

STATE OF KANSAS )  
WYANDOTTE COUNTY )) SS  
CITY OF KANSAS CITY, KS )

PLANNING & ZONING AND  
REGULAR SESSION  
THURSDAY, DECEMBER 1, 2016

The Unified Government Commission of Wyandotte County/Kansas City, Kansas, met in regular session Thursday, December 1, 2016, with eleven members present: Bynum, Commissioner At-Large First District; Walker, Commissioner At-Large Second District; Townsend, Commissioner First District; McKiernan, Commissioner Second District; Murguia, Commissioner Third District; Johnson, Commissioner Fourth District; Kane, Commissioner Fifth District; Markley, Commissioner Sixth District; Walters, Commissioner Seventh District; Philbrook, Commissioner Eighth District; and Holland, Mayor/CEO presiding. The following officials were also in attendance: Gordon Criswell, Melissa Mundt, and Joe Connor, Assistant County Administrators; Ken Moore, Chief Legal Counsel; Bridgette Cobbins, Unified Government Clerk; Rob Richardson, Director of Planning; Byron Toy, Planner; Janet Parker, Administrative Assistant; Kathleen VonAchen, Chief Financial Officer; Maureen Mahoney, Asst. to Mayor/Chief of Staff; George Brajkovic, Economic Development Director; Debbie Jonscher, Assistant Finance Director; Chris Slaughter, Land Bank Manager; Patrick Waters, Senior Attorney; Debbie Pack, County Treasurer; and Captain Kent Anderson, Sergeant-at-Arms.

**MAYOR HOLLAND** called the meeting to order.

**ROLL CALL:** Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane, Holland.

**INVOCATION** was given by Reverend George Kemper, Ebenezer Ministries.

**Mayor Holland** asked if there were any revisions to tonight's agenda. **Bridgette Cobbins, UG Clerk**, said yes, Mayor. A blue sheet has been distributed. Under the Non-Planning Consent Agenda we have updated information on Item No.1 for corrections due to clerical errors. Under additional items, we have 10 and 11. Those are two plats.

**PLANNING AND ZONING CONSENT AGENDA**

**Mayor Holland** said tonight we have two distinct parts of our meeting. The Planning and Zoning portion will be handled first followed by the regular Commission meeting. I'll ask the Clerk to read the Planning and Zoning statement that is required by law followed by the items on the Planning and Zoning Consent Agenda. **Ms. Cobbins** read the statement.

**Ms. Cobbins** asked if any member of the Commission wished to disclose contact with any proponents or opponents on any item on the Planning and Zoning Agenda. **Commissioner McKiernan** said I've had contact from proponents of #SP-2016-60.

**Ms. Cobbins** read all items on the Planning and Zoning Consent Agenda.

**Mayor Holland** asked does any member of the Commission or anyone in attendance wish to set aside any item on the Planning and Zoning Consent Agenda. Any item not set-aside will be voted on by a single vote based on the recommendation of the Planning Commission. If you would like to set an item aside, please step to the microphone at this time.

**Rob Richardson, Director of Planning**, said, Mayor, we'd like to set aside Item C.1, Rosedale Master Plan. **Mayor Holland** Item C.1 will be set aside. **Doc Hawkins, 1729 S. 94<sup>th</sup>**, said I'd like to have Item #SP-2016-90, I'm here to. **Mayor Holland** said hold on, sir. We just need to set the item aside. Let me make sure, what item is it again. **Mr. Hawkins** said it's #SP-2016-90. **Mayor Holland** said that's renewal of a special use permit for three horses? **Mr. Hawkins** said yes. **Mayor Holland** said that item will be set aside. At the time we will call you forward.

**Mayor Holland** asked if there were any other items to set aside.

**Action:** **Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve the Consent Agenda, excluding Item No. C.1, Rosedale Master Plan, and Item #SP-2016-90, special use permit.** Roll call was taken on the

motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**Mayor Holland** said all those items have been passed based on the approval or disapproval of the Planning and Zoning Committee.

**Mayor Holland** said before we move into our items, I do want to recognize two elected officials who are here tonight. Prior to this meeting, at our 5:00 o’clock, we met with our local delegation, representatives, and senators to the State of Kansas to talk about our legislative agenda. Representative Pam Curtis and Representative Kathy Wolfe-Moore are here in attendance tonight. Thank you for being here for the earlier meeting and for being here tonight as well.

## **PLANNING AND ZONING CONSENT AGENDA**

### **SPECIAL USE PERMIT APPLICATIONS**

#### **ITEM NO. 1 – 16898... SPECIAL USE PERMIT APPLICATION #SP-2016-52 – MONICA OLMEDO-LAMBERT**

**Synopsis:** Special use permit for an auto repair and tire service shop at 5830 Leavenworth Road, submitted by Robin Richardson, Director of Planning. The applicant wants to operate an auto repair and tire service shop. The Planning Commission voted 9 to 0 to recommend approval of Special Use Application #SP-2016-52, subject to:

#### Urban Planning and Land Use Comments:

1. Subject to approval, this special use permit shall be valid for two years.
2. Per Sec. 27-593(b)(20)d.1-3.
  - a. Parking of the automobiles under heavy service repair, or mechanics shall not be placed within a required parking/paving setback area and shall not reduce the capacity of a parking lot below that required by Sections 27-466 through 27-470.
  - b. Parking shall be upgraded to current standards and regulations including medians, landscaping, and screening.
  - c. Each automobile shall be in a striped, designated parking space.

3. Per Sec. 27-593(b)(20)a.
  - a. Upgrade parking, including striping and/or resurfacing of parking lots, if deemed necessary by staff.
  - b. Landscaping, screening, and façade improvements to meet commercial design guidelines.
4. Four foot wainscot must be installed on all four sides of the building facades.
5. Trash enclosure must meet Commercial Design Guidelines standards; must be constructed of the same material as the primary structure, in this case CMU block.
6. Gravel surfaces (shown on page A1.0) are not allowed and must be upgraded to paved surface.
7. In areas to be landscaped, gravel and/or asphalt must be removed prior to trees being planted in order to allow roots to properly take hold.
8. In order to have legitimate signage, a sign permit must be filed with the Urban Planning and Land Use Department by a licensed and bonded sign company with the Kansas City, Kansas Business Licensing Department.
9. No displays on the sidewalk, this includes, signs, pennants, attention-attracting devices, etc.

Public Works Comments:

1. Items that require plan revision or additional documentation before engineering can recommend approval:
  - A. Provide a site plan that includes engineering and landscaping details and parking plans.
  - B. The west entrance on Leavenworth must be removed and shown on the site plan sheet.
  - C. Will wrecked cars be kept on site?
2. Items that are conditions of approval (stipulations): None.
3. Comments that are not critical to engineering's recommendations for this specific submittal, but may be helpful in preparing future documents: None.

**Action:** Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2016-52 for two years, subject to stipulations. Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**ITEM NO. 2 – 16900...SPECIAL USE PERMIT APPLICATION #SP-2016-60 – JOHN L. PETERSON**

**Synopsis:** Special use permit for an event hall at 711, 713 and 715 Osage Avenue, submitted by Rob Richardson, Director of Planning. The applicant, on behalf of the owner Robert Eickhoff, Sr., is seeking approval to open an event hall at 711-715 Osage Avenue. The space would be available for rent by interested parties and could facilitate a variety of events such as wedding anniversaries, birthday parties, anniversary celebrations, meetings, luncheons, etc. The Planning Commission voted 9 to 0 to recommend approval of Special Use Permit #SP-2016-60, as submitted by the applicant at the Planning Commission meeting subject to:

Urban Planning and Land Use Comments:

1. Parking agreements will need to be secured in order to operate this business, otherwise there will need to be an application for a variance to account for the discrepancy between the present parking amount and what is required by UG parking regulations.

*Applicant Response:*

Subway Parking Agreement (attached)

Cross-Lines Parking Agreement (Attached)

Miller Tool Parking Agreement (attached)

Metro PCS Parking Agreement (attached)

2. Applicant has provided accurate floor plans, but will need to supply staff with plans that can fit on one sheet per floor/address.

*Applicant Response:* Updated floor plans have been provided. See attached.

3. At this time, staff is only able to calculate the requirements for 711 Osage Avenue. The amount of off-street parking just for this address is 36 spaces. This is already in excess of

what is present at this location. It is difficult to ascertain the parking requirements for the other two addresses at this time, though they will likely be similar.

Update: With new floor plans provided, the parking requirements for the site is 73 parking spaces.

*Applicant Response:* Parking agreements have been made to satisfy the off-street parking requirement. See attachments.

4. All parking spaces must be available at all times of operation, meaning that, for example, if parking agreements are made for the weekend only, then the business would only be able to operate during the weekends.

*Applicant Response:* Understood.

5. All shared parking agreements must be recorded with the Register of Deeds and submitted to Planning staff and approved by the Planning Commission.

*Applicant Response:* Understood.

6. If ownership of any of the properties where parking is being shared changes, the applicant will notify Planning staff and either get parking agreement with the new owner or find another area to park.

*Applicant Response:* Understood.

7. All surfaces must be improved for parking and striped.

*Applicant Response:* Understood.

8. What are your proposed hours of operation?

*Applicant Response:*

Mon-Thur 10 AM-4PM small meetings/luncheons (50 people or less)

Mon-Thur evenings 4 -11 PM (Once the new Crosslines opens)

Friday evenings 4PM-1AM

Sat/Sun 9AM-1AM

9. What is the anticipated maximum occupancy load in the building?

*Applicant Response:* We are verifying with the Fire Department, but believe it to be 200,100 for both 711 and 713.

10. Applicant has indicated that all food and beverage would be prepared off-site and brought in by clients who are renting spaces out. No food preparation would take place on the

premises, though there is a kitchen for catering companies/other parties to setup and prep food that has been brought in.

*Applicant Response:* Understood.

11. Applicant has indicated that security would be provided for all events held at night. Please describe how this will comply with UG code and how security will be operated.

*Applicant Response:* Our renters will be charged with either supplying acceptable security or we will obtain off-duty sheriff deputies and/or police, whatever UG code mandates.

12. If approved, staff recommends approval for one year to assess the impact on the area as well as how parking arrangements are working. Applicant can then renew for a longer period of time.

#### Public Works Comments

None

**Action:** Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2016-60 for two years, subject to stipulations. Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

#### **ITEM NO. 3 – 16902...SPECIAL USE APPLICATION #SP-2016-71 – ILKHOM SAIDOV WITH FRANK MOTORS, INC.**

**Synopsis:** Request for a special use permit for used auto sales at 1604 North 3<sup>rd</sup> Street, submitted by Robin Richardson, Director of Planning. The applicant wants to utilize this facility at 1604 North 3<sup>rd</sup> Street for the sale of used automobiles and auto maintenance and warranty services. The Planning Commission voted 9 to 0 to recommend approval of Special Use Permit Application #SP-2016-71, subject to:

#### Urban Planning and Land Use Comments:

1. Subject to approval, this petition is valid for two years.

2. When are you planning on beginning operations? Your application indicates that you will be conducting renovations for some time prior to opening.

*Applicant Response:* Around the end of the year around December, after renovations are complete.

3. Please submit a site plan showing where and how many parking spaces there will be at this location.

*Applicant Response:* See Attached.

4. Will you be performing maintenance/offering warranty operations immediately or will that come later?

*Applicant Response:* Our maintenance warranty operations will begin after sales have begun, but there will be minor repairs to the vehicles that we purchase.

5. How many employees will you have when you begin operations?

*Applicant Response:* I will start with an estimate of five employees, including myself.

6. What will be your hours of operation?

*Applicant Response:* Our hours of operation will be Monday to Friday, 8 am to 6 pm and Saturday from 8 am to 4 pm.

7. How will you advertise your business?

*Applicant Response:* Our business will be done online and advertisement will be done through Craigslist, Google ads and Facebook.

8. How many cars do you plan on having in your inventory at any given time?

*Applicant Response:* We plan on keeping 20-40 cars on inventory that will be purchased through auctions such as ADESA and IAAI.

9. Where will you acquire the used cars you are going to be selling?

*Applicant Response:* See above answer.

10. Please provide renderings/drawings showing what the building/property is expected to look like upon the start of operations.

*Applicant Response:* See attached images.

11. Applicant must comply with Section 27-593(b)(19) to include, but not limited to:

- a. Conducting any necessary repair of the façade.
- b. Adding new doors or windows if existing fixtures are in disrepair.
- c. Painting and any other cosmetic work that needs to be done.



12. All parking spaces will need to be repainted. At least one will need to be accessible for individuals with disability according to ADA standards.

*Applicant Response:* See attached site plan.

13. In order to have legitimate signage, a sign permit must be filed with the Urban Planning and Land Use Department by a licensed and bonded sign company with the Kansas City, Kansas Business Licensing Department.

Public Works Comments:

1. Items that require plan revision or additional documentation before engineering can recommend approval: None
2. Items that are conditions of approval (stipulations): Existing pavement deterioration and potholes shall be repaired.
3. Comments that are not critical to engineering's recommendations for this specific submittal, but may be helpful in preparing future documents: None.

Business License Comments:

We have a current renewed business (Pallet Mfr/repair) at this address that has not advised they have closed or vacated. Should this SUP be approved for this applicant, they will need to file their own occupation tax with those for the auto sales activity.

**Action:** Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2016-71 for two years, subject to stipulations. Roll call was taken on the motion and there were ten "Ayes," Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**ITEM NO. 4 – 16903...SPECIAL USE APPLICATION #SP-2016-73 – THERESA MARIE GARCIA**

**Synopsis:** Request for a special use permit for a drinking establishment and restaurant at 812 South 12<sup>th</sup> Street, submitted by Robin Richardson, Director of Planning. The applicant is seeking a special use permit for a drinking establishment and restaurant. The Planning

Commission voted 9 to 0 to recommend approval of Special Use Permit Application #SP-2016-73, subject to:

Urban Planning and Land Use Comments:

1. Live entertainment: Will you have live entertainment at this location? If so, please indicate what types of live entertainment, hours, and the number of people you anticipate to be in attendance.

*Staff Response:* Applicant has indicated that there will not be live entertainment at this location.

2. Hours of Operation: What days will this business be open? What will be the hours of operation for this business?

*Applicant Response:* None.

3. Parking: The parking ratio for establishments with live entertainment is one space for 50 square feet of seating or assembly area plus one space for each remaining 200 square feet of total floor area. Please provide a to-scale site plan including interior areas that demonstrate how the site will accommodate the required parking.

*Staff Response:* Applicant has included a site plan and is applying for a variance for parking in conjunction with this special use permit application. This special use permit is contingent upon the approval of a variance for the number of off-street parking spaces (case #2223)

4. Safety and security: The previous establishment at this location had problems with “violent offenses as well as rampant drug usage” according to the Kansas City, KS Police Department. How do you plan on preventing these problems at your establishment and protect the safety of your customers and surrounding neighborhood. Has there been a change in ownership, management or operator?

*Applicant Response:* I, Theresa Garcia, will be using ADAIR security if I get over 100 people to come out to my Bar & Grill. ADAIR Security, Anthony, 913-235-0447.

5. Noise concerns: Doors and windows will remain closed when entertainment is provided in order to mitigate noise.
6. Architectural standards
  - a. All building facades must be 50 percent masonry. Painted concrete block is a

prohibited building material. Other approved materials include but are not limited to: natural or synthetic stone, brick, stucco, integrally-colored, textured, or glazed concrete masonry units, high quality prestressed concrete systems, cementitious siding (hardie board), or glass. Please indicate how the building façade will be improved to meet these standards.

- b. Commercial development should take into account the architectural design of all building elevations, 360 degrees. Quality design should be expressed on all elevations of a building.
- c. In order to break up the monotonous appearance of long facades, a building wall no more than 45 feet in length should be divided into increments of no more than 45 feet through articulation of the facade. This can be achieved through combinations of at least three of the following techniques:
  - i. Divisions or breaks in materials
  - ii. Building offsets (projections, recesses, niches)
  - iii. Window bays
  - iv. Separate entrances and entry treatment; or
  - v. Variation in rooflines.

*Applicant Response:* See note dated 10/21/2016

- 7. Landscaping and screening:
  - a. Parking must be screened from adjacent streets by walls, shrubs, trees, or other design elements. [Sec. 27-575(e)(4)]
  - b. All trash receptacles shall be enclosed with a screening wall or fence constructed of the same materials as the primary structure. The screen must be a minimum of six feet in height on all sides and designed with the gate facing away from streets or adjacent land uses. All screening materials must be well maintained at all times. [Sec. 27-575(g)(3)]
  - c. Two trees are required to meet landscaping standards.
  - d. Sec. 27-466(g) Landscaping and screening. A reasonable amount of landscaping is required on all projects in this district, all to be depicted on a properly prepared plan. Trees are required to be provided at not less than one per 7,000 square feet of site area. Six foot high architectural screening is to be provided along all side

and rear property lines common to or across an alley from residentially zoned property. For additional standards and information, see division 10 of this article.

- e. Sec. 27-577(a)(5) Landscaping shall exceed the typical code requirements by at least 75 percent.

*Applicant Response:* See photos of new landscaping.

Public Works Comments:

None

**Action:** Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2016-73 for two years, subject to stipulations. Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**ITEM NO. 5 – 16894...SPECIAL USE APPLICATION #SP-2016-85 – ALMA BARAJAS**

**Synopsis:** Request for renewal of a special use permit of a home occupation special use permit (#SP-2011-19) for a beauty shop at 5044 Powell Avenue, submitted by Robin Richardson, Director of Planning. The applicant is seeking to continue to operate a beauty salon out of the residence located at 5044 Powell Avenue after being approved in 2009. The Planning Commission voted 9 to 0 to recommend approval of Special Use Permit Application #SP-2016-85, subject to:

Urban Planning and Land Use Comments:

The staff recommends approval for five years, subject to:

1. No signs.
2. No employees other than members of the immediate family residing on the premises.
3. No more than two clients at any one time.
4. Hours of operation being 8:00 a.m. to 5:00 p.m.

Public Works Comments:

None

**Action:** Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2016-85 for five years, subject to stipulations. Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**ITEM NO. 6 – 16904...SPECIAL USE APPLICATION #SP-2016-86 – JIM GORMAN WITH KANSAS GAS SERVICE**

**Synopsis:** Request for a special use permit for installation of two concrete pits and sampling of a variety of pipes to use for training at 8535 Riverview Avenue, submitted by Robin Richardson, Director of Planning. The applicant wants to install two concrete pits and sampling of a variety of pipes to use for training. The Planning Commission voted 9 to 0 to recommend approval of Special Use Permit Application #SP-2016-86, subject to:

Urban Planning and Land Use Comments:

1. This application indicates there will be off-street parking for trainees; however, the site plan does not indicate where on the site the vehicles will park. Please revise the site plan to show where personal and service vehicles will park in the parking lot. Each parking stall shall be 9’ x 18’.

*Applicant Response:* Site plan revised to show off street parking locations and dimensions.

2. This site is highly visible from the South 86<sup>th</sup> Street and Riverview Avenue. Screening of the pits and parking lot is of the utmost importance, as other utility companies are required to screen their facilities and equipment from public view.

Dense hedges interwoven with 6’ junipers shall be planted around the perimeter of the property along South 86<sup>th</sup> Street, Riverview Avenue and South 85<sup>th</sup> Terrace. Include on the site plan or a separate landscape plan the shrubs and junipers, their species and quantity.

*Applicant Response:* A landscape plan was added to the plan set as Sheet 3, and screening by hedges and junipers was added along the perimeter of the property as requested.

3. Will this training facility be gated or fenced?

*Applicant Response:* At this time, applicant does not intend to install a fence.

Public Works Comments:

1. Items that require plan revision or additional documentation before engineering can recommend approval: None
2. Items that are conditions of approval (stipulations): The driveway at 86<sup>th</sup> Street is located within 25' distance from Riverview Avenue, right-of-way that is less than the UG standard of 40' minimum. A variance for the driveway location with 25' distance shall be approved prior to construction permit acquisition.
3. Comments that are not critical to engineering's recommendations for this specific submittal, but may be helpful in preparing future documents: None.

**Action:** Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2016-86 for two years, subject to stipulations. Roll call was taken on the motion and there were ten "Ayes," Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**ITEM NO. 7 – 16895...SPECIAL USE APPLICATION #SP-2016-88 – STEVEN HEISKELL WITH PICK-N-PULL AUTO DISMANTLERS**

**Synopsis:** Request for renewal of a special use permit (SP#2014-64) for auto salvage and retail sales at 1142 South 12<sup>th</sup> Street, submitted by Robin Richardson, Director of Planning. The applicant is requesting renewal of a special use permit to continue to operate a self-serve u-pull auto part salvage yard at 1142 South 12<sup>th</sup> Street. The Planning Commission voted 9 to 0 to recommend approval of Special Use Permit Application #SP-2016-88, subject to:

Urban Planning and Land Use Comments:

Overall, staff does not have too many issues with the request; however, we wanted to make sure that the aesthetic and maintenance issues are continually addressed.

1. Subject to approval, this special use permit shall be valid for two years.
2. Please explain exact process of how materials such as oil, antifreeze, gas, wiper fluid, other such substances and used tires will be handled and disposed of.

*Applicant Response:* See attached.

3. Provide pictures of the site, including drive aisles.
4. Please address the Code Enforcement violations listed on page two of this staff report.

*Applicant Response:* Code Violations: From 4/27/2015 – Interior chairs outside.

*This issue was addressed immediately and will not become a future issue.*

Discarded tires in parking area. *This issue was addressed immediately and will not become a future issue.*

Missing address numbers on building. *Numbers installed.*

Parking cars on right-of-way unimproved surface. *This was an issue in the past, mostly involving neighboring trucks waiting to enter their property. This issue was addressed immediately and will not become a future issue. Signs were posted.*

High weeds/saplings along fence lines of customer parking. *Weeds were cut. We are in process of obtaining a new landscaping company to take care of future lawn and landscape care.*

Plant sod on right-of-way. *done*

From 8/16/2016– High grass, weeds on the right-of-way and fence lines. *Weeds were cut. We are in process of obtaining a new landscaping company to take care of future lawn and landscape care.*

#### Conservation District Comments:

This site could cause contamination to the river with oil, other chemical liquids and contaminated solids if allowed to flow off the property. Some sort of collection system is needed to be in place to collect water runoff from the site and prevent contamination from getting into the river directly. A vegetative filter strip is needed to slow down runoff and help collect any contamination before it leaves the property.

*Applicant Response:* See attached

Public Works Comments:

None

Business License Comments:

This business has current occupation tax on file with this office, since Jan 2013.

**Action:** Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2016-88 for two years, subject to stipulations. Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**ITEM NO. 8 – 16896...SPECIAL USE APPLICATION #SP-2016-89 – ZACHARY MORRISON WITH INTERNATIONAL FOOD PRODUCTS**

**Synopsis:** Request for renewal of a special use permit (#SP-2014-25) for an office trailer at 6721 Kansas Avenue, submitted by Robin Richardson, Director of Planning. The applicant wants to renew a special use permit that was approved to construct a 20’X30’ temporary office trailer on 1.75 acres for additional office space that is not available in the existing building. The Planning Commission voted 9 to 0 to recommend approval of Special Use Permit Application #SP-2016-89, subject to:

Urban Planning and Land Use Comments:

1. Subject to approval, this special use permit for the temporary use of land is valid for two years.

Public Works Comments:

None

**Action:** Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2016-89 for two years, subject to stipulations. Roll call was taken on the motion and there were ten



“Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**ITEM NO. 9 – 16897...SPECIAL USE APPLICATION #SP-2016-90 – KEITH ORR**

**Synopsis:** Request for renewal of a special use permit (#SP-2014-23) to keep three horses at 1715 South 94<sup>th</sup> Street, submitted by Robin Richardson, Director of Planning. The applicant is seeking to renew his special use permit to continue to keep 3 horses on 3.5 acres at 1713-1715 S. 9<sup>th</sup> Street. The Planning Commission voted 9 to 0 to recommend approval of Special Use Permit Application #SP-2016-90 for two horses, subject to:

Urban Planning and Land Use Comments:

The following Urban Planning and Land Use Comments and Applicant Responses are from the 2014 application, #SP-2014-23. The special use permit will be subject to all stipulations and conditions as set forth in the below comments and responses. The special use permit shall be valid for two years.

1. Since this special use permit spans two properties, who is living at 1713 South 94<sup>th</sup> Street?

*Applicant Response:* No one lives in the house. Eventually, I would like to renovate the house so my daughter can move in.

2. How did you acquire the two horses?

*Applicant Response:* I bought the horses five and one-half years ago.

*Staff Response:* After conferring with the applicant, Mr. Orr currently has five horses on the property. Three horses will be leaving the property within the week. Two horses will be moving to Monroe, Louisiana. Their departure date is slated to be April 14, 2014. The third horse will be relocating to Edwardsville, Kansas.

3. How will you dispose of waste? How often? Where will it be disposed of?

*Applicant Response:* I bag up the manure in 100 gallon bags which are used for fertilizer. I have friends who will come with their trailers and pick up the manure for their personal uses. The manure will be picked up twice a month and kept in the shelter until it is picked up. In the summer, manure will be picked up every week.

*Staff Response:* In general, staff has concerns about the potential infrequency manure will be picked up, especially during the summer months . While picking up manure on a weekly basis may occur in the short-term, in the future if friends move or change, that disposal service will no longer be available to the applicant. The smell will more certainly become a nuisance for adjacent property owners.

Additionally, the storage of any manure or animals shall be kept off the property line. Based on the site layout, the best location for the storage of manure before its disposal is along Interstate 435. This area is the furthest point from any residential structure that could object to the odor.

4. How will you bring feed and hay onto the property? How often? Will it be picked up or delivered?

*Applicant Response:* The hay will be delivered via truck every two weeks. We have a wagon/trailer that can be used to pick up hay as well.

5. How will you be providing shelter?

*Applicant Response:* We plan on building stables in the future for the horses.

*Staff Response:* Only one detached accessory is permitted in the R-1 Single Family District. Furthermore, the maximum size the accessory structure is 1,000 square feet.

6. In reviewing aerial photographs, staff cannot determine the boundary of the fence. Please indicate on the aerial photograph on the last page of the staff report or on a separate drawing.

*Staff Response:* The applicant provided a drawing that shows the fencing going around the perimeter of both properties, just behind the house.

Public Works Comments:

None

Conservation District Comments:

In file and staff report.

Business License Comments:

1. If this is for stabling his own horses, nothing would be needed with this office. If this is to stable other horses for fee or some other business purpose, then applicant would need to file the occupation tax application with this office.

**Rob Richardson, Director of Planning**, said the Planning Commission has recommended approval of two horses. There was no one present in opposition at the Planning Commission meeting. I would ask Mr. Orr to stand up at the podium and tell the Commission exactly what he wishes to do. **Mayor Holland** asked it's approved for two horses, not three. **Mr. Richardson** said that is correct. **Mayor Holland** said the item in our book is incorrect. It should say a permit to keep two horses. **Commissioner Markley** said they applied for three horses, but they only got a permit for two. **Mayor Holland** said thank you for putting that in bold print so we couldn't miss it.

**Keith Orr** said I just want to try to keep my horses out for another couple more years. I had to string some new fence line. That's why Mr. Hawkins is here. They was getting on his property. I had one that loved his grass. I had to string new fence line. I got it up there now. He shouldn't be crossing over. That's the only thing. I've got kids I'm raising and raising horses.

**Mayor Holland** said I'd invite you to stay seated up front. After the presentation of those who pulled it off, if there are others who want to speak, then I will allow you to step up and make closing presentation. Will the party who pulled this off like to stand and speak to the issue.

**Doc Hawkins, 1729 S. 94<sup>th</sup>**, said I oppose them because the horses have been all over my place and the droppings is all left. I'm too old to get out there and try to clean this stuff up. The fence between he and I, I built that fence some years ago. It needs repair. I can't repair it. I've been there for 54 years. The place is worse now than it was then back when it was in the county.

I seen a big sign out there the other day about, I forget exactly how he had it, about place for lease for three horses. Evidently, they isn't his horses. He's leasing it off to people who, you know, for them to pay it. I object to it.

**Unknown Female Assisting Mr. Hawkins** said the other reason he had opposed it because the horses are in the front yard, kind of relieving themselves in the front yard. When you drive up to the house, you can just smell it really bad.

**Mayor Holland** opened the public hearing. No one appeared in support or opposition.

**Mayor Holland** closed the public hearing.

**Mayor Holland** asked is there any restrictions about the horses being in front or back. **Mr. Richardson** said the applicant has indicated by where they've drawn their fence that the horses would be behind the houses. That's Item No. 6 on page 6 of the Staff Opinion. We would hold them to that in the future if this were to be approved. **Mayor Holland** said that the horses would need to be in the backyard. **Mr. Richardson** said correct.

**Mayor Holland** said the applicant stated that he had built a new fence. Do you have any indication or record of that? **Mr. Richardson** said no, but that fence is part of that same restriction, so we would verify that. **Mayor Holland** said so that would have to be verified that he built a new fence sufficient to keep the horses in. **Mr. Richardson** said correct.

**Commissioner Walker** said we have been adopting animal regulations over the last few years. In each case, the argument has been advanced that the ordinances are designed to make the owner more responsible for the control. I certainly don't feel that the aggrieved property owner is responsible for the other guy's horses getting in his yard. If you're going to have horses, if you're going to have dogs, you're going to have cows, it's your responsibility, in my opinion, to make sure that your animal does not encroach upon the other person's property.

I'm accepting that apparently this has been the case where, either because the gentleman can't afford to repair his old fence, or the applicant is not willing to put up a fence that is sufficient to keep his animals on his property, your horses, your job to keep them out of his yard. **Mr. Orr** said I did mend the fence where they was going through. That's what I'm telling you. Between the last time I came to court here, and this time, I fixed that fence. I wasn't aware of

how they was getting out between the shed and going over. We talked about it when I caught them over there.

**Commissioner Walker** asked are you letting them go in the front yard. **Mr. Orr** said yeah, I have a fenced-in front yard too. There's horses out there everywhere, across the street, they're all in the front yards. See, I live on a dividing line between Wyandotte County and Edwardsville. Across the street, there's horses everywhere, right there in the front yard. I didn't think it was a problem with me letting mine out in the front yard. If it's a problem, I will not let them back out in the front yard. I only have one horse right now, anyway, but I do have another one coming, or I'm going to get a colt.

**Commissioner Walker** said the only problem I have is, having experience with other people who have horses, if you don't keep them away from the house from where people live, them just being horses, the odor becomes horrific. **Mr. Orr** said yes it does. **Commissioner Walker** said it can drive you, it's bad, that's all. I got nothing against anybody owning horses. I don't want it read that way. I just think that if you own horses, you're responsible for keeping them out of other people's yards. **Mr. Orr** said I am. **Commissioner Walker** said and you are responsible so that the other people don't have to close their windows in the spring and the fall in order not to smell your horses.

**Commissioner McKiernan** said just a couple of questions for you, sir. Do you own the house immediately south of your's as well? **Mr. Orr** said yes. **Commissioner McKiernan** said so there is a property buffer between you and the other gentleman, is that correct? **Mr. Orr** said no, he's on the south, he's south of me. He's right next door to me. Well, probably they're kind of spread out a little bit, but he's next door to me. **Commissioner McKiernan** said that's not clear in the staff report then because it indicates in the staff report that you own the house next door. **Mr. Orr** said yeah, I do. **Commissioner McKiernan** said but not to the south. You own the house next door to the north. **Mr. Orr** said right. **Commissioner McKiernan** said okay.

I'm also a little confused because it says in 2014, it says it was approved for two horses, is that correct? **Mr. Orr** said correct. **Commissioner McKiernan** said the application this time was for three. **Mr. Orr** said yes it was. **Commissioner McKiernan** said I've read in the various parts of the minutes from the Planning Commission that the number's three and the number's five thrown around here in terms of the number of horses that are, or have been, on the

property. **Mr. Orr** said I had some born there, but they're no longer there. They're in Monroe, Louisiana and Ft. Smith, Arkansas. **Commissioner McKiernan** said between 2014 and now, you have abided by the stipulation of two, and only two on that property. **Mr. Orr** said yes I have. I only have one right now, sir. **Commissioner McKiernan** said you're applying for three because you wanted to increase the number. **Mr. Orr** said I wanted to get another horse and have a colt. That's what I wanted. **Commissioner McKiernan** said the stipulation has been upheld, then, of having two, and only two, on that property. **Mr. Richardson** said we believe so.

**Mayor Holland** asked any other commissioners like to make a comment. Sir, the public hearing has come to a close. As the applicant, he had an opportunity to respond to the commissioners. Unless a commissioner asks you a direct question, we don't have an additional opportunity.

**Mayor Holland** asked the Clerk has a note. **Bridgette Cobbins, UG Clerk**, said yes, Mayor. Melody Day also submitted a letter that she is in opposition to this and wanted it to be read into the record. **Mayor Holland** said okay, thank you.

**Action:** **Commissioner Walters made a motion, seconded by Commissioner Kane, to approve Special Use Permit Application #SP-2016-90 for two years, subject to stipulations.** Roll call was taken on the motion and there were nine "Ayes," Markley, Walters, Philbrook, Bynum, Townsend, McKiernan, Murguia, Johnson, Kane. Walker voted "no".

**ITEM NO. 10 – 16905...SPECIAL USE APPLICATION #SP-2016-91 – DOMINIC SCALISE WITH RIVER QUAY ENTERPRISES LLC.**

**Synopsis:** Request for a special use permit for a café and lounge at 2820 West 47<sup>th</sup> Avenue, submitted by Robin Richardson, Director of Planning. The applicant wants to open a café and lounge serving alcoholic beverages in the Northwood Shopping Center. The business would serve coffee drinks from 6:30 am to 4:00 pm and alcoholic beverages from 4:00 pm to 12:00 am. The applicant currently operates Quay Coffee located in the River Market neighborhood in Kansas City, Missouri. The Planning Commission voted 9 to 0 to recommend approval of Special Use Permit Application #SP-2016-91, subject to:

Urban Planning and Land Use Comments:

1. Parking variance. This special use permit is contingent upon the approval of a variance for the number of off-street parking spaces (case #2224) (approved).
2. Must follow ordinances requiring security.
3. Approval is for two years.

Public Works Comments:

None

**Action:** Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2016-91 for two years, subject to stipulations. Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**ITEM NO. 11 – 16906...SPECIAL USE APPLICATION #SP-2016-93 – ELVIN GRIFFIN**

**Synopsis:** Request for a special use permit for a kennel for five dogs at 7922 Yecker Avenue, submitted by Robin Richardson, Director of Planning. The applicant wants to keep five dogs on their .4 acre property at 7922 Yecker Avenue. The Planning Commission voted 9 to 0 to recommend approval of Special Use Permit Application #SP-2016-93, subject to:

Urban Planning and Land Use Comments:

1. If approved, special use permit is valid for a period of two years.
2. Could you provide pictures of both the front and backyard?  
*Applicant Response:* See attached (pictures are in file and staff report.)
3. What kind of schedule do you have for the dogs in terms of how often they are outside?  
*Applicant Response:* The dogs are basically inside dogs. Dogs are let out in the morning before work and again after work. They come in and out in the evening. On weekends and days off work, dogs are outside more during the day. If dogs are barking we correct them or bring them back in.

4. Have the dogs ever gotten out of the yard? If they were to escape, what would your plan be to retrieve them?

*Applicant Response:* No, our dogs have never gotten out of our yard. If by chance one did get out, we would immediately begin looking until found. We would talk to our neighbors. We would contact Animal Control, animal shelters, offer rewards and post signs.

5. Have you ever received any complaints from neighbors due to the dogs?

*Applicant Response:* See attached (in staff report and file).

6. Where will you keep the dogs? Will they sleep and live inside or will there be a kennel outside? If there will be, where will the kennel be located and what size will it be?

*Applicant Response:* We will continue to keep our dogs inside. They will continue to sleep and live inside. We do not plan to have any type of kennel outside as they are indoor dogs.

7. For complete applicant response, go to page 14-15 of the staff report.

Business License Comments:

If this is for kenneling their dogs, nothing would be needed with this office. If this is to kennel other dogs for fee or some other business purpose, then applicant would need to file the occupation tax application with this office.

**Action:** Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2016-93 for two years, subject to stipulations. Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.



## VACATION APPLICATION

### ITEM NO. 1 – 16907...VACATION APPLICATION #U/E-2016-10 - BRYON AYALA

**Synopsis:** Vacation of utility easements at 3742 No. 112<sup>th</sup> Court submitted by Robin Richardson, Director of Planning. The applicant is requesting the vacation of a utility easement in order to build a single family house. The Planning Commission voted 9 to 0 to recommend approval of Vacation Application #U/E-2016-10, subject to:

#### Urban Planning and Land Use Comments:

1. Record a deed restriction on lots 251907 and 251908 indicating the following:
  - A. All roof drains will be directed to the street in such a manner that no roof water will flow to the rear of the lot.
  - B. No tree over six inches in diameter will be removed from the lot without approval from the neighborhood association except those trees within ten feet of the foundation that must be removed for construction.
  - C. A single terrace shall be created at the north corners and externally to the side lot lines to temper water flow to the north. The terraces between the two new homes shall meet at the lot line.
2. If approved, a \$50 ordinance publication fee must be paid in order to process the vacation ordinance.

#### Public Works Comments:

None

**Action:** **Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Vacation Application #U/E-2016-10, subject to stipulations.** Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**ITEM NO. 2 – 16908...VACATION APPLICATION #U/E-2016-11 – MATT JENSEN WITH BOYER KCK MEDICAL OFFICE BUILDING LLC**

**Synopsis:** Vacation of utility easements at 1601 North 98<sup>th</sup> Street, submitted by Robin Richardson, Director of Planning. The applicant is requesting the vacation of a 20 foot utility easement in conjunction with the development of a medical office building at the Legends’ East development, Lot 6 of Schlitterbahn plat. The Planning Commission voted 9 to 0 to recommend approval of Vacation Application #U/E-2016-11, subject to:

Urban Planning and Land Use Comments:

1. Utilities may be relocated by BPU at any time, but the vacation will not be finalized and no permits will be issued to the applicant until that time.

Public Works Comments:

None

**Action:** Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Vacation Application #U/E-2016-11, subject to stipulations. Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**MISCELLANEOUS APPLICATION**

**ITEM NO. 1 – 16909 – ROSEDALE MASTER PLAN**

**Synopsis:** Consideration of the Amendments to the Rosedale Land Use Plan in an area roughly bounded by Mission Road on the West, the Wyandotte-Johnson County Line on the South, the Kansas-Missouri State Line of the East and Interstate 35 on the North, submitted by Robin H. Richardson, Director of Planning. The Planning Commission voted 7 to 0 to recommend approval of the Rosedale Master Plan.

**Mayor Holland** said this item will require presentation by our staff.

**Rob Richardson, Director of Planning,** said a little over a year ago we embarked on the

process of updating the Rosedale Master Plan that was last done in 2004 or 2005.



I'm going to give a brief presentation this evening and then I'm sure there are some folks in the audience who would like to speak about the Master Plan, itself.



We had some great partners in this project, the KU Medical Center, the University of Kansas Hospital, KCATA, Rosedale Development, Argentine Neighborhood Development Association, and the BPU, as well as the Unified Government. Representatives from each of these groups made up the advisory committee for this.

**Commissioner Murguia** said Rob, I'm sorry; I don't mean to interrupt you. I'm just confused about process here. We've gone through this. Correct me if I'm wrong, but we've gone through this presentation at least twice before. You've kept us updated throughout the process of this. It's on the Consent Agenda. It was just pulled off because someone requested it. Why are we re-presenting? **Commissioner Walker** said I agree, Commissioner.

**December 1, 2016**

**Mayor Holland** said if the will of the Commission is simply to go to the public hearing, then we can go directly to the public hearing. That's what we'd like to do. **Commissioner Murguia** said thanks, Rob. It would be great to listen to you again, but you can only hear it so many times. **Mr. Richardson** said that's great.

**Mayor Holland** said what I'll do is we'll go ahead and if it comes to a point with the public hearing that we feel like we need to do the presentation, we'll go ahead and do it. We'll start with the public hearing.

**Mayor Holland** opened the public hearing. If there's anyone in attendance tonight who would like to speak in favor of the Rosedale Master Plan, please come forward. I'll also do this because sometimes we have, with meetings like this there are people who want to show their support or non-support for something, but don't want to speak, so after I ask for those who are in favor of it to speak, then I'll offer for everyone who's in favor of it to have an opportunity to stand. I'll do the same for those who are not in support of it. That way you'll be able to be represented even if you choose not to speak.

If you're in favor, please step forward at this time and state your name and address for the record.

**Erin Stryka, 1026 Ann Avenue, with Rosedale Development Association,** said I thought I had a good twenty minutes to prepare here.

For the past two years Rosedalians have been showing up in the master planning process to make their voices to heard and to advocate for the community where they live, work and play.

When the Planning Department first engaged the team made up of BNIM, Insite Planning, TranSystems, and EPS, they made it clear from the beginning that they would go way above and beyond to make sure that all voices were heard.

They began with the Rosedale community survey results. In 2015 the Rosedale Community Survey asked for Rosedalians to share their needs and priorities for Rosedale's future direction, housing, parks, built environment and more. Despite that the fact that the

survey was nine pages long, 814 Rosedalians filled it out, more than double the number needed for 95% confidence in the results.

The Planning team used those results to guide their initial conversations with the community. Then from there, they showed up to every neighborhood group, sometimes many times, and every community event. They hosted neighborhood walks. They convened focus groups in English and Spanish, and met with a number of other groups and individuals.

To get the word out about the public meetings, RDA put up billboards and vinyl signs all around the neighborhood, used social media and our online and paper newsletters, and sent out over 16,000 postcards, along with BNIM and the Planning Department, asking people to show up, speak up and dream big at the five rounds of public meetings. Rosedalians answered the call at every step of the way with the total of 250 unduplicated individuals, not counting me, attending the public meetings alone.

After the plan was drafted, community members continued to make their voices heard by asking for additional meetings and providing additional feedback on some remaining areas of concern. The Planning Department continued to listen and responded by incorporating some of the additional feedback into the plan. I want to thank Rob, Zach, and the whole Planning team for listening and responding throughout the process. I really want to thank Rosedale for consistently showing up and lending their voices to the plan.

With any undertaking of a community this size it's hard to get complete consensus. You've received a letter from the leaders of three of the neighborhood groups in the Master Plan area who want to ensure that development in the areas designated general urban, neighborhood corridors and mixed-use corridors doesn't damage the single-family fabric of the surrounding neighborhood. There's some lack of consensus on the preferred option for the future of Rainbow Boulevard, the one-way pair. I appreciate that the Planning Department specified in the Plan that this alternative needs further study and engagement. I also want to highlight the need for further study of the Cambridge Circle interchange.

This is not a perfect plan and in the places where there isn't yet consensus or a workable solution, I appreciate your thoughtful consideration of public feedback. We are relying on the Planning Department and on the neighborhoods to continue the conversation on a case-by-case basis throughout implementation. We hope to see the Rosedale Master Plan implementation decisions based on the vision that Rosedalians identified in the first round of public meetings of a

vibrant, diverse, and walkable neighborhood with metro-wide access that provides a delightful and safe place to live, work, shop and play.

**John Hornbeck, 606 Shawnee Road**, said I'm a 28 year resident of Rosedale and a member of the Board for the Rosedale Development Association.

There's a lot of different aspects of this Rosedale Master Plan that are attractive to me as a resident, including the way in which the plan moves Rosedale forward while preserving the existing sense of community in Rosedale and the significant effort to encourage community engagement at every single stage of this planning process.

However, I'm also the project director for the 20/20/20 movement, an advocacy and communications arm of Healthy Communities Wyandotte focused on walkability, complete streets, and off-street trails. For the next couple of minutes I want to quickly review some of the infrastructure aspects of this plan.

There were already great things happening in Rosedale. The Rozarks trail is one of the few natural trails in eastern Wyandotte County. The addition of sidewalks along Mission Road and other areas has provided safe routes to schools infrastructure for Frank Rushton Elementary, and their walking school bus. The Giving Grove installation at Fisher Park was one of the first of its kind in a Wyandotte County park. The Southwest Boulevard/Merriam Lane bikeway will be completed early next year and has truly transformed that corridor.

This master plan advances these developments further. In some cases, the plan functions as kind of a template for countywide possibilities for the future. For example, the proposed road diet on 47<sup>th</sup> Street redesigns a key connector route between Rainbow and the growing commercial area around 47<sup>th</sup> and Mission Road. The road diet approach includes protected bike lines and in a way that relatively inexpensive since it is mainly paint and signage. My hope is that such a road diet will be considered elsewhere as an efficient way of expanding our countywide bike infrastructure.

The proposed plans to connect various parks and other sites with an expanded network of off-site trails helps create a safe route to parks approach which is very consistent with the 2012 Sidewalks and Trails Master Plan.

However, probably the single most exciting part of it is the proposed Turkey Creek Trails area. For those of you not familiar with it, there's a large area running parallel to I-35, west of

7<sup>th</sup> Street Trafficway, that already has an extensive system of trails roughed in. Developing that into a useable trail system has been a challenge, partly because of the continued control of the area by the Corps of Engineers, and partly because public accessibility has been a challenge. The good news is what we all hope is a final stage of the extended water control project in that area is underway. As that project is completed by the Corps, there's finally a real potential for converting that area into a green space of environmental preservation and education that could even become a regional destination park.

Yes, for all three of these reasons, and for a great many others, I heartily endorse this plan from this Commission.

**Owen Buckley, President, Lane4 Property Group**, said also here not only representing Lane4 Property Group, but also the 39Rainbow Development, which is the mixed-use project at the southwest corner of 39<sup>th</sup> and Rainbow.

We are here tonight in favor of the master plan. We appreciated the process even when there were moments where maybe we felt like; and others felt like, maybe there wasn't complete inclusiveness, especially with the business community. Rob and his staff said hey, fair enough, time out, jumped on it and slowed the process down. I think that's a really big deal and makes us appreciate doing business with the Unified Government and the staff, and something we don't take for granted and something we always don't see in other communities. We appreciate that.

In general, we think the master plan was badly needed and is a good thing for that area. We think it will be a good thing going forward so we're in favor. For the record, there were two parts that we wanted to speak out on.

One is just a word of caution regarding some of the density in certain areas of the plan, particularly, and pretty much exclusively as it relates to retail and the realistic aspects of whether retail can survive in some of these areas that are pretty dense in their planning. We can discuss that another day in the future, but for the record.

Most importantly, the infamous two paired one-way streets in the 39<sup>th</sup> and Rainbow corridor. We're concerned deeply about the businesses and how that would affect them having these streets turned into one-way streets, virtually cutting the traffic count in half which is really important to a lot of retailers and other businesses.

Other than that, we really appreciate the process. Appreciated doing business with the staff, thank you. Appreciate doing business with the Unified Government.

**Mayor Holland** asked would anyone else like to come forward at this time in support. I will make the offer for anyone else who's in support here who did not have an opportunity to speak. If you would like to stand to show your support, you're welcome to do that at this time. Thank you very much. We appreciate your being here as well.

**Mayor Holland** said I'll now open it up to folks who would like to speak in opposition to this plan or that would like to offer changes, suggested changes to this plan, to come forward at this time. Please state your name and address for the record.

**Brent Hall, Real Estate Manager, Commerce Bank**, 1000 Walnut, Kansas City, Missouri, said I'll be very brief with my comments. We, like Owen had mentioned, did enjoy with meeting all of the Unified Government staff that we met with regarding this plan. They were very helpful in walking us through the plan.

Especially we appreciate the fact on the Commerce Bank side and the property behind that that's owned by Tom Higgins, the initial plan showed the roadway that ties into Rainbow bisecting right through our property. We realize that has been revised. We really appreciate that. That allows us to have the opportunity to exist there and do some future development in the future. We appreciate that and also working with the staff on that.

There is one issue that we just wanted to put on the record. Owen made reference to that. That is the one-way pairs. We do believe that the northbound on Rainbow and southbound on Adams will cause a lot of problems for additional development for retail and commercial in the future. Even as we look to redevelop our site and the Higgins property to the west of us, it does cause problems with the one-way streets. I wanted to make a word of caution on that as well. We realize that's something that will take more discussion as this plan gets implemented in its various stages, but did want to make that of record as we move forward.

**Mayor Holland** asked is there anyone else who would like to speak in opposition. If you are here, and you are in opposition to the plan, if you would like to stand and show that, you're



welcome to do that at this time. We'd like to offer that opportunity. Let the record show no one is standing.

**Mayor Holland** closed the public hearing.

**Commissioner Walker** said I guess I have a question. I received a communication yesterday, I believe Commissioner Murguia did as well, expressing concerns of three of the principal neighborhoods that are impacted. In further follow up conversations, I was told that an additional neighborhood, although not signed on on the letter, was in support of what the letter indicated.

In discussing that, I became aware that we have a typical Rosedale house on page 96 of the draft plan. I'm not going to say there aren't houses like that in Rosedale, but there seems to me to be a lot of houses that aren't like that. You might ask what's the importance of that. It has to do with the amount of maximum height that we are going to permit to be built on the 39<sup>th</sup> Street corridor, 43<sup>rd</sup> Street, Rainbow. There seemed to be a belief on the part of the neighborhoods, again, if I've followed what they're suggesting, that we were claiming that a house that has a converted attic into a room, bedroom, office, whatever it might be, constitutes a two-story house.

I drive through Rosedale often. I'm over in that area. I go down 43<sup>rd</sup> Street. I have to say that the house that I see here in this book that they are saying is a typical house is not the house that I see in Rosedale.

I am concerned because the neighborhood is concerned that developers will want to build three-story. I guess you define a story as what Rob, fifteen feet, sixteen to twenty feet? **Mr. Richardson** said typically on residential, it would be twelve. **Commissioner Walker** said twelve. Is there anything in the plan that limits them to twelve? **Mr. Richardson** said no, but it would be the ten foot, one story above what's adjacent, or ten foot higher, whichever is less. That's how we accommodated that trying to distinguish between what's a story and what's not a story. They could be ten feet higher than the peak of the adjacent roofs.

We have an application that we're evaluating now that's a three-story apartment along Rainbow. I don't believe that it would meet the criteria here. We've asked them to prove that out. I don't think that they will be able to.

I understand your concern. We could change the typical home to a, probably a bungalow would be more appropriate there. **Commissioner Walker** asked call it airline bungalow. **Mr. Richardson** said an airplane bungalow, I think, would probably actually be a two-story house. That's not converted attic space. That was actually a purposefully built second story. But there are bungalows that obviously have converted attic space.

It's a fine line between all those. That's why I use the ten foot criteria because I thought that would probably more clear than trying to figure out what a story was in some of these houses that are adjacent to the major streets.

**Commissioner Walker** said I want to say I would love to tell you I've read every word in every page, and I haven't. I have read through this. I've read through other drafts. I think this is an excellent piece of work that a lot of people put time in. I'm not opposed to this plan. I want something on the record that assures, not so much me, but the people who live in those neighborhoods, that we're not going to build a building like, well what would be an example, we're not going to build one like across from the medical center, what do they call it? **Mr. Richardson** said 39Rainbow. **Commissioner Walker** said 39Rainbow, down on 43<sup>rd</sup> and Rainbow, or at one of the other locations that they're concerned about. They seem genuinely concerned and I think probably I would be too. I'm hoping you can give me and the record the assurance that we're not going to have one of those slip in.

**Mr. Richardson** said I'm trying to fine the wording and the page at the moment here. On page 75 under General Urban, we added text that says, "Buildings should not exceed the height of adjacent structures by more than one story or 10 feet. This is intended as a guideline to encourage incremental change and prevent development that is out of scale with the existing neighborhood. It will be considered alongside other factors such as how well the overall design of the site and building responds to its surrounding context and the level of community support."

**Commissioner Walker** said if my house is the two-story house that you show on page 96, then you're telling me that I can have a three-story building next to that which either is three-stories or ten feet higher than the pointed roof on this house. **Mr. Richardson** said I would say that it would start at the, since the roof is not counted as a story because it's not inhabited in this case, the story ends at the top of the ceiling on the outside of the house. That would be, you're correct though, if you had a two-story house we would allow one-story, or ten feet higher than that; but, we wouldn't measure from the top of the roof in this case because it's not inhabited.

**Commissioner Walker** said so if it was inhabited by an attic conversion, you would. **Mr. Richardson** said conversion no. Like if it was an airplane bungalow, I would count the airplane bungalow as a second story because it was purposefully built like that, but not if the attic was converted in the bungalow. Once again, this is only in the corridors along Rainbow.

The other thing I would say is that the – in other times when we've had issues with the Rosedale Master Plan, the staff has been very cautious and protective of the neighborhoods. I think if you went and talked to the McDonalds folks about how we had them address the neighborhood adjacent to them, and ask the neighbors how we worked through that process, I think everyone would say that we were very protective of the neighborhoods. I think that this allows for some flexibility, but it doesn't allow for someone to come in adjacent to a row of bungalows and build a three or four story building. It would allow them to be a story higher.

There are cases in some of these neighborhoods where you have a one-story home with a shallow pitched roof adjacent to a two-story home with a very steeply pitched roof which would appear to have a one-story house next to a three-story house. We're only talking about what fronts on Rainbow. We're not talking about internal to the neighborhoods.

As we go through the design process, for instance, if you had a row of airplane bungalows that were two-stories and somebody wanted to build a solid brick of a three-story building for 300 feet on the west side of them in front of Rainbow, I wouldn't that appropriate because of the scale on the mass of that. It would block all the light into that backyard for a huge portion of the day. It would need to be broken up and have the design fit with the neighborhood. There are nuances to this. All those projects would have to go through the public hearing process, work with the neighbors, go through Planning Commission and this body. I think that that's where, with the language that's in the plan, and the process that's involved, I don't think we could have something like that slip through.

**Commissioner Walker** said certainly this one aspect is maybe not enough to justify killing this whole plan. I think you're very much aware of who the various people are that live in these neighborhoods. I assure you they're going to have their eyes on what's going on. I sure don't want to be in the middle of the line of fire because what we've said here tonight, we've found a reason because it's such a good project, that we want to do something different. We're giving them an assurance here as to what the maximum height of that building is going to be.

I know developers who are always pushing the envelope. If there are developers here, I

apologize, but you do. I do not want to be in a position of getting angry over an issue after it's been brought out and discussed. With that, I'll conclude my remarks.

**Commissioner Murguia** said, Mr. Hall, is that correct? Mr. Hall, first of all I just want to tell you that I greatly appreciate Commerce Bank having a business in my district. We really appreciate that and I definitely want to see you stay in District 3.

Tonight you pulled this off the agenda because it was either you were for or you were against. When you spoke, though, you didn't sound like you were against. You sounded like you were just expressing concern of making a particular road a one-way. Is that accurate? **Mr. Hall's** response was inaudible.

**Commissioner Murguia** said so you're not necessarily against the plan. You have an issue with this one-way road. **Mr. Hall's** response was inaudible. **Commissioner Murguia** said okay, so hold that. Rob, my question is, this one-way, the road that Mr. Hall is making reference to, is this one-way a set in stone sort of thing that we're going to change it regardless, or is this just an option that the Unified Government can execute later? If we could execute it later, would it require a public hearing where people could provide input and feedback to that?

**More study and public engagement is needed to identify specific impacts, and any significant infrastructure project for Rainbow Boulevard would feature an extensive public engagement process and the involvement of affected property owners.**

**Mr. Richardson** said this is the slide from the presentation where we describe how we're looking at this particular issue with the one-way pairs. There are significant additional steps necessary, more public hearings, more work, more options to be developed, more public engagement with the Rosedale citizens and business community. While we left the concept in the plan because it was very popular in the public hearings, we recognize the difficulties for the

business community. Before we would ever move forward with this, obviously we have more work to do.

**Commissioner Murguia** said, Mr. Hall, again I'd tell you thank you very much for your business in my district. I also want to tell you how much I appreciate Commerce Bank's \$20,000 donation to do this study. We really appreciate the help here at the Unified Government. We need all the help that we can get.

I think this clarifies, or should put to rest any concerns or issues that you have. We can get you a copy of this so you actually have something in writing. You don't have to worry about that in the future. With all that said, it doesn't look like there was any other objection.

**Action:** **Commissioner Murguia made a motion, seconded by Commissioner Walker, to approve the Rosedale Master Plan.** Roll call was taken on the motion and there were ten "Ayes," Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**Commissioner Murguia** said just real quickly, Mayor, I just wanted to say thank you to our staff. I know that I personally challenged them a great deal to really reach out to people in the Rosedale community. I know we don't have a lot of staff in your department Rob. You do major multi-million dollar deals all the way down to a couple hundred thousand dollar deals. Thank you very much for all of your hard work and your outreach in trying to get everybody's input on this plan.

I do think plans are great, but I do think they need to be flexible. I think this is a good example of how future plans should work.

#### **MISCELLANEOUS – ORDINANCES (Final action on previously approved items)**

##### **ITEM NO. 1 – ORDINANCE: REZONE 3835 NORTH 67<sup>TH</sup> STREET**

**Synopsis:** An ordinance rezoning property (#3123) located at approximately 3835 North 67<sup>th</sup> Street.

**Action:** **ORDINANCE NO. O-69-16**, “An ordinance rezoning property hereinafter described located at approximately 3835 North 67<sup>th</sup> Street in Kansas City, Kansas; by changing the same from its present zoning of R-1 Single Family District to A-G Agriculture District.” **Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve the ordinance.** Roll call was taken and there were ten “Ayes,” Walker, Townsend, McKiernan, Murguia, Johnson, Kane, Markley, Walters, Philbrook, Bynum.

**ITEM NO. 2 – ORDINANCE: REZONE 3440 RAINBOW BOULEVARD**

**Synopsis:** An ordinance rezoning property (#3115) located at approximately 3440 Rainbow Boulevard.

**Action:** **ORDINANCE NO. O-70-16**, “An ordinance rezoning property hereinafter described located at approximately 3440 Rainbow Boulevard in Kansas City, Kansas, by changing the same from its present zoning of CP-1 Planned Limited Business District to CP-2 Planned General Business District.” **Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve the ordinance.** Roll call was taken and there were ten “Ayes,” Walker, Townsend, McKiernan, Murguia, Johnson, Kane, Markley, Walters, Philbrook, Bynum.

**ITEM NO. 3 – ORDINANCE: AFFIRMING THE APPROVAL OF 2016 K-32 TRI-CITY MULTIMODAL REDEVELOPMENT PLAN**

**Synopsis:** An affirming the approval of the 2016 K-32 Tri-City Multimodal Redevelopment Plan.

**Action:** **ORDINANCE NO. O-71-16**, “An ordinance affirming the approval of the 2016 K-32 Tri-City Multimodal Redevelopment Plan.” **Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve the ordinance.** Roll call was taken and there were ten “Ayes,” Walker, Townsend, McKiernan, Murguia, Johnson, Kane, Markley, Walters, Philbrook, Bynum.

**PLANNING AND ZONING NON-CONSENT AGENDA**

**SPECIAL USE PERMIT APPLICATIONS**

**ITEM NO. 1 – 16899...SPECIAL USE PERMIT APPLICATION #SP-2016-55 – TODD RICKELS**

**Synopsis:** Special Use Permit for tire sales and auto repair at 1066 Merriam Lane, submitted by Robin Richardson, Director of Planning. The applicant is rehabilitating a building at 1066 Merriam Lane that was previously an auto business use, but has been vacant for some time and has fallen into disrepair. The applicant is seeking a special use permit for an auto repair and tire sales business. The Planning Commission voted 6 to 3 to recommend approval of Special Use Permit #SP-2016-55 for one year (Staff does not concur with the recommendations of the Planning Commission), subject to:

Urban Planning and Land Use Comments:

1. Parking Requirements.

Based on a floor area of 1549 square feet, this business requires seven parking spaces. One space must be an accessible space in conformance with the Americans with Disabilities Act (ADA). Parking must occur in individual striped spaces and meet the standards for dimensions of parking areas. Parking areas must be paved with concrete or asphalt. Parking and other paved areas must be not less than six feet from any property line and not less than ten feet from any street right-of-way line. Parking must be screened from adjacent streets and alleys by walls, shrubs, trees, or other design elements. Please indicate on the site plan how the site will accommodate the required parking.

Sec. 27-593(b)(19)(a) Repurposing of structure(s) for used car/truck lots or light automotive service and maintenance. *Upgrade parking, including striping and/or resurfacing of parking lots, if deemed necessary by staff.*

Sec. 27-467(e) Parking Standards. *Uses in this district require paved off-street parking at a ratio of not less than four spaces per 1,000 square feet of floor area in the building.*

Sec. 27-669. - Dimensions of parking areas.

*(a) Standard parking stall dimensions shall be not less than nine feet by 18 feet, plus the necessary space for maneuvering into and out of the space For standard parking lots the minimum cross dimensions shall be as follows:*

*(1) Ninety-degree pattern, single loaded aisle: 44 feet.*

- (2) *Ninety-degree pattern, double loaded aisle: 60 feet.*
- (3) *Sixty-degree pattern, single loaded aisle: 37 feet with one-way drive.*
- (4) *Sixty-degree pattern, double loaded aisle: 57 feet with one-way drive and 60 feet with two-way drive.*
- (5) *Forty-five degree pattern, single loaded aisle: 33 feet, with one-way drive.*
- (6) *Forty-five degree pattern, double loaded aisle: 49 feet with one-way drive; 52 feet with two-way drive.*
- (7) *Parallel space: Nine by 23 feet, each space.*

*(b) If vehicles can overhang wheel stops or curbs on one or both sides of the single or double loaded module, the dimensions set out in subsection (c) of this section can be reduced two feet for each side where vehicles can overhang. Obviously, this is not possible where there are walls, tall curbs, or adjoining parking spaces.*

*(c) In office parking areas with low parking turnover and high user familiarity, 30 percent of the required off-street parking may be designated for small cars and spaces not less than eight feet by 16 feet utilized. Acceptable aisle width, layout of spaces and overall design of the parking area shall be shown on the final development plan.*

*Staff Response:* The site plan does not meet the parking setback requirements or parking screening requirements.

## 2. Building Materials

The front building façade must be cleaned and repaired. Smooth-faced and painted concrete block is prohibited as a façade material; a masonry wainscot with stucco above on the façade facing 11<sup>th</sup> Street would fulfill this requirement.

*Sec. 27-593(b)(19)(a) Repurposing of structure(s) for used car/truck lots or light automotive service and maintenance.*

- 2. *Landscaping, screening, and façade improvements to meet commercial design guidelines.*

*Sec. 27-593(b)(19)(c) Facade, Landscaping and Screening*

- 2. *For existing structures:*

- i. *Such modifications as:*

- A. *Restoring original brick.*
- B. *Any necessary repair of the facade.*
- C. *New doors or windows if existing fixtures are in disrepair.*
- D. *Substantial effort beyond simply painting the building is necessary. Brick structures must be cleaned, paint removed and tuck pointed.*
- E. *For non-brick buildings in addition to paint, additional architectural embellishments such as a brick wainscot may be required.*

*Sec. 27-576(e) Building Materials*

- (2) *Exterior building materials shall not include the following:*
  - a. *Split shakes, rough sawn, or board and batten wood;*
  - b. *Vinyl siding;*
  - c. *Smooth-faced grey concrete block, painted or stained concrete block, tilt- up*



- concrete panels;*
  - d. Field painted or prefinished corrugated metal siding;*
  - e. Standard single-tee or double-tee concrete systems; or*
  - f. EIFS at the ground level or comprising more than 15 percent of any facade.*
- (3) Exterior building material must be continued down to within nine inches of finished grade on any elevation. Exterior masonry materials must be continued to the top of grade.*
- (4) All building facades shall be at least 50 percent masonry. Cementitious siding may be used to meet 50 percent of the total masonry requirement.*

### 3. Screening of Trash Receptacles

All trash receptacles must be enclosed with a screening wall or fence constructed of the same materials as the primary structure.

### 4. Pedestrian Connections

Provide pedestrian connections between parking areas and the primary entrance of the building pursuant to Sec. 27-575(e) Parking.

### 5. Landscaping Requirements

Two trees are required to meet landscaping standards. A six-foot high architectural screening is to be provided along the rear property line and between the building and house on the northeast.

Please show landscaping and screening on the site plan or prepare a separate landscape plan.

*Sec. 27-466(g) Landscaping and screening. A reasonable amount of landscaping is required on all projects in this district, all to be depicted on a property prepared plan. Trees are required to be provided at not less than one per 7,000 square feet of site area. Six-foot high architectural screening is to be provided along all side and rear property lines common to or across an alley from residentially zoned property. For additional standards and information, see division 10 of this article.*

*Sec. 27-577(a)(5) Landscaping shall exceed the typical code requirements by at least 75 percent.*

*Sec. 27-577(b)(3) In general, formal, stand-alone trees are encouraged to be planted in landscape zones along major streets and medians. These trees should be planted as follows:*

- a. One tree with a minimum caliper of two inches (ornamental) evergreen trees must be at least six feet tall when planted) provided for every 30 feet of street easement or frontage.*
- b. Street trees should be planted no closer than 55 feet and no more than 65 feet apart. Groupings of ornamental trees and shrubs should be placed in between the street trees.*

Public Works Comments:

**December 1, 2016**

None

**Mayor Holland** said I will ask staff to present this initially and then we'll open it up to the applicant.

**Rob Richardson, Director of Planning**, said this application at 1066 Merriam Lane is to convert an old building that's been rehabilitated into a tire and light auto repair facility. For reference, it's directly across from the driveway of the Boulevard drive-in and next to the new building being built by Buck Roofing. Buck Roofing is just to the south or west of this building.

It comes before you recommended for one year by the Planning Commission. The staff has recommended denial. Mr. Rickels is here and he can speak to present the rest of his case.

**Todd Rickels, 2001 South 20<sup>th</sup> Street**, said the building is at 1066 Merriam Lane. **Mayor Holland** asked is there anything you would like to say about the application. **Mr. Rickels** said not really. I spoke a couple of weeks ago in front of the board then.

I purchased this building six months ago. It's a commercial building. I've just been renovating it for the last six months. I've invested about \$30,000 of my own money in the building just trying to open up a little shop that me and my son can work in. On the weekends and during the week change a few tires, fix some brakes, stuff like that. Pretty low key, such like that.

I've been working with the Planning and Zoning Commission for the last three or four months trying to develop a plan. Had a gentleman draw up a plan as far as parking and landscaping and so forth to go with the property. That's where I've been at with it for the last few months. This is new to me, I haven't done this before. They voted on it a couple of weeks ago and now I'm back tonight.

**Mayor Holland** said this is the final approval, so it's a normal step. You're in a normal process. **Mr. Rickels** said okay, sounds good. **Mayor Holland** said if you'd like to remain in one of the front chairs then we'll open up the public hearing. Following the public hearing, if there are folks that speak about it, you're welcome to make a summative comment before we close the public hearing.

**Mayor Holland** opened the public hearing. Is there anyone in attendance tonight who would like to speak in favor of this application? Let the record show no one moving to speak in favor.

Is there anyone in attendance tonight who would like to speak in opposition to this application?

**Erin Stryka, Executive Director of Rosedale Development Association**, said I believe this proposal is detrimental to the surrounding neighborhood for a few reasons.

For the last few years the Unified Government has invested an awful lot in improving this corridor of Southwest Boulevard/Merriam Lane. You built new curb and sidewalk. You've done a ton of improved flood control, new bike lanes, new street resurfacing. Local businesses have also invested a lot in façade improvements and new landscaping. The change to the area has been really dramatic.

Unfortunately, I think this building would be a step back for that. The building at 1026 Merriam Lane is very small and it's not really adequate for auto repair. The available space for parking is also very, very small. It's really not large enough to accommodate the seven parking spots that are required for a space of this size.

I'm really concerned that the building space restrictions will lead to auto repair being performed in that small parking area, or out in the neighborhood, or to broken vehicles being stored out there because, again, there's not much space inside, which would be a setback for improvements in the area.

The site plan that was submitted didn't meet requirements for parking setback or for landscape screening, so that's a concern too. There's also a pretty high concentration of auto service businesses on Southwest Boulevard/Merriam Lane. The neighborhood's been really clear that they don't want to see more businesses of that type.

Finally, I have some concerns about whether the property will be maintained appropriately. Roofing and electrical work that was undertaken since the property was purchased failed on inspection in July, although I do believe it passed the re-inspection in November.

Also, the Planning Department has heard from several residents and businesses and the Police Department just mentioning that in the past the applicant hasn't acted as a good neighbor. Of course, we want to give everybody a chance to succeed in Rosedale, but I do think in a case

where there are really significant concerns about the appropriateness of the building for the business proposed, that a history of broken trust with the neighborhood should come into account a little bit.

Just overall, given the available space and the submitted design, I think the proposal would be harmful to the neighborhood.

**Mayor Holland** asked is there anyone else who would like to speak in opposition. Let the record show no one else is stepping forward. Sir, would you like to make a summative comment before I close the public hearing?

**Mr. Rickels** said yes. I've been working with Planning and Zoning. We do have seven parking places that were adapted to the space. I'll be honest with you, I haven't planted any trees there yet because it's not the really proper time to plant trees and landscaping around the building. I was hoping to be able to that here in the next several months, come spring time, not here in November or December. I just wanted to throw that in with that.

**Mayor Holland** closed the public hearing.

**Commissioner Walker** said I find myself in complete agreement with what Ms. Stryka had to say, at least on the main points. We have spent millions of dollars investing in an improved roadway and infrastructure in Rosedale. I drive that road frequently because that is in the part of the county where I live. I often prefer to take Merriam Lane to the interstate to get down to KU or Southwest Boulevard.

I for one believe that we have reached the point where the idea that any business is good business is not necessarily the mantra that KCK should be following. Certainly, I applaud an entrepreneur. I like business, but we invested a lot of money to improve the quality of what is on Merriam Lane. It has great potential. That's never going to happen if we continue to approve businesses that don't appreciably add to the quality of the community.

I will not support this anymore than I would another used car facility on Merriam Lane. Had I had any choice, there's other businesses that have opened up since we've done our reconstruction that I would not have supported. I think it's time that we accepted that not every

business is good business for this community. This is not the right location if we have aspirations for that to be anything more than what it has been for the last 30 years. I would agree with staff's recommendations and the comments of Ms. Stryka.

**Action: Commissioner Walker made a motion, seconded by Commissioner Murguia, to deny Special Use Permit #SP-2016-55.**

**Mayor Holland** said it is a motion to deny and it is seconded. I don't see any further comments. I do want to make clarification because this gets a little, it sounds backwards. A vote yes, if you vote yes for the motion, then you're voting to deny. If you vote no, you're voting to approve. Does that make sense?

**Commissioner McKiernan** said I just have a question for Rob. Staff's conclusion is that the site does not adequately conform to the commercial development guidelines overlay district. You come to that from not only the overlay itself, but from the questions that staff raised and the response that staff got. Is that correct? **Mr. Richardson** said correct.

**Mr. Richardson** said, Mr. Mayor, this would be overturning the Planning Commission so eight votes would be required.

**Commissioner Bynum** said if you google this address you see a similar use. I'm curious, has it been vacant? If you google 1066 Merriam Lane, you find Wally World Auto something or other.

**Mr. Richardson** said the building didn't have a roof on it until Mr. Rickels purchased it last year or early the year before. I don't know what kind of use was in there with no roof on the building.

**Commissioner Bynum** said so perhaps that's just old information. **Mr. Richardson** said it could be. I'm not familiar with that. **Commissioner Murguia** said I'm not either and it's my district.

**Mayor Holland** said we have a motion to deny before us. It will take eight votes to overturn the Planning and Zoning recommendation. A vote yes is to deny. A vote no is to approve.

Action: Roll call was taken on the motion to deny and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**ITEM NO. 2 – 16901...SPECIAL USE PERMIT APPLICATION #SP-2016-69 – CHENIKA BRAY AND LISA LITTLEJOHN**

**Synopsis:** Special Use Permit to operate a foster home for up to seven children at 2607 North Hallock Street, submitted by Robin Richardson, Director of Planning. The applicants are seeking a special use permit to operate a foster home for up to seven children in a single family home at 2607 North Hallock Street. The Planning Commission voted 6 to 3 to recommend denial of Special Use Permit #SP-2016-69 based on Section 27-592 when it says that when the neighborhood or the well-being of the community is not carried out. The staff does not concur with the recommendation of the City Planning Commission.

Urban Planning and Land Use Comments:

1. Subject to approval, this special use permit shall be valid for two years.
2. The letter indicates that you will have staffing 24 hours per day. How many staff members will you employ and how many shifts?

*Applicant response:* Seven employees, three eight hour shifts will be staffed in such a way that there are two employees on duty when there are seven kids in the home during awake hours. One employee will be on staff overnight during sleeping hours. Shifts as follow: 8:00 AM – 4:00 PM, 4:00 PM – 12:00 AM, 12:00 AM – 8:00 AM.

3. Are the youths from Wyandotte County or are they from the Kansas City metropolitan area?

*Applicant response:* We will receive youths from the State of Kansas.

4. How are the youths chosen for this particular foster care home?

*Applicant response:* Children will be chosen by the Kansas Department for Children and Families Services. The Child’s Life staff will get basic information regarding the child’s history, demographic, needs, why they are in DCF custody and sibling group. We will not accept juvenile offenders.

5. How will they arrive at the residence?

*Applicant response:* They will arrive by the provider contracting agency.

6. How will children living in the home attend school?  
*Applicant response:* School service/transportation will be provided by the Unified Public School District #500. If a child cannot attend school public school, home school will be provided.
7. How many vehicles will be making trips to this location?  
*Applicant response:* Between 3 to 4 vehicles a day.
8. What are the proposed hours of operation?  
*Applicant response:* We will operate 24 hours a day, 7 days a week. Staff is scheduled from 8:00 AM – 4:00 PM, 4:00 pm – 12:00 AM, 12:00 AM – 8:00 AM.
9. What is the typical, day-to-day operation of the group home?  
*Applicant response:* Staff will assist/teach children in life skills, making sure beds are made; room is clean, showers and dress appropriately for school. Breakfast is provided by the school district. After school, PM snack, a scheduled therapy appointment in the home will be provided. Homework-study groups and tutoring, then chores will occur in the evening. There will be one hour of free time. Each day two of the children will assist in the preparation of dinner (and weekends breakfast and lunch as well), showers and bedtime by 8:30 PM (weekends are planned activities out of the home; i.e. skating, swimming at the YMCA, museum, etc.)
10. Are there plans for visitors? If so, where will they park?  
*Applicant response:* Yes, social workers, case management and therapist are by appointment.
11. No signs shall be posted on the property.  
*Applicant response:* Acknowledged.
12. Because this is a foster care facility/group home, additional upgrade to the home such as a fire suppression system may be required pending review by the Building Inspection Department and/or KCK Fire Department.  
*Applicant response:* Per Kelli Littleton with the KCKFD, we have insatalled an integrated fire and smoke security in addition to adding light up exit signs. These two are the only additional upgrades that are required. No additional upgrades are needed at this time.

Public Works Comments:

None

Update - October 10, 2016:

The City Planning Commission held over the petition so staff could research if businesses were prohibited per the restrictions on the final plat or in the Homeowners' Association documents.

Staff did not find any language on the final plat that precluded a resident from operating a business from their home. Moreover, after checking the Peregrine Falcon final plat file and calling the Register of Deeds, the Homeowners Association documents have not been filed and recorded.

Update - November 14, 2016:

The City Planning Commission held over the petition so the residents in Peregrine Falcon could furnish a filed and recorded copy of the Homeowners Association document stating that a home based business was prohibited. According to the developer and the Recorder of Deeds the document does not exist.

**Rob Richardson, Director of Planning**, said this is an application for a business to operate a foster home at this address. This has been in the Planning Commission and Board of Commissioners realm for a couple of months here.

The primary issue was, was there in fact a recorded set of covenants and restrictions for the subdivision. Until yesterday we thought the case was no. Yesterday the developer found and sent us the cover sheet and the time stamp from the document. This morning my staff retrieved a copy of the subdivision covenants related to this from the Recorder of Deeds office. Just as a side note, the difficulty was that this was recorded under the grantor's corporate name and not under the subdivision name. It made it difficult for anyone to find it.

**December 1, 2016**



The neighbors oppose this. The covenants and restrictions discuss not having commercial activities on the lot other than home professional pursuits without employees that produce no public visits or nonresidential storage.

The staff recommendation had been to approve; however, we didn't have this information in front of us. It's not our practice to recommend approval of cases that are contrary to what's in a recorded covenant or restriction. I think the key one here is without employees. They do plan on having employees here. For that reason, the staff would change its recommendation to denial in this case.

I'm sure that the applicant and members of the public will want to speak.

**Mayor Holland** said I will ask our legal team to weigh in on this. I know this was a conversation earlier about the issues of the covenant.

**Ken Moore, Chief Legal Counsel**, said, Mayor, we've reviewed the deed restrictions. It does prohibit commercial activity. However, it doesn't define what a commercial activity was. I can't say from any legal basis that a foster care would be considered a commercial activity which would be clearly prohibited by this restrictions.

I think second is that this is a restriction between the private parties. I think any enforcement action would best be left to them to determine what they meant by a commercial activity. I think what we thought was a key factor is that when we do allow foster homes or activities of this nature, we don't require that they be limited to commercially zoned property. They can be in residential areas for us to approve those by special use permit.

It is a consideration, but it is not one that we think would prohibit the Commission from acting on it. It was recommended for denial.

**Mayor Holland** said it's been recommended for denial now by our staff and the Planning and Zoning Commission. Commissioner Townsend, do you still have a question before we open the public hearing?

**Commissioner Townsend** said I think I do. In light of what we've just heard, I guess my question really went to where does that leave this situation. Now I understand that there are family members and some additional children who are not related to the nuclear family there. My understanding from reading this is, this new request aside, they could still continue to do that. **Mr. Richardson** said if they were operating as a family that had foster children without employees, they could do that without our approval.

**Commissioner Townsend** asked if the other residents there have an issue with that, that would become a private matter because they wouldn't have to come before us, right. **Mr. Richardson** said correct. **Commissioner Townsend** said okay. That was the only thing I had.

**Chenika Bray, 2607 North Hallock.** **Tanya Sherman** said I'm one of the partners in this.

The objective of this transitional home is to simply help kids step into authenticity to separate what has happened from the stories we create about ourselves because of those things. We want to help them learn the power of the mind and unlocking their potential, things like how to pay bills, how to work as a team, the art of communication, communicating their feelings instead of physically acting out, compassion and love, some form of a family and togetherness while they're in their transition, how to study and prepare for college, and so forth. We already have approval for the five as they stated earlier. However, to be transparent with the Board, we have the finances to start and have put a lot of time and our own money into this. But in order to gain the assistance of the State that comes from having the seven, for example like life-coaching and other programs that will help them succeed, these things will be freely provided if we have seven.

I also wanted to debunk this notion, one of the neighbors has related to the child protective services that Chenika is trying to do this because she can't afford to pay her mortgage. Chenika is a respiratory therapist at KU. This couldn't be farther from the truth. This is not about anything beyond three women deciding to walk in purpose, right the vision, and see it come to pass through the little messages we are able to instill in these kids who have had a rough start.

As you can see from our notes, there was no homeowners' association, well I said that and now we know that there was and we just were not aware. That was never articulated when the home was bought and anything of that sort. Reality is this is a community of single-family homes

with no children. The only one on this block that has children is Chenika so I do understand where, I guess the force of nature comes where they're kind of reluctant to her doing this. We didn't know that. That should have also said that we don't want children on the block. She probably would never have bought it and she's open to them possibly buying the home if I that's the case. This is our stance for now. Is there anything you wanted to add?

**Mayor Holland** said I'd invite you to sit on the front row and we'll open up the public hearing. If there are folks who speak at the public hearing we'll give you an opportunity to make a summative comment.

**Mayor Holland** opened the public hearing. Is there anyone who would like to speak in favor of this application? If so, please come forward at this time. State your name and address for the record.

**Lisa Littlejohn, 2507 North 59<sup>th</sup> Street**, said I am really, I cannot believe what I am hearing right now. I'm about to break down in tears. I do children in my home now. I have five in my home. For the staff, not you guys, the neighbors to be so against of helping children, little kids, 5,10, we're only asking for seven children. There's only seven children in the neighborhood. This has been a foster home for the past almost two years. They didn't even know anything about it and there was children already there. So they're not interrupting the neighborhood. They're not tearing up the neighborhood. I don't understand what the problem is.

We are just trying to help children and we're passionate of helping kids. I'm in favor and I please, hope, and wish that you would change your minds about this.

**Mayor Holland** asked is there anyone else who would like to speak in favor at this time. Let the record show no one else is coming forward at this time. Would anyone like to speak in opposition please come forward at this time.

**Beverly Easterwood, 950 Washington Boulevard**, said my connection with this case is that it's a Peregrine Falcon Estates subdivision that I was initially involved in when it first started, when it was first built. I was a listing agent and I marked the property. I sold the first property that was built by the developer.

When the subdivision was built it was built as a single-family, upscale neighborhood. It was to fulfill a market that had not been met at that time. It was strictly supposed to be single-family. That's why the covenants and restrictions were developed.

One of the use restrictions was 15.2, no commercial activities and 15.15 says use of lots. This says "except as may be otherwise expressly provided in this declaration. Each lot shall be used for residential purposes only as a residence for a single family. A single-family residence means a single housekeeping unit operating on a non-profit, non-commercial basis between occupants." I believe the applicant said that she was not aware that there was covenants and restrictions. I have a copy of the seller's disclosure and condition of property addendum that she signed that states the property is subject to covenants and conditions and restrictions of a homeowners' association and other subdivision restrictions. She signed and initialed it.

The opposition is not to a foster home. The opposition is to a business in this single-family residential neighborhood.

**W.D. Young, 2602 North Hallock**, said my wife and I came into this project of building a home where we felt like the community is going to grow. We have spent about \$300,000 on our house and we were not looking to have a foster home within the community.

Like she said, she was having a foster home. We didn't even know it. When it came to her trying to get more children in it, we became very concerned like well where are all these kids going to sleep at in the home like this. We found out that the Fire Department has not come out and inspected. I've been calling to Topeka to find out where did they get the permit. They said no one from Topeka has come out and checked the house. We're trying to figure out how you're going to put seven kids in a three bedroom house and unfinished basement.

**Brenda Barnes, 2706 North Hallock**, said I concur with everything that has been said also. When we moved into the house, we pretty much thought that it would be a two family home or a

family home. Of course, we did not know that a foster home, which to us is a business when you are being paid to have children within your home.

We also feel that having a foster home in our neighborhood will decrease the value of our homes. We feel that we've already seen some problems in the neighborhood with the foster kids that are there. I work with children every day. I have nothing against them, but I do have a problem with a business within the neighborhood.

We also feel that a foster home in our neighborhood will not attract new home buyers. As Mr. Young has said before, we pay taxes and we pay a lot of taxes to live in that neighborhood. We feel that they will even be higher once there is a business in the neighborhood.

**Mayor Holland** asked is there anyone else who would like to speak in opposition. Let the record show no one else stepping forward at this time. I'd give the applicant an opportunity to make a summative comment if you would like.

**Ms. Sherman** said one thing we forgot to say is one, this is a non-profit. This is not a business, but I can understand where they're coming from or how they can see it to be different. This is a non-profit.

Two, we're not asking for a year or two years. We're just asking for six months to prove ourselves and from there they can come back and make their assumptions from there.

**Mayor Holland** asked you said you're a not-for-profit. Do you have, are you a 501(c)(3), not-for-profit. **Ms. Bray** said yes, we are. Everything they're saying how they called the State, or whoever, Topeka. We have paper approval and everything current up to seven kids living in the home. I don't know where they're getting their information from, but we work directly with DCF and talked to them about all this. I'm just not sure. **Mayor Holland** asked you're a licensed foster home through the State of Kansas. **Ms. Bray** said yes. **Mayor Holland** asked do you have verification of that. Does the staff have verification of that? **Mr. Richardson** said give me a minute and I'll find out.

**Ms. Sherman** said the basement, when he was saying where the children are going to sleep, the basement is going to be remodeled for the children for a rec room area and a couple of bedrooms down there. It's nothing but just the seven children.

Then when they're saying about the employees, this is what you're looking at. This is just us. It's not like it's going to be busy, a lot of traffic, or anything like that. It's just us.

**Mayor Holland** closed the public hearing.

**Commissioner Bynum** said I just want to preface my question by stating that I'm the last of five girls who were raised in a three bedroom home. We were doubled up and I think there are folks up here that were raised in smaller homes than I grew up in that had more kids. I won't name any names.

I really just have a question. I need clarification because I thought I understood it said earlier that there is no need for a special use permit in order to have children in a foster home. I just need clarification on what we're dealing with. **Mayor Holland** asked Mr. Richardson, can you answer that.

**Mr. Richardson** said there's a difference in that this is not a family conducting foster children. This is a not-for-profit business that's conducting a foster care operation. There's a difference.

If my wife and I wanted to have seven foster kids, and we were going to take care of them, there would be no need for a special use permit. We would be considered one housekeeping unit by the Supreme Court of the United States. A business is not a housekeeping unit. That's why they need to have a special use permit.

**Commissioner Bynum** said it's a non-profit, correct. **Mr. Richardson** said correct. **Commissioner Bynum** said and the folks keeping the children in the home do not own the home. **Mr. Richardson** said I believe that the folks that are living in the home today with foster children are operating as a family housekeeping unit. You could ask the applicant to verify that, but I believe that the person living in the home, whether the owner or living there as a renter or under some other arrangement, have their own children and foster children living there together as a single family housekeeping unit. She does own the home.

**Commissioner Townsend** said, ladies, I don't think there's any question that what you're doing is laudable. It's just about where it's being done. Which of you ladies is one of the homeowners? Are you in residence there? So it's you, the husband, you have two children, and there are

currently how many foster children there? **Ms. Bray** said there's currently one, but I've had up to three there. **Commissioner Townsend** said you can have up to how many, Mr. Richardson, currently? **Mr. Richardson** said if you're operating as a single-family housekeeping unit, there's not a limit, except perhaps your sanity. **Commissioner Townsend** said okay, so there's a limitation.

Here is the concern I see with this. You are asking with this application now to do more than what you're currently doing as a business. I am relieved to hear this latest turn of events that there were deed restrictions already in place. It's unfortunate that prior to your buying the home with this intended use in mind that that was not made clear to you, that wasn't discovered.

I cannot support your application when clearly the homeowners' association always had and it was always the intent not to have the type of enterprise that you're asking us to approve. I recall very well in the late 90s, early 2000s, when the neighborhood groups were meeting about the Peregrine Falcon development and the TIF. It was meant to be, always was meant to be, an upper-level residential area, totally residential. That goes contrary to what you're asking for now.

It's not that people don't appreciate what you're doing, but this is not the place for it. Now there's clear evidence that was always the intent. It's on the record.

**Action:** **Commissioner Townsend made a motion, seconded by Commissioner Kane, to approve the recommendation of the Planning Commission for denial of this application.**

**Commissioner McKiernan** said how is it that the property owner was, although that box was checked on this checklist, how were the details of the HOA, the covenants and restrictions, not transferred to the property owner at the time of the purchase. Can anybody help me understand? How did it take us until today, this has been held over three times in Planning Commission, how did it take us until today to find those? **Mr. Richardson** said I asked the Recorder of Deeds personally. She looked personally, didn't find them. The developer didn't find them until yesterday. They found them sometime this week and gave me the evidence yesterday. Based on the book and page number had it pulled today. When you buy a home they don't have to give you a copy of the homeowners' restrictions. It's your responsibility to go find them.

**Commissioner McKiernan** said as it stands today, they can continue as is with five children. It's two biological, three more, right? As it is today, they can continue with as many as the Division of Child and Family Services will allow them to have. **Mr. Richardson** said without employees. **Commissioner McKiernan** said without employees. Thank you. I have nothing further.

**Commissioner Murguia** said I just wanted to tell Commissioner Townsend that I absolutely support any decisions that you want to make in your district. I just happen to recall a foster home being presented in my district that I objected to that was moved through anyway. It was in a residential neighborhood also. I would just ask that when we enforce these rules that we enforce them equally across the whole county.

**Mayor Holland** said I want to ask a question. The license, the foster care license that's issued by the State, I'm a former foster parent and an adoptive parent, is that issued to you, personally, or is that issued to your 501(c)(3)? **Ms. Bray** said no, it's issued to me until we get approval from you all. Then it will be issued to...**Mayor Holland** said to the 501(c)(3). You're in some respects moving from a foster home to a group home setting. The kids would then be assigned to a group home setting and not a single-family foster care setting, is that right? Response was inaudible.

If you did not use the 501(c)(3) and just went through the license yourself to be a licensed foster parent, and you had room for seven children, then you would not need a special use permit, is that right? **Mr. Richardson** said correct. **Mayor Holland** said it would be up to the DCF to determine whether or not you're capable of taking care of seven children in that home. **Ms. Bray** said correct.

**Mayor Holland** said I think the issue here, I just want to come out on record. We need more foster homes in Wyandotte County. We have a ton of kids, we have about 1200 homeless children in Kansas City, Kansas. Children aging out of foster care are on the fast track to teen pregnancy, homelessness, and poverty. We need more families to take kids into their home and we need more foster parents. I don't want anyone to hear that our Commission doesn't support foster parents or foster homes in our community. I do, and I think we need more of them.



I would like to see anyone listening to go get your foster license. It's work. It takes a long time and it takes money to sign up to be a foster parent. Foster parents are not paid. Foster parents receive compensation from the state to offset the cost of raising children that are in the state's care. That's very different from being paid.

A group home setting is a different model. It is different from foster care. I would suggest that the line on this should state that it is for a group home and not for foster care. Those are two different designations by DCF and it depends on who carries the license.

I want to encourage you to be a foster parent and have as many kids as you can safely care for. I think the question we're deciding on tonight is whether or not we're going to approve a business group home in this setting. What I've heard today is a motion to support the denial that the Planning and Zoning Commission has had for the business model, but not for the foster care model because we don't have the authority to deny foster care issued to an individual. Does that make sense to everyone?

**Commissioner Townsend** said the only other thing I wanted to add, I got the impression when I read this that there was a feeling among the applicants and the neighbors, there are different expectations at work here. That's very important in a neighborhood. We've been talking about that concept all night. I would hope, now that you know what the actual legal position is of the covenants which the owner had notice of, and you realize that it was filed and it was never the intention of the developer and those who years ago, decades ago, invested there, not to have this type of commercial enterprise, that you'll try to in achieving what you want to do with the foster families, foster kids, maybe not push, try to get as many as you can in this situation and work with the neighborhood. The ones that you have now you're benefitting and all this, but I think it would be great if you could adopt an attitude of trying to appreciate that these people, these homeowners who have been there for decades, had an expectation of what their neighborhood in this case was going to look like.

**Mayor Holland** said I would also like to ask Mr. Richardson to clarify, under our Code single-family home that can mean up to how many people unrelated living in the home. **Mr. Richardson** said the U.S. Supreme Court sets that definition. It's five unrelated persons maximum, with some exceptions that I'm not prepared to go into this evening. You're familiar

with one of them and I can't remember the exact name. **Mayor Holland** said I think that one thing to note, even though something's single-family, you can still have up to five unrelated individuals living in that home and it still qualifies under the Supreme Court for a single-family home. Five unrelated people living in a house doesn't necessarily feel like a single family to the neighbors, but it's a legal definition.

I have in my neighborhood two group homes. We have one that is recovery, an Oxford House for women recovering from alcohol and drug addiction with their children. We are zoned single-family with restrictions on businesses. We also have a group home for people with special needs that is across the street from my house. There are, well it's hard to tell how many are coming in and out of the house, but there are quite a few. Again, it's allowed under the zoning. I just want to say there are exceptions to every rule.

We have a motion and a second before us. A vote yes is for denial. A vote no is for approval.

**Action:** Roll call was taken on the motion to deny and there were ten "Ayes," Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**Commissioner Murguia** said, Mayor, I did hear what you say and I know you're very passionate about foster care and things. I do think we need to, if we're going to encourage that, maybe we could have a special session to talk about that and how it fits in our neighborhoods and how it fits in our greater plan. I do think it's going to continue to come up. I don't think too much of anything is a good thing, especially concentrated in one particular area of our county. I know that you probably agree with that. If we could maybe get together and talk it out and hear about what people's concerns are so we don't have to be confronted with this all the time.

**Mayor Holland** said I think the issue on this is whether or not it's a business. I think that was a clear line. If they were a straight foster care family that was all licensed to themselves, then we have no jurisdiction over the State in terms of assigning that.

I think we can talk about what a special session would look like in terms of understanding, I mean we have a concentration of homeless children too. So, I'd much rather have them living in a home.

I think the word “foster care” gets blown out of proportion and people look at it has pejorative. I think that connotation has a very negative thing. What we were voting on tonight was not a foster care, but a group home, which is a different entity. It’s a business entity. I think that kind of thing helps people think negatively about foster care in a way that’s unnecessary.

**Commissioner Murguia** said I do want to talk about that if that’s possible. I want to talk about foster homes and group homes because I have a map of where the applications have been submitted for what area. Most of them are east of 635. **Mayor Holland** said I would say the need of homeless children is mostly east of 635, but let’s look at that together at a special session. **Commissioner Murguia** said right, agreed, and we can talk about it then.

### **MAYOR’S AGENDA**

No Items

### **NON-PLANNING CONSENT AGENDA**

**Mayor Holland** asked if any member of the audience tonight or any member of the Commission would like to remove an item from the Non-Planning and Zoning Consent Agenda, please step forward to the microphone at this time.

**Action:** **Commissioner McKiernan made a motion, seconded by Commissioner Murguia, to approve the Non-Planning Consent Agenda.**

**Action:** Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

### **ITEM NO. 1 – 16871... RESOLUTIONS AND ORDINANCE: SALE OF MUNICIPAL TEMPORARY NOTES AND GENERAL OBLIGATION IMPROVEMENT BONDS**

**Synopsis:** Offering of sale of Municipal Temporary Notes and General Obligation Improvement Bonds, submitted by Debbie Jonscher, Assistant Finance Director.

## Action items:

- Charter Resolution for county road projects
- Resolution authorizing the issuance of debt for capital improvements
- Resolution authorizing the offering for sale of temp notes/GO bonds

On November 14, 2016, the Economic Development and Finance Standing Committee, chaired by Commissioner McKiernan, voted unanimously to approve and forward to full commission.

**Action:**        **CHARTER RESOLUTION NO. CR-01-16**, “A Charter Resolution exempting the Unified Government of Wyandotte County/Kansas City, Kansas, from the provisions of K.S.A. 68-584 relating to the financing of primary and secondary arterial highways and providing substitute provisions relating thereto.” **Commissioner McKiernan made a motion, seconded by Commissioner Murguia, to adopt the resolution.** Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**Action:**        **RESOLUTION NO. R-80-16**, “A resolution amending the 2016-2021 CMIP; authorizing various public improvements; authorizing the issuance of general obligation bonds and/or temporary notes to finance all or a portion of the costs of certain improvements; requesting the Public Building Commission of the Unified Government of Wyandotte County/Kansas City, Kansas to issue its leasehold revenue bonds for the purpose of financing all or a portion of the costs of certain improvements; and authorizing one or more lease purchase agreements to financing the acquisition and installment of certain equipment.” **Commissioner McKiernan made a motion, seconded by Commissioner Murguia, to adopt the resolution.** Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**Action:**        **RESOLUTION NO. R-81-16**, “A resolution authorizing the offering for sale of municipal temporary notes and general obligation improvement bonds of the

Unified Government of Wyandotte County/Kansas City, Kansas.” **Commissioner McKiernan made a motion, seconded by Commissioner Murguia, to adopt the resolution.** Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**ITEM NO. 2 – 16866... RESOLUTION: AMENDING CASH INVESTMENT POLICY**

**Synopsis:** A resolution amending and adopting the Unified Government's Cash Management and Investment Policy, submitted by Kathleen VonAchen, Chief Financial Officer. Per Section 5 of the Policy, the Policy shall be reviewed and approved annually by the Board of Commissioners. On November 14, 2016, the Economic Development and Finance Standing Committee, chaired by Commissioner McKiernan, voted unanimously to approve and forward to full commission.

**Action:** **RESOLUTION NO. R-82-16**, “A resolution amending and adopting the Unified Government’s Cash Management Policy.” **Commissioner McKiernan made a motion, seconded by Commissioner Murguia, to adopt the resolution.** Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**ITEM NO. 3 – 16912... RESOLUTION: AMEND MASTER EQUIPMENT LEASE PURCHASE AGREEMENT**

**Synopsis:** A resolution authorizing the Unified Government to amend its Master Equipment Lease Purchase Agreement dated October 17, 2013, with Banc of America Public Capital Corp., submitted by Debbie Jonscher, Assistant Finance Director. On July 28, 2016, the Commission voted to approve the FY 2017 Budget which includes all equipment and vehicle acquisitions to be lease financed with repayment terms to begin in FY 2017 and continue on in future years of up to ten years.

**Action:** **RESOLUTION NO. R-83-16**, “A resolution authorizing the Unified Government to amend its Master Equipment Lease Purchase Agreement dated

October 17, 2013 with Banc of America Public Capital Corp.” **Commissioner McKiernan made a motion, seconded by Commissioner Murguia, to adopt the resolution.** Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**ITEM NO. 4 – 16859... RESOLUTION: SALE OF DELAWARE PARK, 725 N. 74<sup>TH</sup> DR.**

**Synopsis:** A resolution authorizing the sale of Delaware Park, 725 N. 74<sup>th</sup> Dr., to Turner Land, LLC, submitted by Angela Harshbarger, Economic Development. The site has never been recorded or used as a park. On November 14, 2016, the Economic Development and Finance Standing Committee, chaired by Commissioner McKiernan, voted unanimously to approve and forward to full commission.

**Action:** **RESOLUTION NO. R-84-16**, “A resolution approving the sale of the property located at 725 N. 74<sup>th</sup> Drive, Kansas City, Kansas by the Unified Government to Turner Land, LLC, and authorizing the County Administrator to negotiate the terms and conditions of such sale and to execute documents necessary to carry out and comply with the intent of this Resolution.” **Commissioner McKiernan made a motion, seconded by Commissioner Murguia, to adopt the resolution.** Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**ITEM NO. 5 – 16891... ORDINANCE: ISSUE IRBS FOR DAIRY FARMERS OF AMERICA PROJECT**

**Synopsis:** An ordinance authorizing the issuance of \$46M of IRBs for the Dairy Farmers of America, Inc. Project, submitted by George Brajkovic, Economic Development Director. On October 1, 2015, the Board of Commissioners unanimously adopted Resolution No. R-63-15 expressing its intent to issue said bonds.

**Action:** **ORDINANCE NO. O-66-16**, “An ordinance authorizing the Unified Government of Wyandotte County/Kansas City, Kansas, to issue Taxable

Industrial Revenue Bonds (Dairy Farmers of America, Inc. Project) in the principal amount not to exceed \$46,000,000, for the purpose of providing funds to pay the cost of acquiring, improving, constructing, installing and equipping of a commercial facility, including land, buildings, structures, improvements and fixtures; authorizing the Unified Government to enter into a trust indenture; authorizing the Unified Government to enter into a lease agreement with AWG RRE, LLC; authorizing the Unified Government to enter into a bond purchase agreement in connection with such bonds, and authorizing and approving the execution of certain documents and the taking of other actions in connection with the issuance of said bonds.” **Commissioner McKiernan made a motion, seconded by Commissioner Murguia, to adopt the resolution.** Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**ITEM NO. 6 – 16888... ORDINANCE: LEAVENWORTH ROAD, 38<sup>TH</sup> ST. TO 63<sup>RD</sup> ST., IMPROVEMENT PROJECT**

**Synopsis:** An ordinance authorizing the Chief Counsel to commence legal proceedings to acquire the property necessary for the Leavenworth Road, 38<sup>th</sup> St. to 63<sup>rd</sup> St. project, CMIP 1224, submitted by Ryan Haga, Assistant Council. On May 5, 2016, the Commission unanimously adopted Resolution No. R-45-16 finding the project to be necessary and authorizing a survey of land for said project.

**Action:** **ORDINANCE NO. O-67-16**, “An ordinance condemning land for the Leavenworth Road – 38<sup>th</sup> to 63<sup>rd</sup> Street – (CMIP 1224) Improvement Project (KDOT Project No. 105 N-0640-901), and acquiring easement for such purposes, and directing the Chief Counsel to institute eminent domain proceedings as provided by law to acquire the tracts and parcels of land described in this ordinance.” **Commissioner McKiernan made a motion, seconded by Commissioner Murguia, to adopt the resolution.** Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**ITEM NO. 7 – 16892...ADOPTION: 2017 STATE LEGISLATIVE PROGRAM**

**Synopsis:** Request approval of the 2017 Unified Government State Legislative Program, submitted by Mike Taylor, Public Relations Director. The legislative program was presented to the Commission in a public special session on November 3 and again to the Commission and the Wyandotte County Legislative Delegation during a public special session on December 1.

**Action:** **Commissioner McKiernan made a motion, seconded by Commissioner Murguia, to approve.** Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**ITEM NO. 8 – MINUTES**

**Synopsis:** Minutes from special sessions of October 27 and November 3, 2016.

**Action:** **Commissioner McKiernan made a motion, seconded by Commissioner Murguia, to approve the Minutes.** Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**ITEM NO. 9 – WEEKLY BUSINESS MATERIAL**

**Synopsis:** Weekly business material dated November 17 and 23, 2016.

**Action:** **Commissioner McKiernan made a motion, seconded by Commissioner Murguia, to approve the Weekly Business.** Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**ITEM NO. 10 – 16918... PLAT: KC PROPERTY HOLDINGS**

**Synopsis:** Plat of KC Property Holdings located at South 59<sup>th</sup> Lane, being developed by KC Property Holdings, LLC, submitted by Brent Thompson, County Surveyor, and Wayne Moody, Interim County Engineer



**Action:** Commissioner McKiernan made a motion, seconded by Commissioner Murguia, to approve the Plat and authorize the Mayor to sign said plat. Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**ITEM NO. 11 – 16919... PLAT: LEGENDS AUTO MALL, 2<sup>ND</sup> PLAT**

**Synopsis:** Plat of Legends Auto Mall, 2<sup>nd</sup> Plat located at North 99<sup>th</sup> Street and Lafayette Avenue, being developed by KCK Development II, Inc., submitted by Brent Thompson, County Surveyor, and Wayne Moody, Interim County Engineer.

**Action:** Commissioner McKiernan made a motion, seconded by Commissioner Murguia, to approve the Plat and authorize the Mayor to sign said plat. Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

**XI. PUBLIC HEARING AGENDA**

No Items

**STANDING COMMITTEES’ AGENDA**

**ITEM NO. 1 – 16880...PRESENTATION/ORDINANCE: ISSUE BONDS UNDER HOME RULE FOR ECONOMIC DEVELOPMENT**

**Synopsis:** Presentation and a Home Rule Ordinance of the Unified Government authorizing the issuance of general obligation bonds of the Unified Government to provide funds for an economic development project, submitted by Debbie Jonscher, Assistant Finance Director. On November 14, 2016, the Economic Development and Finance Standing Committee, chaired by Commissioner McKiernan, voted unanimously to approve and forward to full commission, subject to issue not appearing on Consent Agenda and presentation to be made at full commission.

**Mayor Holland** said this presentation tonight is on the Indian Springs site. There's a very interesting and expensive history on this site that I think it is good to refresh. Only one commissioner up here was here when this decision was made and one other commissioner was on staff here.

I think it's important to update the Commission on its status. I think it's equally important to update the public. We get a lot of questions about Indian Springs. I think it's important that we go through this presentation to kind of give you the lay of the land of where it is now and then we can talk about some of our aspirations for the future.

**George Brajkovic, Economic Development Director**, said really there's a joint presentation with Finance tonight. I just have a couple of slides to go back through kind of the history of the development. I thought it maybe kind of, what happened at Standing Committee that kind of prompted this presentation, there was just in general a large discussion about overall what's happening at Indian Springs and where is redevelopment going. Does the current TIF play a part of that.

We're not in a position to really announce or talk about the potential redevelopments that we've been trying to work through, but I'm very optimistic that in the very future we will be before you. At this time I don't know what the future of that current TIF is.

As it relates to what we want to talk about tonight, the other conversations that kind of spun off were well, why did we ever issue any debt associated with this TIF. That's kind of the history of it. Really what it culminates in is what Finance is going to talk about, about some financing options as we move from temp notes into permanent financing and why the current TIF structure might not be the best option for that.



So, a little bit of a history.



Here's the aerial from 2006 right when Unified Government kind of got involved.

You probably recall in 1995 the mall was purchased by a business entity, Kansas City Mall. The principal on that was a gentleman named Joseph Kashani. He bought the mall. It was a distressed property back in 1995 as well. He bought that for about \$1.7M. There's some history with what happened. Anchor retail tenants moving out of the facility.

Ultimately not much happened with that ownership until about 2005 when they actually came before the Unified Government to rezone the property from a, I believe, CP-1 Commercial over to a business park. That was approved, that zoning was approved in 2005 by the governing

**December 1, 2016**

body at the time. Other than changing the name from Indian Springs Mall to Park West Business Center, nothing else was done by that ownership group to transfer the mall.

**Mall/Site Status as of December 2006**

- Montgomery Ward, the last anchor Retail tenant, left in 2001
- The building was over 60% vacant
- The UG leased 26,000 sf
- USD 500 leased 133,000 sf
- Franklin Savings Building utilized as a Dental Clinic
- Two auto repair shops operating
- Abandoned service station
- Vacant lots
- Multiple property owners of 12 land parcels

So, the status as of December, 2006.

Again, MontgomeryWard which was the last anchor retail tenant, had left. I didn't put it up here, but Teletech was a call center business that was operating in the Dillard's, they left in 2002. You can go through the scenario. It's a fairly dismal picture there. 60% vacancy, UG leased some space. USD 500 was in the old JC Penney site. Then the Franklin Savings building was utilized as a dental clinic. It still is today. We're working with that group to move them to a new facility. Again, ultimately it was multiple property owners of 12 land parcels.

UG Action	
Date	Action
November 16, 2006	R-145-06, Blight study finding
November 16, 2006	R-146-06, setting PH for creation of TIF District
December 21, 2006	O-139-06, establishing TIF District, authorized \$3M in bonds
December 27, 2006	RFP 26-492 issued, KCK Midtown Redevelopment Project
February 9, 2007	Market Feasibility Report completed by Canyon Research Southwest, Inc – indicating a “Town-Center” like development could yield \$226M in TIF revenue over 20 years
February 12, 2007	Planning Commission found proposed Redevelopment Plan in conformance with MP
March 22, 2007	O-29-07, adopting TIF Plan for site - \$193M development with \$68.65M in TIF revenue
March 29, 2007	R-43-07, directing the Chief Counsel to cause a survey and description of Property to be acquired for project

So here's the first slide of two slides of kind of a calendar of events that occurred related to the UG being involved in the redevelopment here.

One of the first dates there is November 16, 2006. The governing body approved, came to a blight study finding supporting the blight study and having a blight finding made for the property. Obviously that was gearing up to try to dictate how this site could be a TIF eligible site. It didn't meet any of the other criteria that's listed out in the statute and the blight finding was made.

Same night a different resolution was passed setting a public hearing date for the creation of a TIF District. In December, that public hearing was held and by that ordinance listed there, O-139-06, the TIF District was established. At that time the government body had approved, at least authorized \$3M in bonds associated with the project. Later in December, an RFP was issued to try to find a developer under the KCK Midtown Redevelopment Project.

What's not up there, but we did find today, it's dated January of 2007, Gould Evans had kind of done a mockup of what a redevelopment could look like there. Why that's important is because that next date, the February 9 date, there was a market feasibility study done based on that mockup. It was kind of, I think you'll see up there, it's indicating a town center. That's not really the destination. It's more of a narrative, or a descriptive word, of what kind of project they were proposing. Really, what that market study referenced was kind of a Zona Rosa setup where you've got a series of roads that kind of come in and service retail and a variety of mixed uses.

Again, that market feasibility study suggested that over a 20-year period if you did a project like that you could yield \$226M in TIF revenue.

Armed with that on February 12, 2007, the Planning Commission found that the proposed redevelopment plan was in conformance with the Master Plan. That's just kind of again a statutory process as you move towards a TIF, you have to have this Master Plan conformance finding.

Then in March the TIF plan was adopted via that listed ordinance. Per the development specs on the project, we thought it would be a \$193M total project. From that \$68.65M would be eligible in TIF revenue.

Followed up again, March 29, 2007, another resolution, this time directing the Chief Counsel at the time to cause a survey and description of the property that was going to be acquired for this redevelopment project.

UG Action (cont.)	
Date	Action
April 16, 2007	O-32-07, directing Chief Counsel to commence legal proceedings to acquire property (eminent domain)
June 20, 2007	Property taking, court appointed Appraiser's value of \$7.5M
September 4, 2007	Award letter for RFP 26-492 to Raul Waters Company
March 16, 2009	MEMO from Dennis Hays, County Administrator, advising Mayor Reardon and Board of Commissioners that Mr. Raul Waters was deceased, and offered options to continue with project/proposal, with recommendation to renegotiate with remainder of Development team

Continuing the calendar to this next slide, in April of 2007 you see another ordinance basically directing the Chief Counsel to commence eminent domain proceedings to acquire the property. Followed up with the meeting in June 20, 2007, the property taking had occurred. It went through the court system. In essence, the Unified Government had appraisals in the \$4-5M range. The developer's team had appraisals in the \$35-40M range. Ultimately, the court ordered a \$7.5M payment.

Kind of a side note on that, that case was actually just settled in 2012 at the Kansas Supreme Court level. The Supreme Court upheld that original decision by District Court.

Then September 4, remember we issued the RFP earlier in the year. It was actually awarded to the Raul Waters Company. That was a team comprised of, Mr. Waters was kind of the principal capital person in the deal, but there was some local involvement with Bud Enterprises, WSKF Architects, and another group, Urban America. Really, the proposal was kind of right in line with what Gould Evans had mocked up and what we had projected both in terms of cost of the project and, ultimately, eligible TIF revenue.

You can see the next date that is listed there is March 16, 2009. I wasn't intimately involved with this project so I'm not offering much narrative because I don't want to speculate, but I was able to find some memos and staff notes on it that suggested that there was a fairly lengthy negotiation period for a development agreement on this.

Ultimately, what happened in March, Dennis Hays, the County Administrator at the time, sent a memo to the Mayor and the Board of Commissioners advising that Mr. Waters had passed. **Commissioner Walker** said he had been dead for quite some time. He didn't just pass on that date. He'd been dead for, in my memory, more than a year. **Mr. Brajkovic** said yes, I would concur with that Commissioner Walker. There was a high degree of angst with staff for not being notified for quite a lengthy period of time that the principal capital partner was no longer alive.

Setting that aside, the County Administrator did offer three options of how to move forward with the project. Really, the option that was recommended was for the team members that are still remaining from that original development proposal to try to go out and renegotiate the deal and see where they could advance. Kind of long story short in a nutshell, that project just never came to fruition. Without that major capital investment partner, there wasn't enough financial wherewithal or development experience to make the project happen.

I end the timeline here, but I don't want you to think that nothing's occurred since 2009, in fact, just a couple of things. As a staff, we pursued Brownfield grants. We were awarded those and during a timeframe of 2010 through about 2012 we used that grant money to do a Phase I Environmental Report, a Phase II Environmental Report and a Hazardous Materials survey that was ultimately used to demo the property, which was just recently completed. In 2012 we tried to issue a new RFP to find a new developer. We had really zero success.

On the heels of that, the new Transit Center and Midtown Patrol building, the \$5.5M investment was done. Really, on the heels of announcing that development and doing the groundbreaking, we went out, again, to the development community. Instead of an RFP, we did a Notice of Interest. It was through that process that we ended up selecting Lane4 whose had this ongoing two-year marketing agreement with us for the site.

I think that concludes my timeline and history, thank you Commissioner Walker for adding a few things that I might have missed. With that, I will turn it over to Finance so that they can kind of roll through some of the options they have to move the temp note for the demo of the site.

### Financing History & Current Recommendations

MIDTOWN REDEVELOPMENT TIF		11/03/2016
<b>Funding:</b>		
Series 2010-Bond	8,086,794	
Series 2011-Bond	2,570,000	
Series 2012-Bond	3,000,000	
Sub-Total	14,656,794	
Series 2016-TN	5,400,000	
<b>Total Funding</b>	<b>\$ 20,056,794</b>	
<b>Expenditures (as of December 2012):</b>		
Acquisition (June 2007)	8,524,726	
Relocations	4,989,179	
Demolition	72,481	
Engineering Costs	81,540	
Legal Fees	670,849	
Debt Issuance Costs	297,989	
<b>Total Expenditures</b>	<b>\$ 14,636,764</b>	
<b>Temp Note (2013-2016)</b>		
Demolition/Asbestos Removal/Engineering	4,100,000	
Transit Center	500,000	
Midtown Station/MTC Relocation	800,000	
<b>Total</b>	<b>\$ 5,400,000</b>	
<b>Total Expenditures</b>	<b>\$ 20,036,764</b>	

**Debbie Jonscher, Assistant Finance Director**, said I'm just going to go through the financing on the project as of today.

You can see that total funding for the Midtown Redevelopment TIF is currently at a little over \$20M. That includes a temp note that's been issued in 2016 for \$5.4M.

Of the money that has been spent, I'll start with the money prior to the temp note. We spent about \$8.5M on acquisitions, little under \$5M on relocation. There was demolition for some of the outer buildings that occurred back in, I think, 2011, 2012. We also had engineering costs, legal fees and some debt issuance costs related there.



The \$5.4M temp. note was mainly for demolition. I did want to state, I think in the Standing Committee I stated that the full \$5.4M was used for demolition. However, when I went back to look at the transactions, I did find that we did have money set aside for the Transit Center as well as Midtown Patrol Station and the NRC relocation. The temp note is the issue that we are looking to finance permanently in the 2017 financing.

### Current Recommendation

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- **Temp Notes outstanding must be rolled into permanent financing tool**
  - \$5.4 million in temp notes for 4 years
  - 4 years is the longest temp notes can be outstanding
- **GO Bonds compared to General Fund-back TIF bonds**
- **Property tax abatements cannot be used as entitlements for potential future developments with a TIF District**
- **Few years remaining on TIF District**
  - Diminished revenue generating capacity

This next slide just shows some of the information that we have related to that.

As I said, the \$5.4M is currently a temp note. It's been outstanding for four years. We don't like to finance any longer than four years so we're looking to permanently finance that issue next year as a bond.

Currently, with the TIF, we would have to finance that as a TIF bond. The difference between a GO and a TIF bond, a GO bond would be financed normally for 20 years and it gets paid back with General Obligation property tax revenues. Under the TIF if you issue a bond, first it's paid back with any increment generated from that project. Then, if the increment is not enough to cover the debt service payments, then it reflects back to the General Obligation tax revenues. In the case of the Midtown TIF we're currently not receiving any TIF revenues. We are essentially paying for this with General Obligation property tax.

The third point there, property tax abatements cannot be used as entitlements for potential future development with a TIF district. Basically stating that if we did have a future development come in with this TIF, the increment that's generated off that development would

first go to pay back the TIF debt that's already been incurred on the property. With the fact that we started the project in 2006, we have approximately ten years remaining in the TIF project. The capacity to generate enough revenue to cover that debt to pay off those TIF obligations is diminished.

I just want to say the purpose of bringing the Home Rule ordinance to finance the issuance with General Obligation bonds under Economic Development, the reason for that was just to give us an option for financing this final temp note. We could still move forward and finance it under the TIF or, with this ordinance, we could go ahead and finance it as a General Obligation Bond. **Mayor Holland** asked my question is, would we just be financing with GO Bonds the 5.4 or refinancing all of the outstanding debt remaining on the property. **Ms. Jonscher** said we would just be financing the \$5.4M. **Mayor Holland** said the other would remain under the TIF District. **Ms. Jonscher** said that's correct. **Mayor Holland** said which is still being paid by General Obligation bonds. **Ms. Jonscher** said that's correct. **Mayor Holland** said you're not recommending refinancing the whole thing into GO. **Ms. Jonscher** said no. **Mayor Holland** said would there be any advantage to doing that?

**Ms. Jonscher** said I believe on the currently – the previous bonds that have been issued were issued in 2010, 2011 and 2012. Normally our bonds have a ten-year call period so I don't even know that we could call them at this point to do a refunding. I'd have to check on that. **Mayor Holland** said that's a good point.

**Mayor Holland** said we have before us a recommendation instead of putting this under, so we have two issues. One, and we probably need to talk about them separately, one is the general angst around Indian Springs, which is a legitimate topic in its own right. The second issue is how to best proceed based on the situation we're in with Indian Springs and how to best finance it from a smart business perspective. I want to start with the general angst around Indian Springs, talk about that first, and then talk about what the best movement forward is in terms of where we are now. Let's start with that.

**Commissioner Murguia** said, Mayor, before you get to that, I just have a couple of questions about the presentation for clarity.

George, I think you already answered this. You said back before my time, if you flip back to the slide, it says that there was a market feasibility report completed that indicated a town

center like development could yield \$226M. I think you said this, but I'm just clarifying, the town center, you weren't referring to that we could build a Leawood Town Center. **Mr. Brajkovic** said no, it was more of a narrative. If the Legends is considered a lifestyle center, Zona Rosa where you've got a little bit of a road system that runs through the commercial development, but really even more so than Zona Rosa, this would incorporate a true mixed-use concept where you had office and living space incorporated with that. That was what Gould Evans had mocked up and, apparently, what that research firm based their market feasibility from.

**Commissioner Murguia** said okay. The next question I had, if you could flip to the finance where it was the chart. There it is right there. Just for clarity at the bottom, the temp notes at the bottom, it says demolition and then it says Transit Center and the Midtown Station, the \$500,000 and \$800,000. I was under the impression that we got a federal grant to fund the Transit Center and the Midtown Station, but it doesn't look like we did.

**Mr. Brajkovic** said that's a good question. I'm probably not the person to answer that. I don't know if someone from Finance knows those details or not.

**Ms. Jonscher** said I don't know if I can answer that either. I just know this amount was money that we put in from the Midtown TIF. I can certainly check to find out what type of grant we had. **Mayor Holland** said I know we had a federal grant to build it, a TIGER Grant, but there may have been a local match, which is very common. I don't know the answer to that either.

**Commissioner Murguia** said that's fine. I just want to know that because I just know when we talked about building the South Patrol Police Station, people had made reference that it was the first station that we had built that the Unified Government had paid for. That's not the case if we paid out \$800,000 because I think we allocated less money to the South Patrol station. **Mayor Holland** said the total center was \$5.5M. It was a much more expensive station than \$800,000. **Commissioner Murguia** said no, but I'm just talking about if you were starting from vacant ground, which is what South Patrol is starting from is vacant ground, as opposed to, so you take out the demolition, and there's no Transit Center and you take that out, you're still over what the budget for South Patrol was, which is \$800,000 in the station at Indian Springs. It says right there, Midtown Station....**Ms. Jonscher** said that also included the Neighborhood Resource Center relocation from the mall to its current site. I believe the Midtown....**Commissioner**

**Murguia** said the same thing will have to happen with South Patrol. There is a South Patrol. We're not building one new.

**Mayor Holland** said the Neighborhood Center, the NRC Center that was in Indian Springs, was moved over to a new building at 50<sup>th</sup> & State. **Commissioner Murguia** said so you're saying the additional money for NRC to relocate. **Mayor Holland** said yes. **Commissioner Murguia** said okay.

I'm just curious, and it's all a moot point if that is grant money anyway. **Ms. Jonscher** said this portion here is not grant money. This is actually our contribution. **Commissioner Murguia** said that would be the portion we paid. **Ms. Jonscher** said yes. **Commissioner Murguia** said can you just verify for me, unless other people are interested, if we got a TIGER Grant. I do believe I remember hearing that also. I just want to know how much that grant was for and what the local match was on that. **Ms. Jonscher** said okay, I can find that out.

**Mr. Brajkovic** said I did see that in some of the research we were doing to get the history of this. I think the total TIGER Grant was \$13M, but that included adding rapid transit all along State Avenue. There was \$5.5M specifically allocated for this new facility. **Commissioner Murguia** asked in the grant. **Mr. Brajkovic** said yes, I believe so, according to the document. **Commissioner Murguia** said so why are we financing it if we had \$5.5M in the grant. **Mr. Brajkovic** said the way I read that line item, Commissioner, is that the \$800,000 was our cost to relocate both the Midtown Patrol from its current facility to the new facility as well as moving NRC out of Indian Springs to their new facility. It's just a relocation cost, not a construction cost of the facility. That was just the way I read that line item.

**Commissioner Murguia** said so it is double that amount, we have \$5.5M almost, but the total cost was really \$10.3M. **Mayor Holland** said no, no, no, you're totally confusing the two topics. **Mr. Brajkovic** said from what I read out of the grant documents from the TIGER Grant, the total allocation was \$13M, but that included all the improvements along State Avenue and I think it was even money for the 7<sup>th</sup> & Minnesota location. **Mayor Holland** said even to build the new building that was paid for by the federal government, we incurred costs to occupy it. **Mr. Brajkovic** said we did. **Mayor Holland** said which we put on this property because it's located in this property. **Mr. Brajkovic** said correct. **Mayor Holland** said does that make sense?

**Ms. Jonscher** said this would have been all relocation. Relocation was an expense approved for the TIF. This is all relocation just to move these offices to their new facility. **Mayor Holland** said both the Midtown Patrol Station was in Indian Springs on the upstairs. **Ms. Jonscher** said right. **Mayor Holland** said and the NRC was in the downstairs. We had to move them out of the Indian Springs into the new patrol station built by the TIGER grant and into a new building we bought and rehabbed at 50<sup>th</sup> & State. **Commissioner Murguia** said if someone wanted to know the total cost of money invested in Indian Springs to date, it would really be adding on to that the grant we've received. **Mayor Holland** said no, it would not because, no it would not. We've spent \$20M on the Indian Springs, demolition of the Indian Springs mall. **Ms. Jonscher** said which included acquisition and then relocation of all of the tenants and demolition of the structure. **Commissioner Murguia** said if someone could get me those numbers later and explain it to me.

**Mayor Holland** said I want to say something because this, I get more questions about Indian Springs. It's one of the top questions I get when I go to a neighborhood group, for good reason.

When my dad was a kid, they shopped on Minnesota Avenue. When I was a kid we shopped at Indian Springs. I drove my 15 year old past this site when it was being torn down. He said wow dad, what was that. I thought oh no, my own son only knows The Legends as a place to shop.

This was the place when I was a kid. It was happening. It was everything. It was the place. The closed malls, Metro North, Metcalf South, Mission Mall, Bannister Mall, many other malls metro-wide, Westlake Mall in Topeka, all dead, all looking for redevelopment. Metro North is working on a plan. Metcalf South is working on a plan. I think Overland Park denied the first plan. They're working on another plan. Mission Mall was torn down and is setting vacant and has been setting vacant for as long as Indian Springs has been setting vacant, controlled by a private developer. Bannister Mall was torn down years ago and is just now being redeveloped for Cerner.

These mall sites, and here's my theory. I'm sorry the developers are gone. My theory is every 30 years the developers decide, oh you have all the wrong shopping. We should tear it down and build something new. In 30 years they're going to tear down all the open air sites and they're going to build new closed malls. That's just my theory.

The reality is closed malls have died across the metro area. The only one that I know of that is making money on its own is Oak Park Mall. It's the only one that continues to thrive as a closed mall. Who would shop there when you can shop at the Legends. Everyone should shop at the Legends instead, right.

The other piece of this, on one hand retails changed, malls died across the country, and we had the additional bonus of having an absentee landlord who owned dead malls across the country, and was running them into the ground, this one included. He paid \$1.7M for it. The Court ordered us to pay him \$7.5M for it.

We do control all 100 acres around Indian Springs that we have for a redevelopment site. It was acquired in 2007, and though I wasn't here, in defense of that Commission, that was a good deal because they had a legitimate redevelopment project on it that was going to make money. The economy was flying high.

One, the gentleman who was financing it died, but the whole economy died in 2008, and all of that retail development shut down nationwide. We all remember that. This mall has been very difficult to redevelop.

We could have put Amazon on this site. This site would have held Amazon. We could have put Amazon here. I felt like putting Amazon on this site, while it would have been a lot of jobs right on a transit center, it was not the highest and best use for this site. We put Amazon on a site that's otherwise undevelopable that has brought new property that was generating zero money onto the tax rolls. It preserved this site for future development.

It's been sitting empty for ten years. It's no longer an eyesore. It's at least now almost flat ground. They're finishing grinding up the concrete right now and we have an opportunity to go out and market this as a site to sell. My view is, this site is so important geographically and, frankly, emotionally for our community, we need to do this site right. If we wanted to build the biggest truck stop west of the Mississippi, we could have already built that. We want the right development for Indian Springs. This is too important a location to our community. It's a hub for our entire community that really needs to be built right to bring jobs, retail, whatever we can bring to it that's going to be positive for our community. It's also been a big headache and at \$20M in, we're \$20M into this site to control it, what we do need is to be good. I would say good probably isn't good enough, it needs to be great. That's the piece.

**Commissioner Kane** said they keep referring to the one commissioner that was here, it was me. It was a good deal. **Mayor Holland** said it was a good deal, there's no question. **Commissioner Kane** said when they came up with the plan we were all excited. The plan looked great. If we had known the guy died, we probably wouldn't have pursued the plan. There we are with a big ugly hole.

It is a place to where I think we need to put something as outstanding as the Legends because it was outstanding when Commissioner McKiernan and I were kids. His brother and I used to go there all the time. It's important that when we have property like that that we put the proper thing in the proper place to attract all of us. That particular I-635 is about the best corridor that's unused right now on this side of town. I don't want to give it to just anybody. I want to give it to the best opportunity to serve this community.

Yes, it's a hole. Yes, it's sitting there and yes, it's got a future. We just don't know what it is. Like George said, hopefully sooner than later he'll come up with something and we can say, you know what, this is really going to work. I hope I'm here to watch it because I was here when it got started and I want to be here when it gets finished.

**Commissioner Walker** said for background, we acquired this property in a hurry. The reason it was acquired in a hurry was because the United States Supreme Court had upheld the taking of a very nice residential district for retail development back east. As a reaction to that many states, including Kansas, adopted a law that prohibited taking of private property for economic development, for non-traditional public use. The clock was ticking. They did that early in the session and we had until July 1 to go through the taking process. We got an order to take it about 10 days before July 1.

You look back now, if there's questions as to why we took that property, why didn't we have a better plan or a developer in hand, we were running out of time. The individual that owned that property wanted in excess of \$20M for something he paid \$1.5M for that was, if you recall, in terrible shape.

It was a combination of not believing that 2008 was just around the corner when we acquired that property. Of course, with 2008, we were stuck with it. Given the same set of facts, I think I as a commissioner, would vote to take it and get it before we lost the ability to do it. If nothing else, we are in control of how that ground is developed.

**Commissioner Philbrook** said thank you, Commissioner Kane, for your comments about that being “the” corridor for Wyandotte County now. I have no idea how many cars pass by that location everyday going north and south through our community. I would tell you that it does behoove us to make that spot the most picturesque place we can to represent Wyandotte County to show everybody around here, by golly we got it. Here we are and look out because that’s exactly what our county’s about right now. We’re growing so well and we’re doing so well. We need to keep developing in that manner and hold on to the concepts that we can have that fantastic vision, not just crumble because we’ve been sitting there praying that we’ll have something to put in there for a while. So, thank you, and I want to thank my Commission, my fellow commissioners, for holding tight and not trying to push for something that isn’t really a picture place.

**Mayor Holland** said the last thing I want to say, and then we need to shift from, I think this is a good explanation and historic update for the community because this is a video I can point back to at a neighborhood meeting and say you can go see the whole presentation about what happened with Indian Springs.

In 1999 when the Commission approved the Speedway, and a very controversial move, again that predates all of us, to condemn homes to build the Speedway which I always say was half vision and half Hail Mary. They also went out and bought \$20M of farmland adjacent to it, invested \$20M and people thought the Commission had completely lost their mind. That \$20M is now Village West and has turned out into one of the most successful, it is the most successful development in the State of Kansas, and one of the most successful in the region.

The \$20M figure is a ton of money, but it’s also our city is worth it. I think it’s money that has not yet been well spent. It’s been well spent to control it and to tear it down and to get a pad site ready, but I believe that we’re going to be able to make the community proud with that investment that was made 10 years ago, just as we’ve been able to show making the community proud with that investment 20 years ago. We have our work cut out for us, but that’s the focus on Indian Springs.

Now we need to talk about what’s the smartest way to issue the bonds on \$5.4M. The clock has run out on the temp bonds. We either put it under the TIF or we put it straight under



GO Bonds. Our Finance team has recommended putting it under straight GO Bonds, and not further encumbering the TIF. I trust their judgment on that.

**Action:**        **ORDINANCE NO. O-68-16**, “A Home Rule ordinance of the Unified Government of Wyandotte County/Kansas City, Kansas, authorizing the issuance of General Obligation Bonds of the Unified Government to provide funds for an economic development project (Indian Springs Mall site).”    **Commissioner Walker made a motion, seconded by Commissioner Walters, to adopt the resolution.** Roll call was taken on the motion and there were ten “Ayes,” Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

### **XIII. ADMINISTRATOR’S AGENDA**

No Items

### **XIV. COMMISSIONERS’ AGENDA**

No Items

**Mayor Holland** adjourned the meeting as the Board of Commissioners and reconvened the meeting as the Land Bank Board of Trustees.

**Mayor Holland** said all the items before us are on the Consent Agenda. Anyone in attendance tonight who would like to remove an item is welcome to step forward to a microphone at this time. Any item not removed will be voted on in a single vote.

Let the record show no one is moving forward to remove an item.

## **XV. LAND BANK BOARD OF TRUSTEES' CONSENT AGENDA**

### **ITEM NO. 1 – 16868...COMMUNICATION: LAND BANK BUSINESS**

**Synopsis:** Request approval of the following applications, submitted by Charles Brockman, Management Analyst, Economic Development.

#### Applications (4)

833 Quindaro Blvd. – Tramaine Smith, yard extension

1013 Splitlog Ave. – Antonia Avalos, yard extension

2700 Walker Ave. – Sarah Randall, yard extension

1023 S. Boeke St. – SW Truck Repair, LLC, commercial property extension

#### Mortgage Foreclosure Transfer

308 N. 21<sup>st</sup> St. – Unified Government

(This is a property that had a mortgage through the Community Development Department. The UG foreclosed/bid on the property to take possession of it. The UG Legal Department filed an order to extinguish the redemption period and it was granted by District Court. A Sheriff's Deed was filed to give ownership to the UG. A Clerk's Deed needs to be filed in order to put the property in the Land Bank. Once in the Land Bank possession, the taxes will be abated. The Land Bank is also asking that the property then be transferred back to the UG after the abatement.)

On November 14, 2016, the Neighborhood and Community Development Standing Committee, chaired by Commissioner Walker, voted unanimously to approve and forward to the Land Bank Board of Trustees.

**Action:**        **Commissioner Kane made a motion, seconded by Commissioner Murguia, to approve.** Roll call was taken on the motion and there were ten "Ayes," Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Johnson, Kane.

## **PUBLIC ANNOUNCEMENTS**

No business items

**MAYOR HOLLAND  
ADJOURNED THE MEETING AT 9:11 P.M.  
DECEMBER 1, 2016**

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Bridgette D. Cobbins  
Unified Government Clerk

mls

**December 1, 2016**