violations of chapter, mandatory minimum punishment, is hereby amended to read as follows:

Violations of chapter, mandatory minimum punishment.

The judge of the municipal court of the city shall, upon a conviction of any section in this chapter, other than sections 18-8 and 18-145, sentence the owner, harbinger or possessor of such animal as follows:

(1) ~~Upon a first conviction, the sentence shall be not less than \$50.00 nor more than \$100.00.~~ Fine. A fine of not less than one dollar (\$1.00) or more than four hundred ninety-nine dollars (\$499.00); or

(2) ~~Upon a second conviction, the sentence shall be not less than \$150.00 nor more than \$200.00.~~ Imprisonment. Imprisonment in the city jail for not more than one hundred seventy-nine (179) days; or

(3) ~~Upon a third or subsequent conviction, the sentence shall be not less than \$499.00 and not less than two days' imprisonment nor more than ten days' imprisonment.~~ Both fine and imprisonment. Both fine and imprisonment not to exceed subsections (1) and (2) of this section.

(4) ~~If there are multiple charges arising out of one incident, all charges shall be treated at the same level. For the purposes of determining whether a conviction is a first, second, third or subsequent conviction, the term "conviction" includes a conviction of a violation of any ordinance of any city or a law of any state which is in substantial conformity with this chapter.~~

Section 2. That original City of Topeka Code § 18-2 is hereby specifically repealed.

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

PASSED and APPROVED by the City Council _____.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk



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November 5, 2006

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DATE: November 7, 2006
CONTACT PERSON: Jim Langford DOCUMENT #:
SECOND PARTY/SUBJECT: PROJECT #:
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

A COMMUNICATION from City Manager Norton N. Bonaparte, Jr., requesting that a public hearing be set for December 5, 2006, at 6:00 pm at the City Council Chambers, 214 E. Eighth Street, to hear and answer objections of taxpayers to proposed amendments to the 2006 Budget.

(Kansas law requires local governments to hold a public hearing to receive input from the public on proposed budget amendments. Notice must be published at least 10 days prior to the hearing. Approving the communication would authorize publication of the Notice of Public Hearing in the November 24, 2006 edition of the Metro News.)

POLICY ISSUE:

Cities are authorized by K.S.A. 79-2929a to amend budgets to spend money not in the original budget. The additional expenditures cannot be financed by additional tax levy. The policy question is whether to set a public hearing and consider amending the 2006 budget to include certain transfers, and make other expenditure adjustments to bring budget into conformity with state law before the end of year audit.

STAFF RECOMMENDATION:

Set the Public Hearing for December 5, 2006.

BACKGROUND:

These are recommended technical amendments to show certain transfers and expenditures properly. The amendments would accomplish the following: 1) **Correctly show two unbudgeted transfers from the General Fund to the Miscellaneous Grants Fund.** The first is \$23,396 and represents the City's match to federal monies for the Intelligent Transportation System (ITS) project. It is split between the Planning Department (\$13,396) and the Public Works Department (\$10,000). The second of \$31,800 is the 20% match to develop the Long Range Transportation Plan (LRTP) and is 80% federally funded through the Metropolitan Transportation Planning Organization (MTPO). 2) Reflects unbudgeted transfer of \$4,232 from the General Fund to a traffic signal project at 10th and Washburn. The project was authorized by Resolution 7722 and financed from the General Fund contingency. 3) Reflects unbudgeted transfer of \$100,000 from the General Fund to project 13155-00 to replace the elevator system in the Holliday Building. The project is scheduled to be before the City Council for action on November 27, 2006. 4) Reflects unbudgeted transfer of \$46,000 from the General Fund for a project to remodel the Water Express room on the first floor of City Hall to a conference room. The project should be before the City Council on November 27, 2006. 5) Increase expenditures from the General Improvement Fund by \$99,899 to

correctly reflect the expenditure and transfer made to the City Hall Roof Project as coming from the General Improvement Fund rather than bond proceeds. The expenditure should have been shown in 2005, but there was misunderstanding on the funding source in the project budget ordinance. The increase is financed by the fund balance that is \$105,261 higher than budgeted because the monies did not get spent in 2005. 6) Correctly show as a transfer from the General Improvement Fund the \$200,000 authorized for Affordable Housing Projects.7) Authorize expenditures of up to \$350,000 from the KP&F Equalization Fund in 2006. This fund is used to pay the excess liability created when KP&F employees retire with final paychecks that push the final average salary above the amount anticipated by KPERS. This creates unfunded retirement liability to the retirement system and KPERS bills the City to cover that. Paying the unfunded liability up front prevents the City from paying interest and helps hold down the incremental growth of the KP&F employer rate. Fund was authorized in bond document and not included in 2006 Adopted Budget (it is included in 2007 Budget). 8) Reflects unbudgeted transfer and establishes expenditure limit for the Half-Cent Sales Tax Fund. The fund was shown as a trust fund in the 2006 Adopted Budget, not a budgeted fund. The City's accounting staff and external auditor later determined that to properly reflect the monies coming into the fund from the half-cent sales tax and going to authorized projects it should be budgeted as a special revenue fund. The amendment reflects total transfers of \$1,332,388 to city projects and establishes the overall expenditure limit equal to the estimated revenue.

BUDGETARY IMPACT:

The amendment will increase expenditures for 2006 from the General Improvement Fund by \$99,899 to accommodate an expense that was to have been made from the fund in 2005. It will establish an expenditure limit of \$350,000 for the Kansas Police and Fire Rate Equalization Fund; and establish an expenditure limit of \$8,700,000 for the Half-Cent Sales Tax Fund to allow proper accounting for projects funded from those revenues. The remaining amendments authorize transfers of previously budgeted monies.

SOURCE OF FUNDING:

The amendment will affect the General Fund, the General Improvement Fund, the Half-Cent Sales Tax Fund, and the Kansas Police and Fire Rate Equalization Fund.

ATTACHMENTS:

[Notice of Public Hearing to Amend 2006 Budget](#)

NOTICE OF BUDGET HEARING AMENDING THE 2006 BUDGET

The governing body of the CITY OF TOPEKA, KANSAS will meet on the 5th day of December, 2006 at 6:00 pm,
at the CITY COUNCIL CHAMBERS at 214 E. Eighth Street, for the purpose of hearing and answering
objections of taxpayers relating to the proposed amended use of funds.

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

BUDGET SUMMARY

The amendments would reflect transfers from the General Fund, General Improvement Fund, and Half-Cent Sales
Tax Fund; increase expenditures from the General Improvement Fund;
and authorize expenditures from the Kansas Police and Fire Rate Equalization Fund and the Half-Cent Sales Tax Fund.

Fund	Adopted Budget 2006			Proposed Amendment 2006
	Actual Tax Rate	Amount of Ad Valorem Tax	Expenditures	Expenditures
General	10.855	\$10,631,274	\$73,759,961	\$73,759,961
General Improvement	0.155	\$151,721	\$306,654	\$406,553
Kansas Police and Fire Rate Equalization	--	--	--	\$350,000
Half-Cent Sales Tax	--	--	--	\$8,700,000

By Order of the governing Body:

City Clerk



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Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 8, 2006

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DATE: November 7, 2006

CONTACT PERSON: Linda Wood **DOCUMENT #:**

SECOND PARTY/SUBJECT: Weekly Expenditures **PROJECT #:**
Authorization, Week Ended
November 5, 2006

CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 005 Miscellaneous

CIP PROJECT: No

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

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period October 30, 2006, through November 5, 2006, and enumerating said expenditures therein. First and Final Reading.

POLICY ISSUE:

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

STAFF RECOMMENDATION:

Adopt the Ordinance as presented.

BACKGROUND:

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

BUDGETARY IMPACT:

Approves expenditures for the period October 30, 2006, through November 5, 2006, in the amount of \$791,871.18.

SOURCE OF FUNDING:

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

ATTACHMENTS:

[Weekly Expenditure Ordinance, Week Ended November 5, 2006](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte Jr., allowing and approving City expenditures for the period of October 30, 2006, through November 5, 2006, and enumerating said expenditures herein.

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

Section 1. All expenditures made or authorized to be made by issuance of checks or electronic transfers as enumerated herein, are in accordance with City of Topeka Resolution No. 7607.

Section 2. The claims and expenditures listed in Exhibit A, which is on file in the City Council Office and the City Clerk's Office and incorporated herein by said reference, are hereby allowed and approved for payment.

<u>Section 3.</u>	Total for 179 vendor checks written in this period	\$558,386.38
	Total vendor checks voided in this period (net)	-0-
	Total electronic transfers to vendors in this period	233,070.74
	Total net payroll to employees this period	414.06
	Total payroll related electronic transfers this period	-0-
	Total for expenditures in this period	<u>\$ 791,871.18</u>

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

PASSED and APPROVED by the City Council _____.

ATTEST:

William W. Bunten, Mayor

Iris E. Walker, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 13, 2006

+ Back Print

DATE: November 7, 2006

CONTACT PERSON: Linda Wood **DOCUMENT #:**

SECOND PARTY/SUBJECT: Weekly Expenditures **PROJECT #:**
Authorization, Week Ended
November 12, 2006

CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 005 Miscellaneous

CIP PROJECT: No

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

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period November 6, 2006, through November 12, 2006, and enumerating said expenditures therein. First and Final Reading.

POLICY ISSUE:

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

STAFF RECOMMENDATION:

Adopt the Ordinance as presented.

BACKGROUND:

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

BUDGETARY IMPACT:

Approves expenditures for the period November 6, 2006, through November 12, 2006, in the amount of \$6,460,539.43.

SOURCE OF FUNDING:

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

ATTACHMENTS:

[Weekly Expenditure Ordinance, Week Ended November 12, 2006](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte Jr., allowing and approving City expenditures for the period of November 6, 2006, through November 12, 2006, and enumerating said expenditures herein.

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

Section 1. All expenditures made or authorized to be made by issuance of checks or electronic transfers as enumerated herein, are in accordance with City of Topeka Resolution No. 7607.

Section 2. The claims and expenditures listed in Exhibit A, which is on file in the City Council Office and the City Clerk's Office and incorporated herein by said reference, are hereby allowed and approved for payment.

<u>Section 3.</u>	Total for 406 vendor checks written in this period	\$3,387,798.46
	Total vendor checks voided in this period (net)	-0-
	Total electronic transfers to vendors in this period	726,332.93
	Total net payroll to employees this period	1,289,552.95
	Total payroll related electronic transfers this period	<u>1,056,855.09</u>
	Total for expenditures in this period	<u>\$6,460,539.43</u>

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

PASSED and APPROVED by the City Council _____.

ATTEST:

William W. Bunten, Mayor

Iris E. Walker, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 8, 2006

+ Back Print

DATE: November 7, 2006

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

SECOND PARTY/SUBJECT: Topeka Planning Commission **PROJECT #:** Z06/17

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

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at the northwest corner of SW 10th Avenue and SW Urish Road in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "R-1" Single Family Dwelling District. **Final Reading** (Z06/17) (Council District No. 9) (The Planning Commission recommended approval by a vote of 7-0-1 on October 16, 2006.) (The Planning Department recommended approval.)

(The zoning change is being sought in conjunction with the development of Gail Subdivision to be more reflective of an urbanizing single-family area within the City.)

POLICY ISSUE:

Request is consistent with the land use principles of the Comprehensive Plan.

STAFF RECOMMENDATION:

The Planning Commission recommended this proposal be **APPROVED** by a vote of 7-0-1 at their October 16, 2006 meeting. The Planning Department recommended that this request be **APPROVED**.

BACKGROUND:

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

BUDGETARY IMPACT:

N/A

Item #17

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Ordinance](#)

[Vicinity Map](#)

[Aerial](#)

[Staff Report](#)

[PC minutes](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property commonly known as Gail Subdivision, located at the northwest corner of SW 10th Avenue and SW Urish Road in the City of Topeka, Kansas from "RR-1" Residential Reserve District **TO** "R-1" Single Family Dwelling District. **(Z06/17) (Council District No. 9)**

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

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

All of Gail Subdivision.

from "RR-1" Residential Reserve District **TO** "R-1" Single Family Dwelling District.

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

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

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

PASSED AND APPROVED by the Council of the City of Topeka, _____, 2006.

William W. Bunten, Mayor

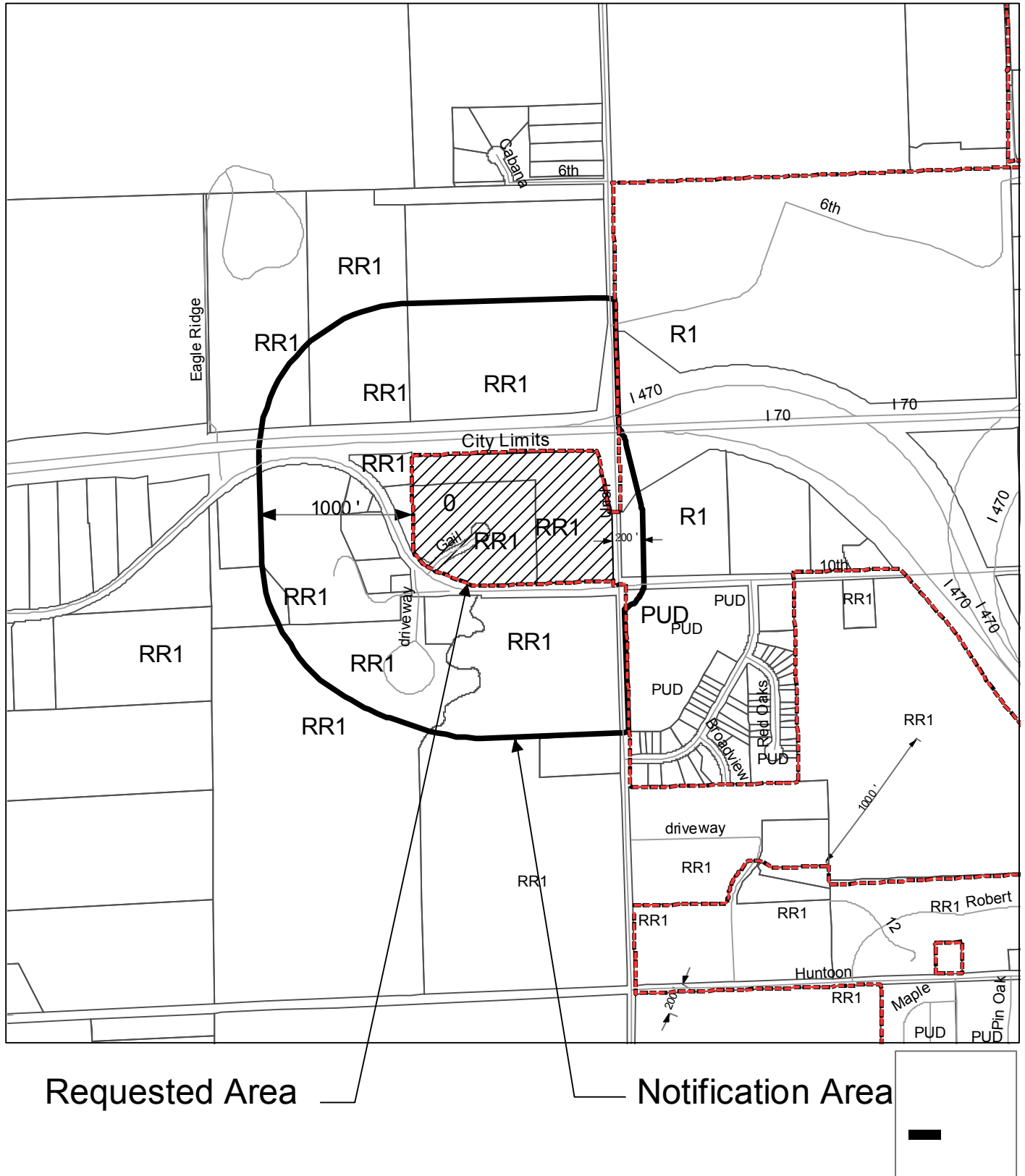
ATTEST:

Iris E. Walker, City Clerk

To Be Codified _____

Not To Be Codified X

Z06/17 By Topeka Planning Commission





Z06/17 Topeka Planning Commission (Gail Subdivision)

October 16, 2006
Agenda Item # G-4a

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z06/17

by: Topeka Planning Commission

PROPOSAL: Zone change from “RR-1” Residential Reserve District to “R-1” Single Family Dwelling District on property commonly known as Gail Subdivision.

LOCATION: On property located at the northwest corner of SW 10th Avenue and SW Urish Road.

PARCEL ID NUMBERS: 0993101003001000 and 0993101003004000

BACKGROUND: The purpose of the “RR-1” Residential Reserve District is to provide for a transitional area between urbanized development and rural-agricultural areas. “RR-1” zoning comprises most of the Municipal Service Area (MSA) and is intended to allow for the gradual development of urban uses while providing for the coexistence of agricultural farmland based upon the availability of municipal services. In essence, this land is “reserved” for future urbanization. Once platted and annexed, these areas in theory lose their transitional status as designated under “RR-1” zoning and should reflect a more appropriate urban zoning classification, such as “R-1” Single Family Dwelling District.

Rezoning to “R-1” prohibits the types of agricultural/farming uses allowed by right that are no longer compatible with the expectations of urban development. The “RR-1” district also allows many other potentially conflictive uses through a conditional use permit (e.g. kennels, billboards, sanitary landfill, oil/gas drilling, storage of fertilizers, pesticides, etc.) and fails to establish a minimum lot size for subdivisions. Conversion to “R-1” easily distinguishes those areas that are zoned for urban development in the City from those not in the City.

PRESENT USE: The subject property is platted as Gail Subdivision. The subdivision was recorded in November 2005. Lots 2 through 12 are proposed for single-family residential development consisting of 12.42 acres. Lot 1 comprises 12.97 acres and is proposed for development of a church.

CHARACTER OF NEIGHBORHOOD: The neighborhood is undeveloped agricultural land located on the advancing fringe of residential development in southwest Topeka. This area is characterized by a combination of undeveloped agricultural land and areas previously platted for office and residential development.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

ZONING CLASSIFICATION	PRESENT LAND USE
North: “RR-1” Residential Reserve District	Vacant and undeveloped
South: “RR-1” Residential Reserve District	Vacant and undeveloped
East: “R-1” Single Family Dwelling District	Vacant and undeveloped
West: “RR-1” Residential Reserve District	Vacant and undeveloped

October 16, 2006
Agenda Item # G-4a

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR IT'S CURRENT USE UNDER PRESENT CLASSIFICATION: The property has remained vacant and unimproved since its platting in November 2005 as Gail Subdivision and its annexation in the City in January 2006.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The subject property is currently zoned residential reserve district. The site's present classification is viewed as being incompatible and inconsistent for development within the corporate limits. As currently zoned some land uses such as farming/agricultural uses are permitted by right with others permitted by conditional use permit that are not reflective of the property's current urban status. In an "RR-1" District uses such as animal husbandry, oil drilling, kennels, agricultural storage facilities and such are allowed, which may be seen as nuisances in an urban residential area.

CONFORMANCE TO COMPREHENSIVE PLAN: The *Comprehensive Plan* designates the area for *Urban/Suburban Low Density Residential* land use. Rezoning the property to the "R-1" Single Family Dwelling District will make the area more compatible with other urbanized areas of the City that are contiguous to the site. The proposal is therefore viewed as being **consistent** with the plan.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY: Rezoning the property to the "R-1" Single Family Dwelling District will allow the property to develop more consistent with an urbanizing area. As the fringe areas around Topeka continue to grow, this area will only become more urban in character and therefore the "RR-1" Residential Reserve District zoning is no longer appropriate. Based upon the established land use patterns, the proposed reclassification for the site to the "R-1" Single Family Dwelling District seems more compatible with the area and no detrimental effects are anticipated.

THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE LANDOWNER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER: There is no hardship to the public or reduced value to the landowner due to the proposed change in zoning. As no detrimental effects are anticipated, there would appear to be no particular gain to the public health, safety or welfare by maintaining the present restrictions.

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are presently available to this site and will not be overburdened by this proposal.

CONCERNS OF STAFF AND REVIEWING AGENCIES: No significant issues or concerns were expressed by reviewing staff relative to code compliance or the provision of public services.

STAFF RECOMMENDATION: Based upon the above findings and analysis Planning Staff recommends **APPROVAL** of this proposal.

Prepared by: Cindy Johnson,
Planner I

DRAFT

**Minutes of the
Of the
Topeka Planning Commission
October 16, 2006**

Z06/17 by Topeka Planning Commission requesting to amend the District Zoning Classification from "RR-1" Residential Reserve District **TO** "R-1" Single Family Dwelling District on property commonly known as Gail Subdivision, located at the northwest corner of SW 10th Avenue and SW Urish Road in the City of Topeka, Kansas. **(Johnson)** Bill Fiander summarized the staff report.

Discussion by members:

Mark Boyd said in the past an RR-1 zone property that was annexed into the city it converted to R-1 at the time of annexation. There is a separate process now? Mr. Fiander said there is no automatic switch. We have had to go back through many annexed subdivisions and change them from RR-1 to R-1. There have been some discussions to do that but nothing brought forth. David Thurbon said the practice varied for years. RR-1 is like a holding zone with the thought it will eventually become urban living areas. Since the county has zoning jurisdiction we can't do the rezoning until the property is annexed in the city. Mr. Boyd stated all the following cases have been annexed. All the subdivisions in these cases have been approved. We are only changing it to urbanize zoning. Terry Simnitt asked what is the difference between RR-1 and R-1? Mr. Fiander said some uses allowed in RR-1 are kennels, agricultural, billboards and other uses. In R-1 schools, parks as well as single family housing is allowed. Ralph Skoog asked what if the current use is agricultural? Mr. Thurbon replied it is grandfathered until such use ceases.

Opponents:

Allen Chaver, property owner to the west of the subject property. He stated there was a large curve around the property. There is an open county road. Surveyor changed the property lines. Half of the property goes to each on either side of the road. He said the hedge row lowers the property value on the property to the west of this subject property. Mr. Boyd stated it is not this body's discussion where property lines are surveyed. The surveyor is to research whether the road has been vacated. Mr. Boyd said to find out for sure you would have to hire a surveyor of your own to prove it. Mr. Skoog said we don't have a right to change property lines. Mr. Chaver asked how do we get it changed? Mr. Boyd said to hire a private surveyor to resolve the dispute. Mr. Chaver said the property lines aren't changed when a property is rezoned or platted? Mr. Boyd replied no.

Exparte communications: NONE

Ralph Skoog moved approval as written by staff, seconded by Terry Simnitt. **APPROVAL. (7-0-1) Commissioner Brown abstained.**



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 8, 2006

+ Back Print

DATE: November 7, 2006

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

SECOND PARTY/SUBJECT: Topeka Planning Commission **PROJECT #:** Z06/21

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

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located south of SE 29th Street about 1/4 mile west of SE West Edge Road and east of Kansas Turnpike in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "R-1" Single Family Dwelling District. **Final Reading.** (Z06/21) (Council District No. 4) (The Planning Commission recommended approval by a vote of 7-0-1 on October 16, 2006.) (The Planning Department recommended approval.)

(The zoning change is being sought in conjunction with the development of Woodland Trail Subdivision to be more reflective of an urbanizing single-family area within the City.)

POLICY ISSUE:

Request is consistent with the land use principles of the Comprehensive Plan.

STAFF RECOMMENDATION:

The Planning Commission recommended this proposal by **APPROVED** by a vote of 7-0-1 at their October 16, 2006 meeting. The Planning Department recommended that this request by **APPROVED**.

BACKGROUND:

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

BUDGETARY IMPACT:

N/A.

Item #18

SOURCE OF FUNDING:

N/A.

ATTACHMENTS:

[Vicinity Map](#)

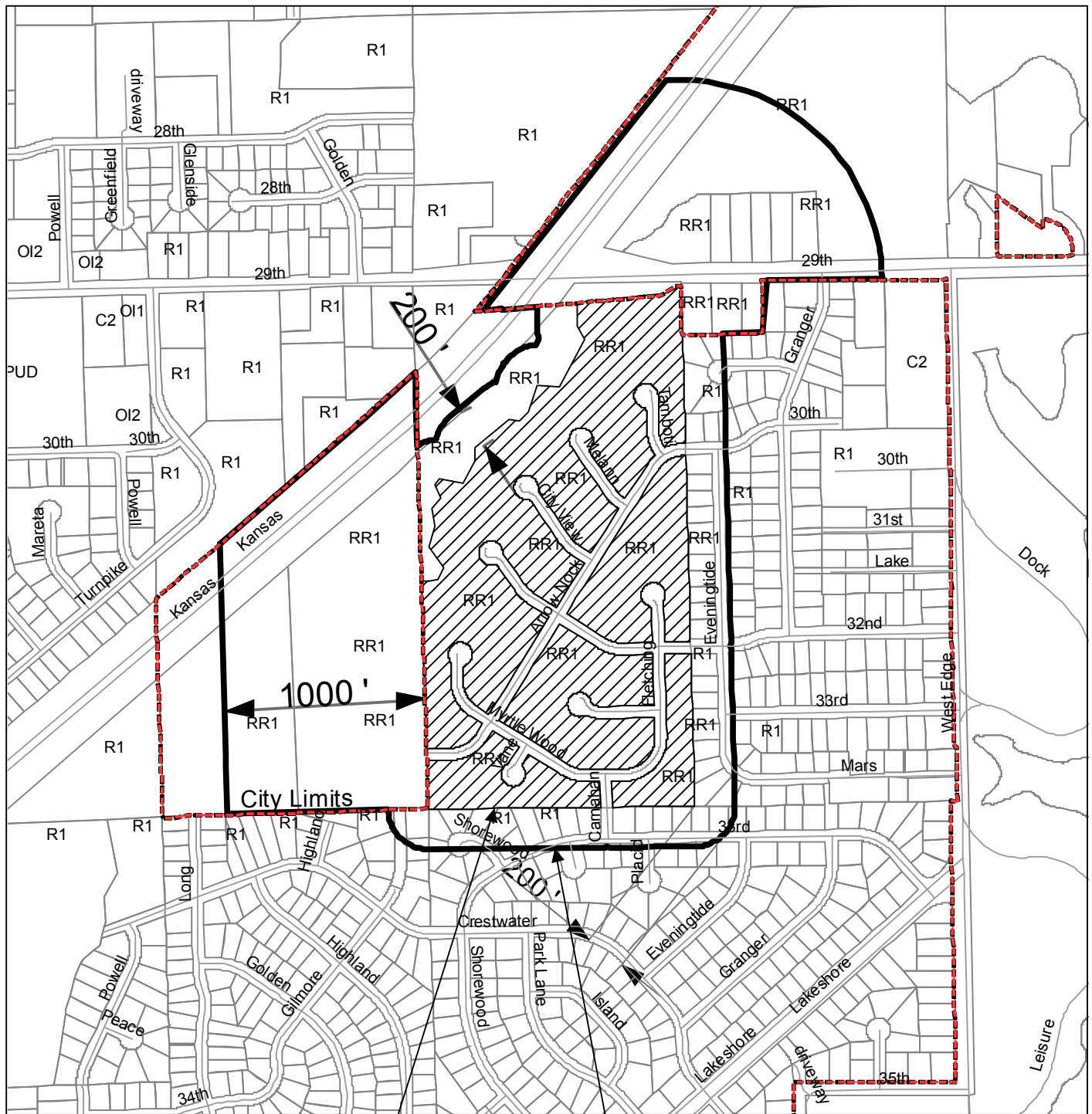
[Aerial](#)

[Staff Report](#)

[PC minutes](#)

[Ordinance](#)

Z06/21 By Topeka Planning Commission



Requested Area

Notification Area



Z06/21 Topeka Planning Commission (Woodland Trail Subdivision)

October 16, 2006
Agenda Item #G-4b

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z06/21

by: Topeka Planning Commission

PROPOSAL: Zone change from “RR-1” Residential Reserve District to “R-1” Single Family Dwelling District on property commonly known as Woodland Trail Subdivision.

LOCATION: On property located south of SE 29th Street about ¼ mile west of SE West Edge Road and east of Kansas Turnpike.

PARCEL ID NUMBERS:

1351601009017000 1351601010001000 1351601002023000 1351601005012000 1351601003001000

BACKGROUND: The purpose of the “RR-1” Residential Reserve District is to provide for a transitional area between urbanized development and rural-agricultural areas. “RR-1” zoning comprises most of the Municipal Service Area (MSA) and is intended to allow for the gradual development of urban uses while providing for the coexistence of agricultural farmland based upon the availability of municipal services. In essence, this land is “reserved” for future urbanization. Once platted and annexed, these areas in theory lose their transitional status as designated under “RR-1” zoning and should reflect a more appropriate urban zoning classification, such as “R-1” Single Family Dwelling District.

Rezoning to “R-1” prohibits the types of agricultural/farming uses allowed by right that are no longer compatible with the expectations of urban development. The “RR-1” district also allows many other potentially conflictive uses through a conditional use permit (e.g. kennels, billboards, sanitary landfill, oil/gas drilling, storage of fertilizers, pesticides, etc.) and fails to establish a minimum lot size for subdivisions. Conversion to “R-1” easily distinguishes those areas that are zoned for urban development in the City from those not in the City.

PRESENT USE: Vacant undeveloped 70.49-acres.

PROPOSED USE: Woodland Trail Subdivision, recorded in October 2005, consists of 140 single-family residential lots, with approximately 10-acres dedicated for trail right-of-way.

CHARACTER OF NEIGHBORHOOD: The area is part of southeast Topeka Planning Commission located west of Lake Shawnee. The neighborhoods to the south and east have developed as single family residences and vacant land exists to the north and west.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

ZONING CLASSIFICATION

North: “RR-1” Residential Reserve District
South: “R-1” Single Family Dwelling District

PRESENT LAND USE

Vacant and undeveloped
Single Family Residential

October 16, 2006
Agenda Item #G-4b

East: "R-1" Single Family Dwelling District
West: "RR-1" Residential Reserve District

Single Family Residential
Vacant and undeveloped

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR IT'S CURRENT USE UNDER PRESENT CLASSIFICATION: The property has remained vacant and unimproved since its platting in October 2005 as Woodland Trail Subdivision and its annexation in the City in January 2006.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The subject property is currently zoned residential reserve district. The site's present classification is viewed as being incompatible and inconsistent for development within the corporate limits. As currently zoned some land uses such as farming/agricultural uses are permitted by right with others permitted by conditional use permit that are not reflective of the property's current urban status. In an "RR-1" District uses such as animal husbandry, oil drilling, kennels, agricultural storage facilities and such are allowed, which may be seen as nuisances in an urban residential area.

CONFORMANCE TO COMPREHENSIVE PLAN: The *Comprehensive Plan* designates the area for *Urban/Suburban Low Density Residential* land use. Rezoning the property to the "R-1" Single Family Dwelling District will make the area more compatible with other urbanized areas of the City that are contiguous to the site. The proposal is therefore viewed as being **consistent** with the plan.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY: Rezoning the property to the "R-1" Single Family Dwelling District will allow the property to develop more consistent with an urbanizing area. As the fringe areas around Topeka continue to grow, this area will only become more urban in character and therefore the "RR-1" Residential Reserve District zoning is no longer appropriate. Based upon the established land use patterns, the proposed reclassification for the site to the "R-1" Single Family Dwelling District seems more compatible with the area and no detrimental effects are anticipated.

THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE LANDOWNER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER: There is no hardship to the public or reduced value to the landowner due to the proposed change in zoning. As no detrimental effects are anticipated, there would appear to be no particular gain to the public health, safety or welfare by maintaining the present restrictions.

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are presently available to this site and will not be overburdened by this proposal.

CONCERNS OF STAFF AND REVIEWING AGENCIES: No significant issues or concerns were expressed by reviewing staff relative to code compliance or the provision of public services.

October 16, 2006
Agenda Item #G-4b

STAFF RECOMMENDATION: Based upon the above findings and analysis Planning Staff recommends **APPROVAL** of this proposal.

Prepared by: Cindy Johnson,
Planner I

DRAFT

**Minutes of the
Of the
Topeka Planning Commission
October 16, 2006**

Z06/21 by Topeka Planning Commission requesting to amend the District Zoning Classification from "RR-1" Residential Reserve District TO "R-1" Single Family Dwelling District on property commonly known as Woodland Trail Subdivision, located south of SE 29th Street about ¼ mile west of SE West Edge Road and east of Kansas Turnpike in the City of Topeka, Kansas. **(Johnson)** Bill Fiander summarized the staff report.

Public comment:

Anna Walters, property owner in the area, spoke to the issue. She said she would like to know who the developer of Woodland Trail Subdivision is.

Richard Simpson, property owner in the area, replied from the audience, Carl Kapps.

Ms. Walter stated they are only going to have three entrances into this large subdivision. She asked who will be responsible for repairs on the streets in her subdivision. She asked if the property owners could ask for another entrance into the new subdivision? Mark Boyd informed Ms. Walters the subdivision has already had a hearing which included street access, etc. We are dealing with the zoning tonight. The subdivision met all requirements and was approved. Mr. Boyd asked if Woodland Trail was platted in stages? Mr. Fiander replied no, it was platted all at once. He added there are three current connections and a fourth off to the west for future connection. There is a creek that runs along the turnpike. Not sure if there was an alternative location for access. Mr. Boyd said the streets are city maintained. Ms. Walters asked if the developer will pay for the streets being put in or will our taxes go up? Mr. Boyd said they will probably request a street benefit district to pay for the streets in the subdivision which is paid by property owners of that subdivision. Ms. Walters asked what about street lights? There has been vandalizing in this area. David Thurbon stated you must petition your council member to get you on the list for the lights. Ms. Walters said the property where the subdivision will be developed is basically rock basin. Will they have to use dynamite? Mr. Boyd said that may be the case and that process is very expensive. Ms. Walters asked when will they start development of the subdivision? Mr. Boyd replied we don't know the answer to that question. He added the streets and sanitary sewer plans have to be approved by the city before development can begin. Any rock excavation will have to be worked out prior to any development starting. Mr. Fiander stated he could give Ms. Walter's the developer's name and phone number so she could contact him for the details. Ms. Walters said she had heard the homes in the subdivision were to be starter homes. Will that bring down our property values? Mr. Boyd stated that is not known. We further heard these are starter homes will that bring down our property value? Mr. Boyd said that is not known. We follow criteria in approving subdivisions. The developer has building criteria and inspections they must abide to. Ms. Walters asked what about police patrolling? Mr. Boyd stated the police and fire departments are aware of this development and will plan accordingly. Ms. Walters asked if the developer will have to pay for any repairs to the streets if they damage them? Mr. Boyd said if it is damage caused directly by the developer yes.

Fred Walters, resident of Shawnee Estates Subdivision, spoke to the issue. He asked why the surrounding property owners weren't notified of the annexation? Mr. Boyd replied notification isn't necessary when the developer/property owner consents to annexation. Mr. Walters said if dynamite is used it will affect surrounding properties. Mr. Boyd said the developer followed the subdivision process and there is no property owner notification for subdivisions.

Mr. Simpson asked how far back does the subdivision come towards the properties in Shawnee Estates Subdivision? Mr. Boyd stated there is a 30 foot rear yard setback. Mr. Simpson asked what about drainage? Mr. Boyd said there is a drainage report available for review in the engineering department. Mr. Simpson asked what about electrical hookup to the subdivision? Mr. Boyd replied that is up to Westar. Ms. Walters asked if the property owners could request another street be put into that subdivision? Mr. Boyd replied no. Ms. Walters stated police and fire won't be able to get to the residents. Mr. Boyd said police and fire both review the plats in the preliminary stages. Mr. Simpson stated there are problems with access with what is developed in the area right now. He said it will only get worse when this development is built. Mr. Boyd said he knows the audience is not happy with the answers they are receiving. Mr. Simpson asked why weren't the property owners notified of the subdivision? Mr. Boyd stated the subdivision process does not require property owner notification. The only time notification is made is for zoning issues. Ms. Walters stated not all property owners in the area were notified of the re-zoning. Mr. Boyd said for the city of Topeka if you are within 200 feet of the affected property then you are notified. Kimberly Scott stated the notification that you received is for the rezoning. Although your concerns are valid, at this particular juncture we can't answer all of those questions. We can inform the people where they can go to get answers they are looking for. Mr. Thurbon stated yes they can contact my office and we will direct them who they need to talk to for a particular question.

Mr. Thurbon stated the zoning determines what the land can be used for. Subdivision is the layout of the property not the use. A plat is more of a technical function for planning, street design and lot layout. State law provides for no official formal public hearing like zoning. Now this is in the city limits we feel this is a better zoning than the RR-1 zoning which allows for many uses that aren't compatible with a residential area. R-1 zoning is more restrictive. Concerns tonight are valid but tonight we are just zoning to single family zoning.

Mr. Simpson asked we have to talk to someone else about the streets? Mr. Thurbon replied traffic access has already been determined with the plat. It has been approved and recorded. If there are issues later with the subdivision then we may need to go back before the city council for a solution. The plat is approved and the developer can start building at any time.

Fred Walters said he doesn't understand why another access to 29th Street can not be provided. Mr. Thurbon replied the road system has already been determined with the plat.

Mr. Thurbon requested if anyone has questions regarding anything other than the rezoning to contact him and he would answer their questions.

Exparte communications: NONE

Ralph Skoog moved approval as written by staff, seconded by Howard Blackmon. **APPROVAL. (7-0-1)**
Commissioner Brown abstained.

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property commonly known as Woodland Trail Subdivision except that portion designated for a public walking trail, located south of SE 29th Street about ¼ mile west of SE West Edge Road and east of the Kansas Turnpike in the City of Topeka, Kansas from "RR-1" Residential Reserve District **TO** "R-1" Single Family Dwelling District. **(Z06/21) (Council District No. 4)**

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

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

All of Woodland Trial Subdivision, except for land dedicated to Governing Body for trail right-of-way.
from "RR-1" Residential Reserve District **TO** "R-1" Single Family Dwelling District.

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

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

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

PASSED AND APPROVED by the Council of the City of Topeka, _____, 2006.

William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk

To Be Codified _____

Not To Be Codified X



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 8, 2006

+ Back Print

DATE: November 7, 2006

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

SECOND PARTY/SUBJECT: Topeka Planning Commission **PROJECT #:** Z06/22

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

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located south of SE 29th Street about 1/4 mile west of SE West Edge Road and east of Kansas Turnpike in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "OS-1" Open Space District. **Final Reading (Z06/22)** (Council District No. 4) (The Planning Commission recommended approval by a vote of 8-0-0 on October 16, 2006.) (The Planning Department recommended approval.)

(Approval would zone a portion of the Woodland Trail Subdivision consistent with the use of parks, trails and open space.)

POLICY ISSUE:

Request is consistent with the land use principles of the Comprehensive Plan.

STAFF RECOMMENDATION:

The Planning Commission recommended this proposal be **APPROVED** by a vote of 8-0-0 at their October 16, 2006 meeting. The Planning Department recommended that this request by **APPROVED**.

BACKGROUND:

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

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

Item #19

ATTACHMENTS:

[Ordinance](#)

[Vicinity Map](#)

[Aerial](#)

[Staff Report](#)

[PC minutes](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE

introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property commonly known as the Woodland Trail Subdivision public walking trail, located south of SE 29th Street about ¼ mile west of SE West Edge Road and east of the Kansas Turnpike in the City of Topeka, Kansas from "RR-1" Residential Reserve District **TO** "OS-1" Open Space District. **(Z06/22) (Council District No. 4)**

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

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

A tract dedicated as trail right of way in Woodland Trail Subdivision in the City of Topeka, Shawnee County, Kansas, described as: Beginning at the Northwest corner of Lot 6, Block 'A' in Woodland Trail Subdivision; thence South 84°56'53" West on the North line of Woodland Trail Subdivision, 93.51 feet; thence South 40°07'06" West on the Northwest line of Woodland Trail Subdivision, 5.75 feet; thence southwesterly on a curve concave northwesterly, having a radius measure of 5879.58 feet and an arc length of 1005.83 feet, the chord of which bears South 45°01'09" West, 1004.60 feet; thence south 0°05'54" West on the West line of Woodland Trail Subdivision, 628.86 feet; thence North 89°18'05" East on the North line of Lot 60, Block 'A' in said subdivision, 78.82 feet; thence North 31°44'14" East on a Northwest line of Lot 47, Block 'A' in said subdivision; thence North 33°44'10" West on a West line of Lot 46, Block 'A' in said subdivision; thence North 15°48'16" East on a West line of said Lot 46, 108.49 feet; thence North 9°02'16" West on a West line of said Lot 46, 96.30 feet; thence North 45°45'37" East on a Northwest line of Lot 45, Block 'A' in said subdivision, 67.21 feet; thence North 21°28'10" West on a West line of said Lot 45, 68.13 feet; thence North 40°32'32" East on a Northwest line of said Lot 45, 35.42 feet; thence South 80°59'13" East on a North line of said Lot 45, 120.60 feet; thence North 28°38'17" East on a Northwest line of Lot 32, Block 'A' in said subdivision, thence North 0°23'06" East on a West line of said Lot 32, 59.41 feet; thence North 51°56'48" East on a Northwest line of Lot 31, Block 'A' in said subdivision, 220.40 feet; thence South 86°11'38" East on a North line of said Lot 31, 55.11 feet; thence North 45°03'18" East on a Northwest line of Lot 17, Block 'A' in said subdivision, 60.72 feet; thence North 20°49'56" East on a West line of said Lot 17, 136.77 feet; thence South 86°08'22" East on a North line of Lot 16, Block 'A' in said subdivision, 112.87 feet; thence North 29°15'27" East on a Northwest line of Lots 16 and 6 in Block 'A' in said subdivision, 261.70 feet; thence North 26°12'52" West on a West line of said Lot 6, 84.90 feet; thence North 0°55'14" East on a West line of said Lot 6, 105.38 feet, to the point of beginning.

from "RR-1" Residential Reserve District **TO** "OS-1" Open Space District.

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

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

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

PASSED AND APPROVED by the Council of the City of Topeka, _____, 2006.

William W. Bunten, Mayor

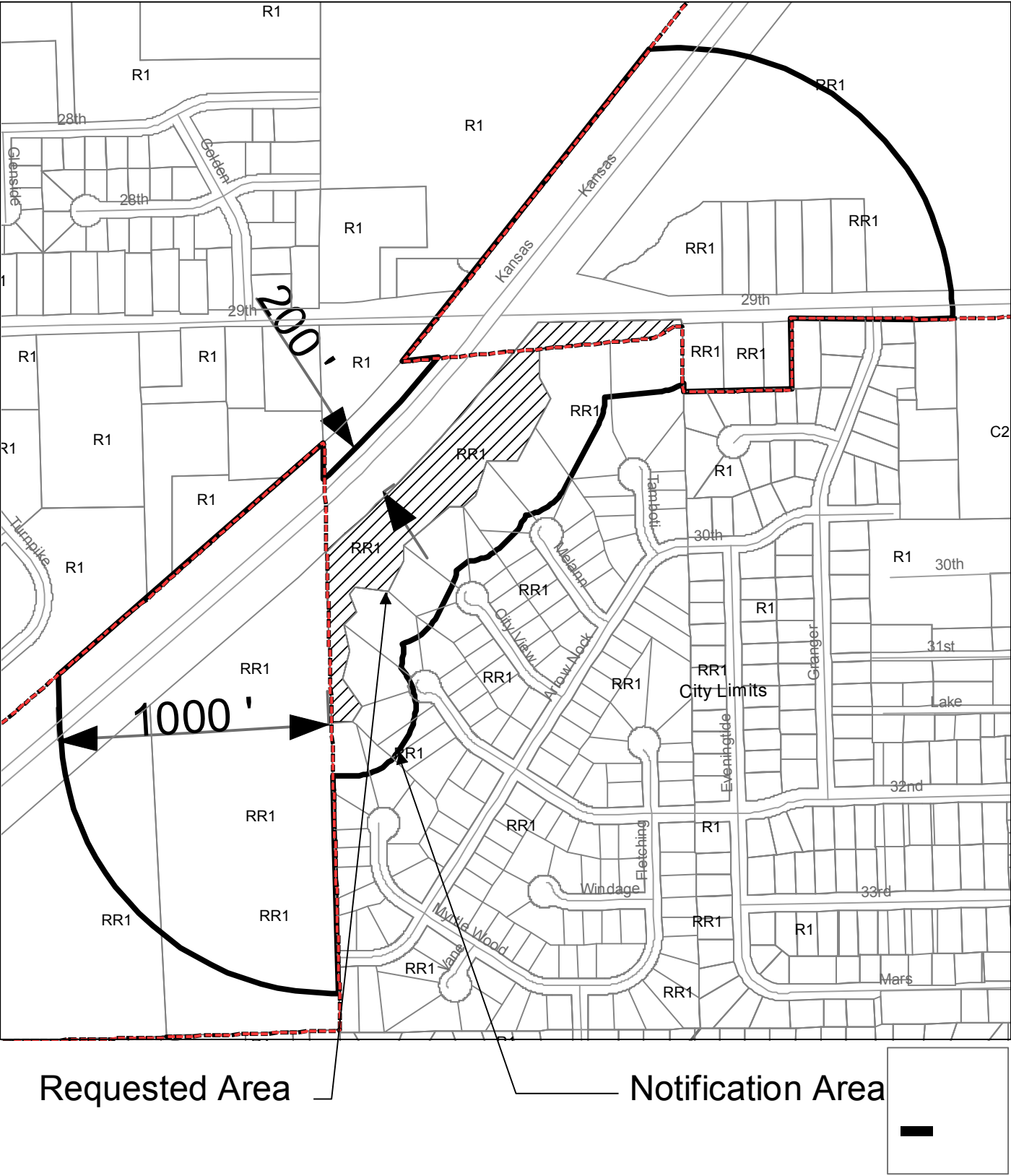
ATTEST:

Iris E. Walker, City Clerk

To Be Codified _____

Not To Be Codified X

Z06/22 By Topeka Planning Commission





Z06/22 Topeka Planning Commission (Woodland Trail Subdivision easement)

October 16, 2006
Agenda Item # G-4c

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z06/22

by: Topeka Planning Commission

PROPOSAL: Zone change from “RR-1” Residential Reserve District to “OS-1” Open Space District on property commonly known as Woodland Trail Subdivision.

LOCATION: On property located south of SE 29th Street about ¼ mile west of SE West Edge Road and east of Kansas Turnpike.

PARCEL ID NUMBERS: 1351601002023000

BACKGROUND: The purpose of the “RR-1” Residential Reserve District is to provide for a transitional area between urbanized development and rural-agricultural areas. “RR-1” zoning comprises most of the Municipal Service Area (MSA) and is intended to allow for the gradual development of urban uses while providing for the coexistence of agricultural farmland based upon the availability of municipal services. In essence, this land is “reserved” for future urbanization. Once platted and annexed, these areas in theory lose their transitional status as designated under “RR-1” zoning and should reflect a more appropriate urban zoning classification, such as “R-1” Single Family Dwelling District.

The purpose of the “OS-1” Open Space District is intended to preserve and protect existing and potential public park land, open land, greenways, recreational space, floodways, trails and lands. It is intended that these areas provide opportunities for passive and active outdoor recreation, preserve scenic views and protect sensitive or fragile environmental areas. It is further the intent of this district to protect these areas from urban, non-open space or incompatible development. The proposed zoning reflects the intended trail use area. A public trail easement was recorded as part of the Woodland Trail Subdivision.

PRESENT USE: Vacant undeveloped 10-acres.

PROPOSED USE: Woodland Trail Subdivision consists of 140 single-family residential lots, with approximately 10-acres dedicated for trail right-of-way. The subdivision was recorded in October 2005.

CHARACTER OF NEIGHBORHOOD: The area is part of southeast Topeka. The neighborhoods to the south and east have developed as single family residences and vacant land exists to the north and west.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

ZONING CLASSIFICATION	PRESENT LAND USE
North: “RR-1” Residential Reserve District	Vacant and undeveloped
South: “R-1” Single Family Dwelling District	Single Family Residential
East: “R-1” Single Family Dwelling District	Single Family Residential
West: “RR-1” Residential Reserve District	Vacant and undeveloped

October 16, 2006
Agenda Item # G-4c

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR IT'S CURRENT USE UNDER PRESENT CLASSIFICATION: The property has remained vacant and unimproved since its platting in October 2005 as Woodland Trail Subdivision and its annexation in the City in January 2006.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The subject property is currently zoned residential reserve district. The site's present classification is viewed as being incompatible and inconsistent for development within the corporate limits. As currently zoned some land uses such as farming/agricultural uses are permitted by right with others permitted by conditional use permit that are not reflective of the property's current urban status. In an "RR-1" District uses such as animal husbandry, oil drilling, kennels, agricultural storage facilities and such are allowed, which may be seen as nuisances in an urban residential area.

CONFORMANCE TO COMPREHENSIVE PLAN: The *Comprehensive Plan* designates the area for *Urban/Suburban Low Density Residential* land use. The proposal appears to conform to the standards set forth in the comprehensive plan relative to existing land use and the suitability for specific land uses.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY: The proposed reclassification would permit the property to remain as open space. Based upon the established pattern of land use and zoning, the proposed reclassification is not anticipated to have a detrimental effect on surrounding properties.

THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE LANDOWNER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER: There is no hardship to the public or reduced value to the landowner due to the proposed change in zoning. As no detrimental effects are anticipated, there would appear to be no particular gain to the public health, safety or welfare by maintaining the present restrictions.

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are presently available to this site and will not be overburdened by this proposal.

CONCERNS OF STAFF AND REVIEWING AGENCIES: No significant issues or concerns were expressed by reviewing staff relative to code compliance or the provision of public services.

STAFF RECOMMENDATION: Based upon the above findings and analysis Planning Staff recommends **APPROVAL** of this proposal.

Prepared by: Cindy Johnson,
Planner I

DRAFT

**Minutes of the
Of the
Topeka Planning Commission
October 16, 2006**

Z06/22 by Topeka Planning Commission requesting to amend the District Zoning Classification from “RR-1” Residential Reserve District **TO** “OS-1” Open Space District on property commonly known as Woodland Trail Subdivision (easement), located south of SE 29th Street about ¼ mile west of SE West Edge Road and east of Kansas Turnpike in the City of Topeka, Kansas. **(Johnson)** Bill Fiander summarized the staff report.

No one spoke in favor or in opposition to the proposal.

Exparte communications: NONE

Ralph Skoog moved approval as written by staff, seconded by Terry Simnitt. **APPROVAL. (8-0-0)**



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 8, 2006

+ Back Print

DATE: November 7, 2006

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

SECOND PARTY/SUBJECT: Topeka Planning Commission **PROJECT #:** Z06/24

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

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located between SW Marlboro and SW Shenandoah Roads and SW 43rd Terrace and SW 46th Street in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "R-1" Single Family Dwelling District. Final reading. (Z06/24) (Council District No. 7) (The Planning Commission recommended approval by a vote of 7-0-1 on October 16, 2006.) (The Planning Department recommended approval.)

(The zoning change is being sought in conjunction with the development of Lauren's Bay Subdivision to be more reflective of an urbanizing single-family area within the City.)

POLICY ISSUE:

Request is consistent with the land use principles of the Comprehensive Plan.

STAFF RECOMMENDATION:

The Planning Commission recommended this proposal be **APPROVED** by a vote of 7-0-1 at their October 16, 2006 meeting. The Planning Department recommended this request be **APPROVED**.

BACKGROUND:

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

BUDGETARY IMPACT:

N/A

Item #20

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Ordinance](#)

[Vicinity Map](#)

[Aerial](#)

[Staff Report](#)

[PC minutes](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE

introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property commonly known as Lauren's Bay Subdivision, located between SW Marlboro and SW Shenandoah Roads and SW 43rd Terrace and SW 46th Street in the City of Topeka, Kansas from "RR-1" Residential Reserve District **TO** "R-1" Single Family Dwelling District. **(Z06/24) (Council District No. 7)**

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

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

All of Lauren's Bay Subdivision.

from "RR-1" Residential Reserve District **TO** "R-1" Single Family Dwelling District.

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

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

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

PASSED AND APPROVED by the Council of the City of Topeka, _____, 2006.

William W. Bunten, Mayor

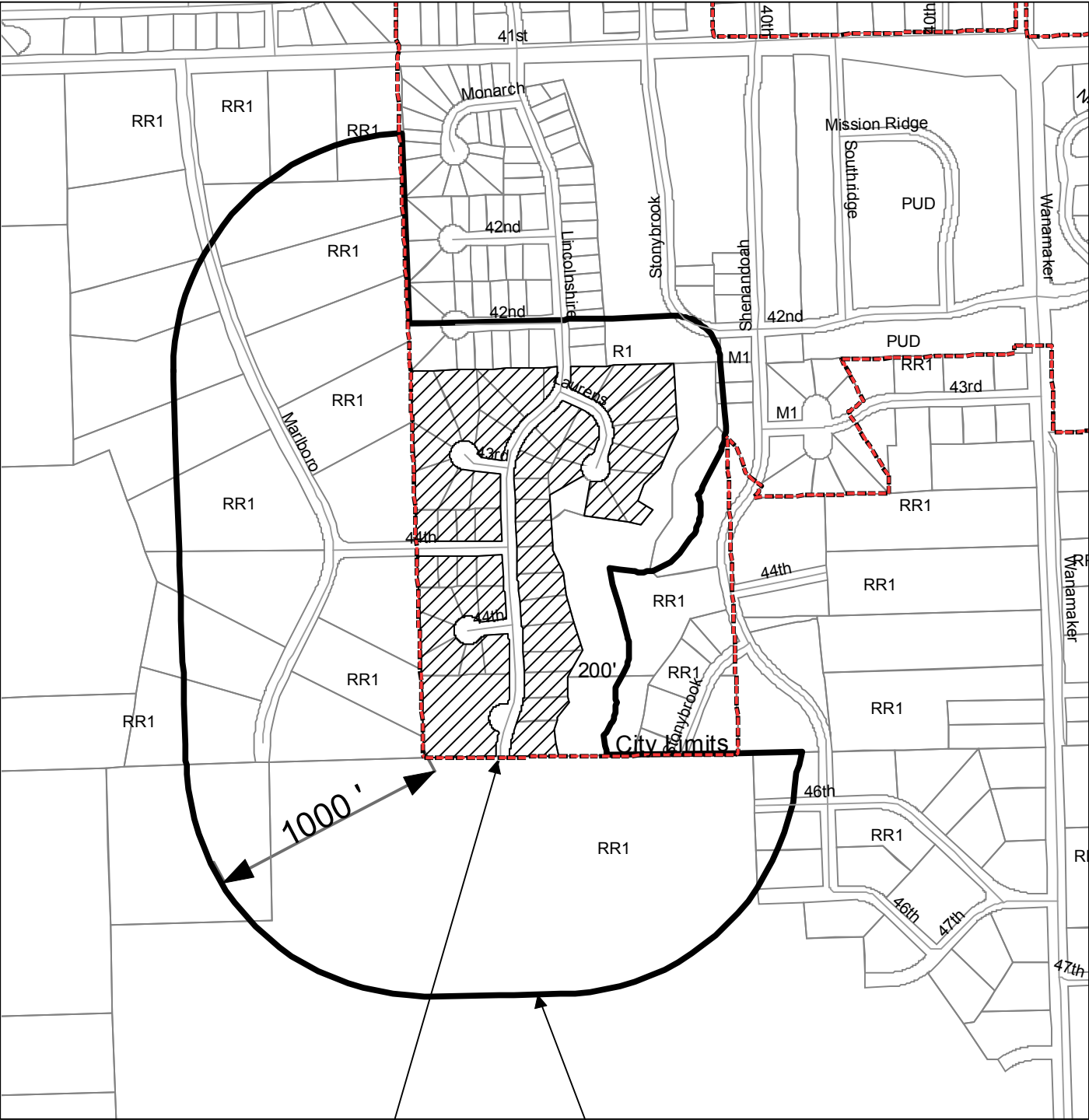
ATTEST:

Iris E. Walker, City Clerk

To Be Codified _____

Not To Be Codified X

Z06/24 By Topeka Planning Commission



Requested Area

Notification Area



Z06/24 Topeka Planning Commission (Lauren's Bay Subdivision)

October 16, 2006
Agenda Item # G-4d

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z06/24

by: Topeka Planning Commission

PROPOSAL: Zone change from “RR-1” Residential Reserve District to “R-1” Single Family Dwelling District on property commonly known as Lauren’s Bay Subdivision.

LOCATION: On property located between SW Marlboro and SW Shenandoah Roads and SW 43rd Terrace and SW 46th Street.

PARCEL ID NUMBERS:

1442004006007000	1492901003001000	1442004005060000
1442004004023000	1442004006011000	1442003003001000
1442004004021000	1442004004037000	1442004006002000
1442004004019000	1442004004033000	1442004006010000
1442004004036000	1442004006005000	1442004005063000
1442004005054000	1442004004026000	1442004005055000
1442004004024000	1442004004028000	1442004005064000
1442004004031000	1442004004039000	1442004004034000
1442004005059000	1442004004027000	1442004004029000
1442004004032000	1442004005056000	1492901004004000
1442004004025000	1442004005052000	1442004005058000
1442004006003000	1442004006001000	1442004006009000
1442004005061000	1442004004022000	1442004004030000
1442004005062000	1442004006008000	1442004005057000
1442004005052010	1442004004038000	1442004004035000
1442004006006000	1492901004002000	
1442004004020000	1492901004003000	

BACKGROUND: The purpose of the “RR-1” Residential Reserve District is to provide for a transitional area between urbanized development and rural-agricultural areas. “RR-1” zoning comprises most of the Municipal Service Area (MSA) and is intended to allow for the gradual development of urban uses while providing for the coexistence of agricultural farmland based upon the availability of municipal services. In essence, this land is “reserved” for future urbanization. Once platted and annexed, these areas in theory lose their transitional status as designated under “RR-1” zoning and should reflect a more appropriate urban zoning classification, such as “R-1” Single Family Dwelling District.

Rezoning to “R-1” prohibits the types of agricultural/farming uses allowed by right that are no longer compatible with the expectations of urban development. The “RR-1” district also allows many other potentially conflictive uses through a conditional use permit (e.g. kennels, billboards, sanitary landfill, oil/gas drilling, storage of fertilizers, pesticides, etc.) and fails to establish a minimum lot size for subdivisions. Conversion to “R-1” easily distinguishes those areas that are zoned for urban development in the City from those not in the City.

October 16, 2006
Agenda Item # G-4d

PRESENT USE: The subject property comprises approximately 49.5 acres. It is platted as Lauren's Bay Subdivision for 51 single-family residential lots. This subdivision was recorded in March 2004 and annexed into the City in August 2004.

CHARACTER OF NEIGHBORHOOD: The neighborhood is located in a rapidly developing area in southwest Topeka containing mostly single-family dwellings including some large, residential lots. The area to the south, east and west is in the County. On the east side is Lauren's Bay Villas Subdivision and to the west is Bridle Path Acres Subdivision, both single family residential subdivisions. Monarch Meadows Subdivision is to the north and is a single-family residential subdivision as well.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

ZONING CLASSIFICATION	PRESENT LAND USE
North: "R-1" Single Family Dwelling District	Vacant and undeveloped
South: "RR-1" Residential Reserve District	Vacant and undeveloped
East: "RR-1" Residential Reserve District	Vacant and undeveloped
West: "RR-1" Residential Reserve District	Single Family Residential

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR IT'S CURRENT USE UNDER PRESENT CLASSIFICATION: The property has remained vacant and unimproved since its platting in December 2002 as Lauren's Bay Subdivision and its annexation in the City in August 2004.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The subject property is currently zoned residential reserve district. The site's present classification is viewed as being incompatible and inconsistent for development within the corporate limits. As currently zoned some land uses such as farming/agricultural uses are permitted by right with others permitted by conditional use permit that are not reflective of the property's current urban status. In an "RR-1" District uses such as animal husbandry, oil drilling, kennels, agricultural storage facilities and such are allowed, which may be seen as nuisances in an urban residential area.

CONFORMANCE TO COMPREHENSIVE PLAN: The *Comprehensive Plan* designates the area for *Urban/Suburban Low Density Residential* land use. Rezoning the property to the "R-1" Single Family Dwelling District will make the area more compatible with other urbanized areas of the City that are contiguous to the site. The proposal is therefore viewed as being **consistent** with the plan.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY: Rezoning the property to the "R-1" Single Family Dwelling District will allow the property to develop more consistent with an urbanizing area. As the fringe areas around Topeka continue to grow, this area will only become more urban in character and therefore the "RR-1" Residential Reserve District zoning is no longer appropriate. Based upon the established land use patterns, the proposed reclassification for the site to the "R-1" Single Family Dwelling District seems more compatible with the area and no detrimental effects are anticipated.

October 16, 2006
Agenda Item # G-4d

THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE LANDOWNER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER: There is no hardship to the public or reduced value to the landowner due to the proposed change in zoning. As no detrimental effects are anticipated, there would appear to be no particular gain to the public health, safety or welfare by maintaining the present restrictions.

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are presently available to this site and will not be overburdened by this proposal.

CONCERNS OF STAFF AND REVIEWING AGENCIES: No significant issues or concerns were expressed by reviewing staff relative to code compliance or the provision of public services.

STAFF RECOMMENDATION: Based upon the above findings and analysis Planning Staff recommends **APPROVAL** of this proposal.

Prepared by: Cindy Johnson,
Planner I

DRAFT

**Minutes of the
Of the
Topeka Planning Commission
October 16, 2006**

Z06/24 by Topeka Planning Commission requesting to amend the District Zoning Classification from “RR-1” Residential Reserve District **TO** “R-1” Single Family Dwelling District on property commonly known as Lauren’s Bay Subdivision, located between SW Marlboro and SW Shenandoah Roads and SW 43rd Terrace and SW 46th Street in the City of Topeka, Kansas. **(Johnson)** Bill Fiander summarized the staff report.

No one spoke in favor or in opposition to the proposal.

Exparte communications: NONE

Howard Blackmon moved approval as written by staff, seconded by Terry Simnitt. **APPROVAL. (7-0-1)**
Commissioner Brown abstained.



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 8, 2006

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DATE: November 7, 2006

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

SECOND PARTY/SUBJECT: Topeka Planning Commission PROJECT #: Z06/26

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

CIP PROJECT: No

ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made a part of the Zoning Ordinance by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at the corners of SW 42nd Lane and SW Shenandoah Road and SW 43rd Terrace and SW Shenandoah Road in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "R-1" Single Family Dwelling District. Final Reading. (Z06/26) (Council District No. 7) (The Planning Commission recommended approval by a vote of 8-0-0 on October 16, 2006.) (The Planning Department recommended approval.)

(The zoning change is being sought in conjunction with the development of Brian's Addition No. 3 to be more reflective of an urbanizing single-family area within the City.)

POLICY ISSUE:

Request is consistent with the land use principles of the Comprehensive Plan.

STAFF RECOMMENDATION:

The Planning Commission recommended this proposal be **APPROVED** by a vote of 8-0-0 at their October 16, 2006 meeting. The Planning Department recommended this request be **APPROVED**.

BACKGROUND:

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

BUDGETARY IMPACT:

N/A

Item #21

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Ordinance](#)

[Vicinity Map](#)

[Aerial](#)

[Staff Report](#)

[PC minutes](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE

introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property commonly known as Brian's Addition No. 3, located at the corners of SW 42nd Lane and SW Shenandoah Road and SW 43rd Terrace and SW Shenandoah Road in the City of Topeka, Kansas from "RR-1" Residential Reserve District **TO** "R-1" Single Family Dwelling District. **(Z06/26) (Council District No. 7)**

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

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

All of Brian's Addition No. 3.

from "RR-1" Residential Reserve District **TO** "R-1" Single Family Dwelling District.

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

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

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

PASSED AND APPROVED by the Council of the City of Topeka, _____, 2006.

William W. Bunten, Mayor

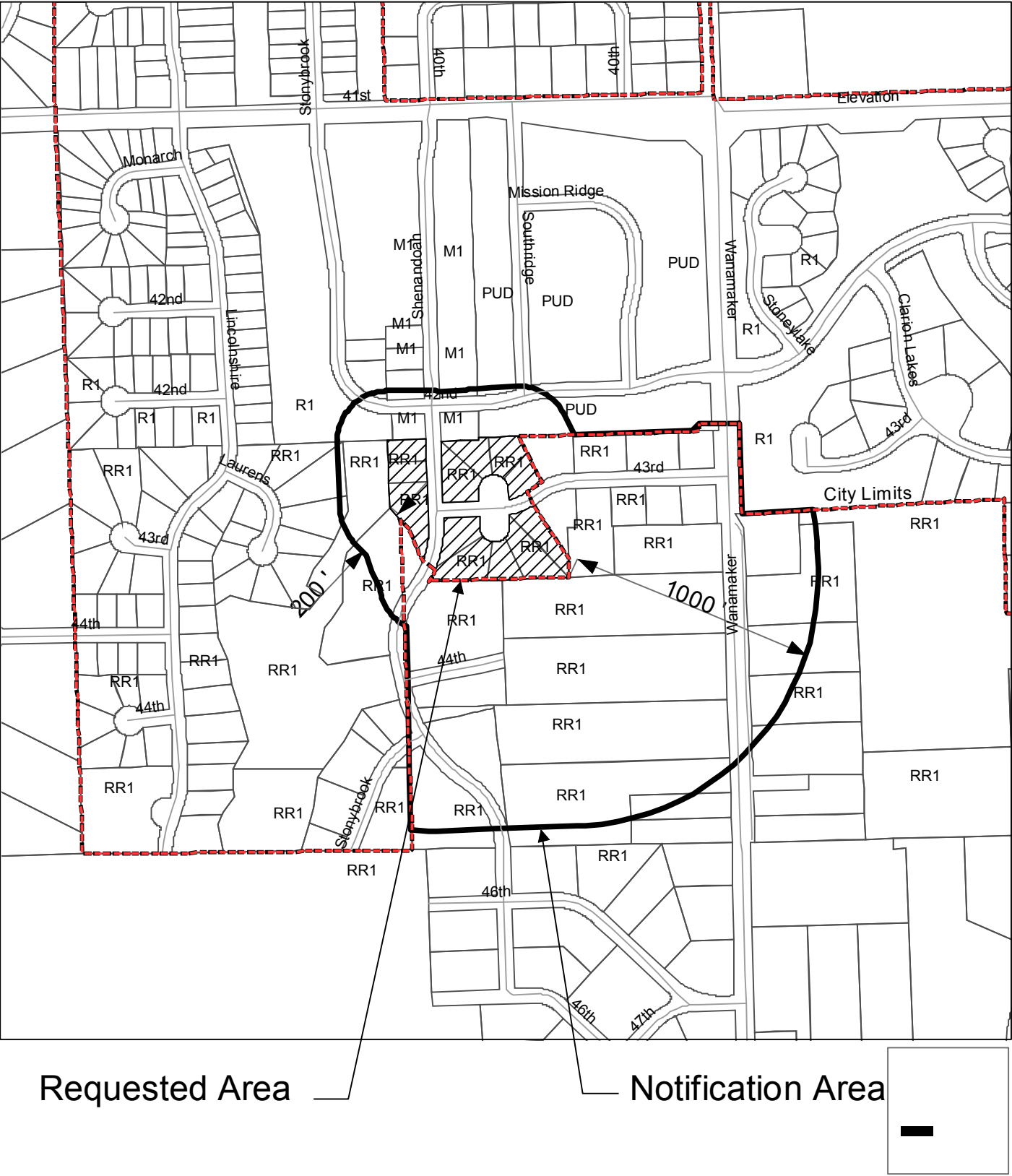
ATTEST:

Iris E. Walker, City Clerk

To Be Codified _____

Not To Be Codified X

Z06/26 By Topeka Planning Commission





Z06/26 Topeka Planning Commission (Brian's Addition No. 3)

October 16, 2006
Agenda Item # G-4e

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z06/26

by: Topeka Planning Commission

PROPOSAL: Zone change from “RR-1” Residential Reserve District to “R-1” Single Family Dwelling District on property commonly known as Brian’s Addition No. 3.

LOCATION: On property located at the corners of SW 42nd Lane and SW Shenandoah Road and SW 43rd Terrace and SW Shenandoah Road.

PARCEL ID NUMBERS:

1442004001011000	1442004001010000	1442004001017000
1442004001012000	1442004001008010	1442004001017010
1442004001014000	1442004001008000	1442004001015000
1442004001009000	1442004001018000	1442004001016000

BACKGROUND: The purpose of the “RR-1” Residential Reserve District is to provide for a transitional area between urbanized development and rural-agricultural areas. “RR-1” zoning comprises most of the Municipal Service Area (MSA) and is intended to allow for the gradual development of urban uses while providing for the coexistence of agricultural farmland based upon the availability of municipal services. In essence, this land is “reserved” for future urbanization. Once platted and annexed, these areas in theory lose their transitional status as designated under “RR-1” zoning and should reflect a more appropriate urban zoning classification, such as “R-1” Single Family Dwelling District.

Rezoning to “R-1” prohibits the types of agricultural/farming uses allowed by right that are no longer compatible with the expectations of urban development. The “RR-1” district also allows many other potentially conflictive uses through a conditional use permit (e.g. kennels, billboards, sanitary landfill, oil/gas drilling, storage of fertilizers, pesticides, etc.) and fails to establish a minimum lot size for subdivisions. Conversion to “R-1” easily distinguishes those areas that are zoned for urban development in the City from those not in the City.

PRESENT USE: The subject property comprises approximately 8.25-acres. It is platted as Brian’s Addition No. 3 for 12 single-family residential lots. The subdivision was recorded in June 2005.

CHARACTER OF NEIGHBORHOOD: The neighborhood is characterized by a combination of undeveloped agricultural land and areas previously platted for residential, office and commercial developments.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

ZONING CLASSIFICATION

North: “M-1” Two Family Dwelling District

PRESENT LAND USE

Vacant and undeveloped

October 16, 2006
Agenda Item # G-4e

“PUD” Planned Unit Development District (“O&I-1” & “C-2” use groups)	Vacant and undeveloped
South: “RR-1” Residential Reserve District	Vacant and undeveloped
East: “R-1” Single Family Dwelling District	Single Family Residential
West: “RR-1” Residential Reserve District	Vacant and undeveloped

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR IT’S CURRENT USE UNDER PRESENT CLASSIFICATION: The property has remained vacant and unimproved since its platting in June 2005 as Brian’s Addition No. 3 and its annexation in the City in December 2005.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The subject property is currently zoned residential reserve district. The site’s present classification is viewed as being incompatible and inconsistent for development within the corporate limits. As currently zoned some land uses such as farming/agricultural uses are permitted by right with others permitted by conditional use permit that are not reflective of the property’s current urban status. In an “RR-1” District uses such as animal husbandry, oil drilling, kennels, agricultural storage facilities and such are allowed, which may be seen as nuisances in an urban residential area.

CONFORMANCE TO COMPREHENSIVE PLAN: The *Comprehensive Plan* designates the area for *Urban/Suburban Low Density Residential* land use. Rezoning the property to the “R-1” Single Family Dwelling District will make the area more compatible with other urbanized areas of the City that are contiguous to the site. The proposal is therefore viewed as being **consistent** with the plan.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY: Rezoning the property to the “R-1” Single Family Dwelling District will allow the property to develop more consistent with an urbanizing area. As the fringe areas around Topeka continue to grow, this area will only become more urban in character and therefore the “RR-1” Residential Reserve District zoning is no longer appropriate. Based upon the established land use patterns, the proposed reclassification for the site to the “R-1” Single Family Dwelling District seems more compatible with the area and no detrimental effects are anticipated.

THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE LANDOWNER’S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER: There is no hardship to the public or reduced value to the landowner due to the proposed change in zoning. As no detrimental effects are anticipated, there would appear to be no particular gain to the public health, safety or welfare by maintaining the present restrictions.

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are presently available to this site and will not be overburdened by this proposal.

CONCERNS OF STAFF AND REVIEWING AGENCIES: No significant issues or concerns were expressed by reviewing staff relative to code compliance or the provision of public services.

October 16, 2006
Agenda Item # G-4e

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

Prepared by: Cindy Johnson,
Planner I

DRAFT

**Minutes of the
Of the
Topeka Planning Commission
October 16, 2006**

Z06/26 by Topeka Planning Commission requesting to amend the District Zoning Classification from “RR-1” Residential Reserve District **TO** “R-1” Single Family Dwelling District on property commonly known as Brian’s Addition No. 3, located at the corners of SW 42nd Lane and SW Shenandoah Road and SW 43rd Terrace and SW Shenandoah Road in the City of Topeka, Kansas. **(Johnson)** Bill Fiander summarized the staff report.

No one spoke in favor or in opposition to the proposal.

Exparte communications: NONE

Terry Simnitt moved approval as written by staff, seconded by Howard Blackmon. **APPROVAL. (8-0-0)**



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 8, 2006

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DATE: November 7, 2006

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

SECOND PARTY/SUBJECT: Topeka Planning Commission **PROJECT #:** Z06/29

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

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made part of the Zoning Ordinance by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located between SE 23rd Terrace and K-4 Highway (Kansas Turnpike) approximately 1,320 feet west of SE Croco Road in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "R-1" Single Family Dwelling District. **Final Reading.** (Z06/29) (Council District No. 4) (The Planning Commission recommended approval by a vote of 8-0-0 on October 16, 2006.) (The Planning Department recommended approval.)

(The zoning change is being sought in conjunction with the development of Capricorn Woods Subdivision No. 3 to be more reflective of an urbanizing single-family area within the City.)

POLICY ISSUE:

Request is consistent with the land use principles of the Comprehensive Plan.

STAFF RECOMMENDATION:

The Planning Commission recommended this proposal be **APPROVED** by a vote of 8-0-0 at their October 16, 2006 meeting. The Planning Department recommended this request be **APPROVED**.

BACKGROUND:

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

BUDGETARY IMPACT:

N/A

Item #22

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Ordinance](#)

[Vicinity Map](#)

[Aerial](#)

[Staff Report](#)

[PC minutes](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE

introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property commonly known as Capricorn Woods Subdivision No. 3, located between SE 23rd Terrace and K-4 Highway (Kansas Turnpike) approximately 1,320 feet west of SE Croco Road in the City of Topeka, Kansas from "RR-1" Residential Reserve District **TO** "R-1" Single Family Dwelling District. **(Z06/29) (Council District No. 4)**

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

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

All of Capricorn Woods Subdivision No. 3.

from "RR-1" Residential Reserve District **TO** "R-1" Single Family Dwelling District.

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

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

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

PASSED AND APPROVED by the Council of the City of Topeka, _____, 2006.

William W. Bunten, Mayor

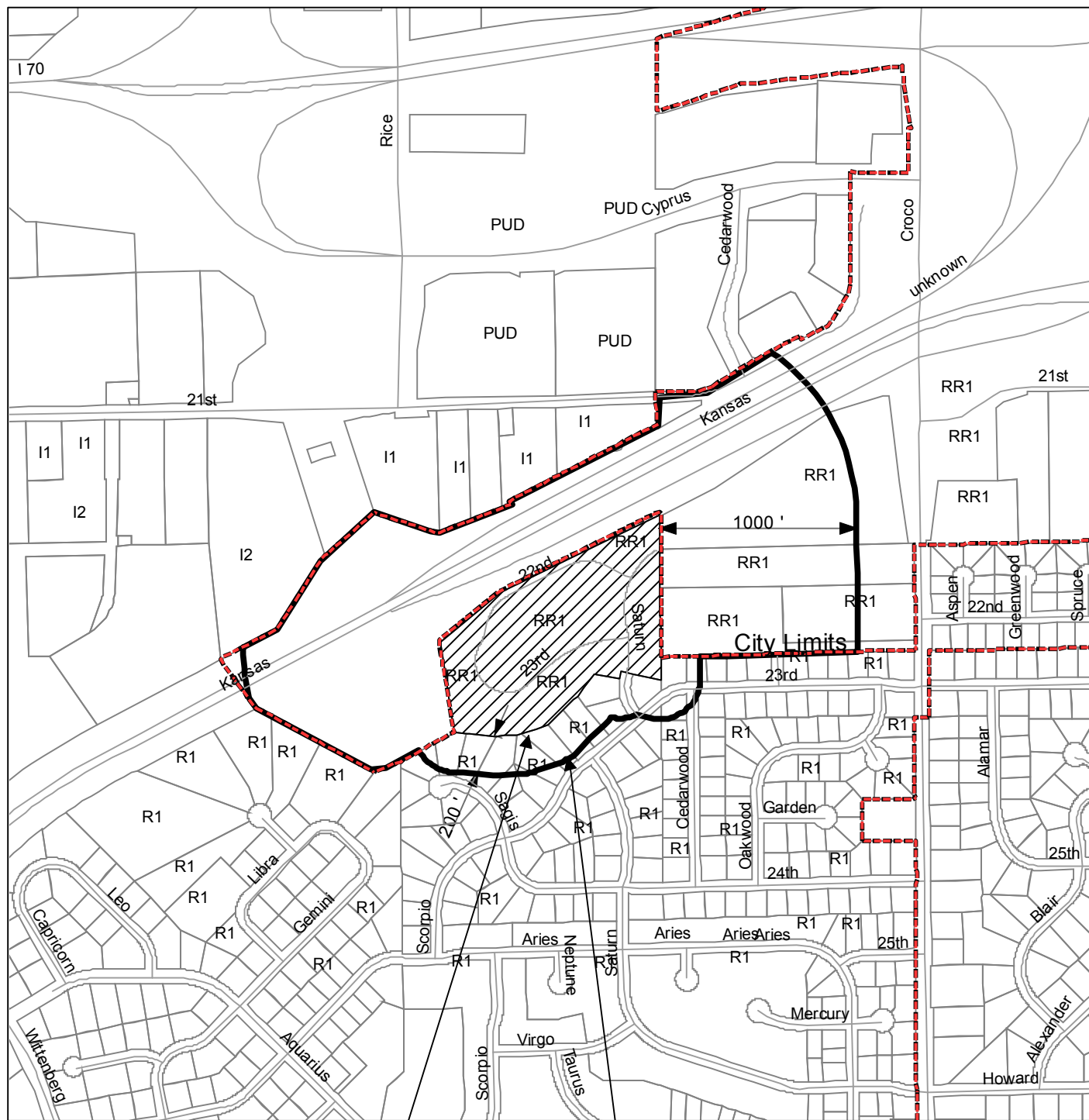
ATTEST:

Iris E. Walker, City Clerk

To Be Codified _____

Not To Be Codified X

Z06/29 By Topeka Planning Commission



Requested Area

Notification Area



Z06/29 Topeka Planning Commission (Capricorn Woods Subdivision No. 3)

October 16, 2006
Agenda Item # G-4f

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z06/29

by: Topeka Planning Commission

PROPOSAL: Zone change from “RR-1” Residential Reserve District to “R-1” Single Family Dwelling District on property commonly known as Capricorn Woods Subdivision No. 3.

LOCATION: On property located between SE 23rd Terrace and K-4 Highway (Kansas Turnpike) approximately 1,320 feet west of SE Croco Road.

PARCEL ID NUMBERS: 1321001002002000

BACKGROUND: The purpose of the “RR-1” Residential Reserve District is to provide for a transitional area between urbanized development and rural-agricultural areas. “RR-1” zoning comprises most of the Municipal Service Area (MSA) and is intended to allow for the gradual development of urban uses while providing for the coexistence of agricultural farmland based upon the availability of municipal services. In essence, this land is “reserved” for future urbanization. Once platted and annexed, these areas in theory lose their transitional status as designated under “RR-1” zoning and should reflect a more appropriate urban zoning classification, such as “R-1” Single Family Dwelling District.

Rezoning to “R-1” prohibits the types of agricultural/farming uses allowed by right that are no longer compatible with the expectations of urban development. The “RR-1” district also allows many other potentially conflictive uses through a conditional use permit (e.g. kennels, billboards, sanitary landfill, oil/gas drilling, storage of fertilizers, pesticides, etc.) and fails to establish a minimum lot size for subdivisions. Conversion to “R-1” easily distinguishes those areas that are zoned for urban development in the City from those that are not.

PRESENT USE: The subject property comprises approximately 17.60-acres. It is platted as Capricorn Woods Subdivision No. 3 for 32 single-family residential lots. The subdivision was recorded in February 2005 and was annexed into the City in March 2005.

CHARACTER OF NEIGHBORHOOD: The neighborhood is located in a rapidly developing area in southeast Topeka that contains mostly single-family dwellings. The area to the east is within the County and currently is undeveloped. To the north and west is the Kansas Turnpike and to the south is Capricorn Woods Subdivision which is a single-family residential subdivision.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

ZONING CLASSIFICATION

North:
South: “R-1” Single Family Dwelling District
East: “RR-1” Residential Reserve District
West:

PRESENT LAND USE

Kansas Turnpike Right-of-Way
Single Family Residential
Vacant and undeveloped
Kansas Turnpike Right-of-Way

October 16, 2006
Agenda Item # G-4f

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR IT'S CURRENT USE UNDER PRESENT CLASSIFICATION: The property has remained vacant and unimproved since its platting in November 2004 as Capricorn Woods Subdivision No. 3 and its annexation in the City in March 2005.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The subject property is currently zoned residential reserve district. The site's present classification is viewed as being incompatible and inconsistent for development within the corporate limits. As currently zoned some land uses such as farming/agricultural uses are permitted by right with others permitted by conditional use permit that are not reflective of the property's current urban status. In an "RR-1" District uses such as animal husbandry, oil drilling, kennels, agricultural storage facilities and such are allowed, which may be commonly seen as nuisances in an urban residential area.

CONFORMANCE TO COMPREHENSIVE PLAN: The *Comprehensive Plan* designates the area for *Urban/Suburban Low Density Residential* land use. Rezoning the property to the "R-1" Single Family Dwelling District will make the area more compatible with other urbanized areas of the City that are contiguous to the site. The proposal is therefore viewed as being **consistent** with the plan.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY: Rezoning the property to the "R-1" Single Family Dwelling District will allow the property to develop more consistent with an urbanizing area. As the fringe areas around Topeka continue to grow, this area will only become more urban in character and therefore the "RR-1" Residential Reserve District zoning is no longer appropriate. Based upon the established land use patterns, the proposed reclassification for the site to the "R-1" Single Family Dwelling District seems more compatible with the area and no detrimental effects are anticipated.

THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE LANDOWNER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER: There is no hardship to the public or reduced value to the landowner due to the proposed change in zoning. As no detrimental effects are anticipated, there would appear to be no particular gain to the public health, safety or welfare by maintaining the present restrictions.

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are presently available to this site and will not be overburdened by this proposal.

CONCERNS OF STAFF AND REVIEWING AGENCIES: No significant issues or concerns were expressed by reviewing staff relative to code compliance or the provision of public services.

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

Prepared by: Cindy Johnson,
Planner I

DRAFT

**Minutes of the
Of the
Topeka Planning Commission
October 16, 2006**

Z06/29 by Topeka Planning Commission requesting to amend the District Zoning Classification from “RR-1” Residential Reserve District **TO** “R-1” Single Family Dwelling District on property commonly known as Capricorn Woods Subdivision No. 3, located between SE 23rd Terrace and K-4 Highway (Kansas Turnpike) approximately 1,320 feet west of SE Croco Road in the City of Topeka, Kansas. **(Johnson)** Bill Fiander summarized the staff report.

No one spoke in favor or in opposition to the proposal.

Exparte communications: NONE

Howard Blackmon moved approval as written by staff, seconded by Kimberly Scott. **APPROVAL. (8-0-0)**



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Topeka, Kansas 66603

November 7, 2006

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CONTACT PERSON:		PROJECT #:
SECOND PARTY/SUBJECT:		
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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ATTACHMENTS:

No Attachments Available