TOPEKA PLANNING COMMISSION

A G E N D A

Monday, April 18, 2016
6:00 P.M.

214 East 8th Street
City Council Chambers, 2nd Floor
Municipal Building
Topeka, Kansas 66603

Persons addressing the Planning Commission will be limited to four minutes of public address on a particular agenda item. Debate, questions/answer dialogue or discussion between Planning Commission members will not be counted towards the four minute time limitation. The Commission by affirmative vote of at least five members may extend the limitation an additional two minutes. The time limitation does not apply to the applicant's initial presentation.

Items on this agenda will be forwarded to the City Council for final consideration. The progress of the cases can be tracked at: http://www.topeka.org/planning/staff_assignment/tracker.pdf

All information forwarded to the City Council can be accessed via the internet on Thursday prior to the City Council meeting at: http://public.agenda.topeka.org/meetings.aspx

ADA Notice: For special accommodations for this event, please contact the Planning Department at 785-368-3728 at least three working days in advance.

HEARING PROCEDURES

Welcome! Your attendance and participation in tonight's hearing is important and ensures a comprehensive scope of review. Each item appearing on the agenda will be considered by the City of Topeka Planning Commission in the following manner:

1. The Topeka Planning Staff will introduce each agenda item and present the staff report and recommendation. Commission members will then have an opportunity to ask questions of staff.

2. Chairperson will call for a presentation by the applicant followed by questions from the Commission.

3. Chairperson will then call for public comments. Each speaker must come to the podium and state his/her name. At the conclusion of each speaker's comments, the Commission will have the opportunity to ask questions.

4. The applicant will be given an opportunity to respond to the public comments.

5. Chairperson will close the public hearing at which time no further public comments will be received, unless Planning Commission members have specific questions about evidence already presented. Commission members will then discuss the proposal.

6. Chairperson will then call for a motion on the item, which may be cast in the affirmative or negative. Upon a second to the motion, the Chairperson will call for a role call vote. Commission members will vote yes, no or abstain.

Each item appearing on the agenda represents a potential change in the manner in which land may be used or developed. Significant to this process is public comment. Your cooperation and attention to the above noted hearing procedure will ensure an orderly meeting and afford an opportunity for all to participate. Please Be Respectful! Each person's testimony is important regardless of his or her position. ***All questions and comments shall be directed to the Chairperson from the podium and not to the applicant, staff or audience.***

Members of the Topeka Planning Commission

Brian Armstrong
Kevin Beck
Rosa Cavazos
Scott Gales, Chair
Dennis Haugh
Carole Jordan
Wiley Kannarr
Katrina Ringler
Patrick Woods, Vice Chair

Topeka Planning Staff

Bill Fiander, AICP, Planning Director
Carlton O. Scroggins, AICP, Planner III
Dan Warner, AICP, Planner III
Mike Hall, AICP, Planner III
Tim Paris, Planner II
Dean W. Diediker, Planner II
Annie Driver, AICP, Planner II
Susan Hanzlik, AICP, Planner II
Taylor Ricketts, Planner I
Kris Wagers, Office Specialist

AGENDA
Topeka Planning Commission
Monday, April 18, 2016 at 6:00 P.M.

A. Roll call

B. Approval of minutes – March 21, 2016

C. Communications to the Commission

D. Declaration of conflict of interest/exparte communications by members of the commission or staff

E. Public Hearings

1. **CU16/03 by Eric Patterson** requesting a Conditional Use Permit for a Daycare Center Type II on property zoned "R-1 Single Family Dwelling District with a Special Use Permit for "Accessory Storage" on property located at 1833 SW Fillmore. **(Hall)**

2. **Z16/02 by Heartland Management Co. / First Assembly of God** requesting to amend the district zoning classification from "R-1" Single Family Dwelling District with a Conditional Use Permit for a surface parking lot on property at 520 SW 27th Street, and from "R-1" Single Family Dwelling District on a portion of property at 500 SW 27th, **ALL TO** "O & I-2" Office and Institutional District. **(Hall)**

3. **CU16/04 by Donald T. Bell** requesting a Conditional Use Permit for Outdoor Recreation Type III (outdoor concert venue) on 1.42 acres of property zoned "C-4" Commercial District and located at 2134 N. Kansas Avenue. **(Hall)**

F. Adjournment

CITY OF TOPEKA

TOPEKA PLANNING COMMISSION

M I N U T E S

Monday, March 21, 2016

6:00PM – Municipal Building, 214 SE 8th Street, 2nd floor Council Chambers

Members present:	Scott Gales (Chair), Brian Armstrong, Kevin Beck, Dennis Haugh, Katrina Ringler, Wiley Kannarr, Patrick Woods (9)
Members Absent:	Carole Jordan, Rosa Cavazos (2)
Staff Present:	Bill Fiander, *Planning Director;* Dan Warner, Planner III; Mike Hall, Planner III; Kris Wagers, Office Specialist; Mary Feighny, Legal

A) Roll Call – Six members present at roll call for a quorum.

B) Approval of Minutes from February 15, 2016

Motion to approve as typed; moved by Mr. Beck, second by Mr. Haugh. **APPROVED (6-0-0)**

C) Communications to the Commission –

None

D) Action Items

1) Initiation of re-zoning and review annexation for West Indian Hills Subdivision No. 12.

Rezoning Initiation - Consider initiating a rezoning of the West Indian Hills Subdivision No. 12.
Annexation Review - Review proposed annexation for consistency with the comprehensive metropolitan plan.

Mr. Warner explained that he would be speaking about the two actions together but would be requesting two different votes. He also stated that information had been sent to neighboring property owners indicating that this evening's Planning Commission meeting would be open to the public and serve as the neighborhood information meeting.

Mr. Woods entered and took his seat during this time.

Mr. Warner reviewed the annexation, stating that staff's recommendation at this time was that the Planning Commission forward a recommendation of approval of annexation to the Governing Body.

With no questions from commissioners, Mr. Warner reviewed the proposed rezoning initiation. Staff recommendation is that the Planning Commission initiate the rezoning of West Indian Hills Subdivision Number 12.

Mr. Gales asked for clarification, and Mr. Warner explained that Planning Commission would not be approving the rezoning, but rather allowing staff to initiate the process. He added that the rezoning request would then come back to Planning Commission for consideration in the following months.

Mr. Gales asked for verification that there can be no rezoning until the property is annexed, and Mr. Warner confirmed this, stating that the rezoning request will not return to Planning Commission until and unless the property is annexed by the City of Topeka. Mr. Haugh asked what zoning staff anticipated requesting when/if it does come before the Planning Commission as a rezoning case. Mr. Warner stated that it would be logical to rezone as R-1, which would match the surrounding zoning.

Mr. Armstrong asked what cannot be done on RR-1 (current zoning) that can be done on R-1,and Mr. Fiander explained that R-1 is actually more restrictive and allows some agriculture type uses.

With no further questions, Mr. Gales opened the Public Hearing. With none coming forward to speak, the Public Hearing was closed.

Motion by Mr. Beck that the Planning Commission recommend approval to City Council for the annexation of the property. Second by Mr. Haugh. **APPROVAL (7-0-0)**

Motion by Mr. Beck to initiate the rezoning process for this property. He added that there is an understanding that the question of actual rezoning would come back before the Planning Commission at a later date. Second by Mr. Kannarr. **APPROVAL (7-0-0)**

2) **ACZR16/1 Amendment to Chapter 18.190, Planned Unit Development Regulations**, requirements and standards relating to minimum parcel size for a Planned Unit Development, including conditions under which a parcel less than one acre may be reclassified to a planned unit development district.

Mr. Hall summarized and reviewed the proposed amendment.

Mr. Gales asked regarding the reason for the one acre minimum requirement in the first place. Mr. Fiander explained some of the history of the regulation, including the fact that originally the minimum was five acres. He stated that the proposed amendment allows an opportunity to address unique properties in some of our older neighborhoods, the re-use of which is in keeping with the land use plan and in-fill priorities. He verified for Mr. Gales that the amendment would apply only to current buildings, not empty lots.

Mr. Woods asked what potential problems we might see caused by the amendment, and Mr. Hall stated he couldn't think of any since it will goes through a public process and is limited in its use.

Mr. Beck asked for and received confirmation that any cases considered under the amendment would come before the Planning Commission rather than be approved by

administrative approval. Mr. Hall stated that all new PUDs come before the Planning Commission, as well as all major amendments (changes of use).

Mr. Gales stated that the floor was open for public comment. With nobody coming forward, the Public Hearing was declared closed.

Mr. Haugh inquired about a further word change in the document, and Mr. Beck suggested removing a sentence from 18.190.050. Commissioners and staff agreed to these changes and Mr. Fiander explained that someone from City legal department would wordsmith appropriately.

Motion by Mr. Woods to recommend approval to City Council with the changes noted earlier. Second by Ms. Ringler. **APPROVAL (7-0-0)**

Adjourned at 6:50PM

Motion by Mr. Beck, stating that upon review of the CIP, the Planning Commission determines that the CIP is consistent with the Comprehensive Plan. Second by Mr. Haugh. **APPROVAL (9-0-0)**

3) **Elmhurst Neighborhood Conservation District (NCD)** Elmhurst N.A. is requesting the initiation of a Neighborhood Conservation District Zoning overlay for the properties roughly bounded by SW 10th St to the north, the alley between SW Boswell Ave. and SW Jewell Ave. to the west, SW Huntoon Ave. to the south, and SW Washburn Ave to the east, excluding the commercial properties along SW 10th St, the Library, the Topeka Bible Church campus, Lowman Hill Elementary School, the Elmhurst Greenway Park, and the 1000 block located between SW Mulvane Ave. and SW Garfield Ave. **(Hanzlik)**

   Ms. Hanzlik reviewed the Elmhurst NCD, explaining that Elmhurst is the second neighborhood to seek this zoning overlay. Westboro was the first neighborhood to do so. She stated that the zoning overlay standards are administered and enforced by the Topeka Planning Department, with the design guidelines within the document reflecting the existing character of the neighborhood. The guidelines are written by neighborhood representatives and approved by the relevant Neighborhood Association, thus they reflect the concerns of the neighborhood property owners.

   Upon Ms. Hanzlik's review of the proposal, Mr. Gales called for questions from Planning Commissioners.

   Mr. Haugh asked about the wording of the fence portion of the regulations. Mr. Fiander stated that the verbiage will be reviewed to assure clarity.

   Mr. Gales inquired regarding document's dealing with the styles of homes that are allowed to be built in the district and what someone's options might be if they wanted to build a different style of home. Mr. Fiander stated that additional detail may need to be added. Ms. Hanzlik stated that she had worked closely with neighborhood property owners to design the guidelines, and it was quite important to them that the neighborhood maintain the historic period goal.

   Mark Galbraith of 1230 College, president of the Elmhurst Neighborhood Association (NA), came forward to speak as representative for the NA. He stated that the NA is grateful to City Council for making the NCD option available to Elmhurst and other older, historic neighborhoods in Topeka because they feel there is value in the historic character of some of our older neighborhoods. The NCD gives neighborhoods a tool to help preserve that historic character.

   Mr. Galbraith relayed some of the history of the neighborhood, stating it was developed in 1909 (the first year houses were made available) and though they're a fairly small neighborhood of around 400 homes, there is a wide variety of architectural styles. He stated there are a number of vacant properties and the neighborhood is somewhat concerned

about the style of homes that might be built that could negatively impact the historic character of the neighborhood.

Mr. Galbraith shared that the NA has been working on the NCD plan for approximately two years. They got a lot of public input from the two neighborhood meetings required for NCD status, and they believe they were able to incorporate almost all the recommendations that came out of the meetings, making it a much better plan because of the process.

Ms. Ringler asked if there were any major items that came out of the neighborhood meetings that the neighborhood was unable to come to a compromise on. Mr. Galbraith stated he couldn't think of anything. He said there was a lot of discussion about metal accessory buildings. The plan originally called for none, but the compromise was that they would be allowed if they couldn't be seen from the street.

Mr. Gales thanked Mr. Galbraith for the work that the Neighborhood has done on the plan.

Mr. Fiander stated that staff would appreciate any comments the Commissioners may offer, as staff will work on clarifications or revisions the Commission feels necessary.

Mr. Haugh asked who would be responsible for the review and compliance with the NCD guidelines. Mr. Fiander stated it would be the responsibility of Planning Staff, and the BZA would be the ultimate arbiter of any disagreements.

Ms. Jordan stated it's exciting to her that the neighborhood is willing to go to these lengths to initiate this to protect their neighborhood. She added that she feels neighborhoods are the strength of our city and it fits well with the new land use planning.

Mr. Gales asked why there was nothing in the NCD plan addressing sidewalks or driveways. Ms. Hanzlik explained that the neighborhood was content with the current standards and didn't feel they needed to be more restrictive.

Motion by Mr. Woods to initiate the application for the Elmhurst NCD. Second by Ms. Ringler. Mr. Fiander pointed out that a vote for the initiation does not mean commissioners are in favor of the NCD. Mr. Gales encouraged the NA to remain sensitive to what options there might be for design and not be too explicit in the statement of design. **APPROVAL (9-0-0)**

Adjournment at 7:06 PM

STAFF REPORT – CONDITIONAL USE PERMIT
TOPEKA PLANNING DEPARTMENT

PLANNING COMMISSION DATE: Monday April 18, 2016

APPLICATION INFORMATION

APPLICATION CASE NO:	CU16/3 – Eric Patterson
REQUESTED ACTION / CURRENT ZONING:	A Conditional Use Permit (CUP) for "Day Care Center Type II" on a property presently zoned "R-1" Single-Family Dwelling District, as indicated in TMC 18.60 Use Matrix. Under the pre-1992 zoning code, the property also still holds a Special Use Permit allowing for an "Ancillary Storage Building".
APPLICANT / PROPERTY OWNER:	Eric and Melissa Patterson
PROPERTY ADDRESS & PARCEL ID:	1833 SW Fillmore Ave / 1410104013013000
PHOTO:	
PARCEL SIZE:	0.34 acres (14,948 sq. ft. approximate)
STAFF PLANNER:	Michael Hall, AICP, Current Planning Manager

PROJECT AND SITE INFORMATION

PROPOSED USE / SUMMARY:	A child care service center located in the building on the north side of the property, licensed by the Kansas Department of Health and Environment for a maximum of twelve, pre-school age children (ages 3-5) with two full-time staff.
DEVELOPMENT / CASE HISTORY:	The property currently has two structures: A 976 sq. ft. building constructed in 1993 and a 720 sq. ft. accessory building added in 1989, which required a Special Use Permit for Ancillary Storage under the zoning regulations at the time. The property has historically been zoned for single-family residential uses and was

annexed in 1889. It was used as a garden and goods distribution center for 30 years until 2000 when it was converted into a church. The subdivision was platted in the 1887.

ZONING AND CHARACTER OF SURROUNDING AREA:

While the character of the neighborhood immediately surrounding this property is residential, the next block to the east transitions to industrial-type uses with "M-2" Multi-Family Dwelling District and the Domer Livestock Arena of the Kansas Expo Centre, zoned "PUD" Planned Unit Development for Shawnee County governmental purposes.

The character of the neighborhood directly north, east, and west of this property is residential and is zoned "R-1" Single Family Dwelling District. The property directly south of this property was at one time used as a community garden. The City of Topeka's Public Water Distribution Center is located to the southeast of this property and encompasses that entire block with "R-1" Single-Family Dwelling District zoning.

COMPLIANCE WITH DEVELOPMENT STANDARDS AND GUIDELINES

BUILDING SETBACKS: Not applicable

OTHER DIMENSIONAL STANDARDS: Not applicable

OFF-STREET PARKING: As required by TMC 18.240, this facility is required to provide a minimum of four (4) off-street parking stalls and one (1) bicycle rack. This is reduced from five (5) stalls with the approval of an administrative variance by the Planning Director. The applicant has indicated the provisions they are making for this parking in their statement of operations letter dated March 4, 2016.

The applicant will install all required parking to the rear of the building with access off the alley within one year of CUP approval by the City Council. Until that time, City staff has agreed to allow the applicant to use the (2) gravel parking spaces off the alley for the employees. Within one year of CUP approval, the City will require the applicant to improve the parking area as needed to comply with City standards for a minimum of four (4) stalls including any required ADA parking stalls.

LANDSCAPING: TMC 18.235 Landscape Regulations are not applicable to the size of parking expansion that is required.

DESIGN STANDARDS & GUIDELINES: Not applicable

COMPREHENSIVE PLANS: Chesney Park Neighborhood Plan

TRANSPORTATION PLANS/MTPO PLANS:	Not applicable

TRANSPORTATION FACILITIES:	SW Fillmore Street and SW 19th Street are both classified as local streets and are currently two lanes. Parking is currently allowed on both sides of both streets around the subject parcel. The applicant proposes a loading zone located along SW Fillmore Street in front of the day care for loading and unloading children. At the request of the City's traffic engineer, a condition of approval is recommended limiting all drop off and pick-up be located to the west side of Fillmore only.
UTILITIES:	The property is already connected to city sewer and water services.

OTHER FACTORS

SUBDIVISION PLAT:	Existing lot of record and platted as Martin & Dennis Subdivision, Lots 691 (odd), platted in the 1887.
FLOOD HAZARDS, STREAM BUFFERS:	This property is not within a flood plain or stream buffer area.
HISTORIC PROPERTIES:	Not applicable
NEIGHBORHOOD MEETING:	The applicant conducted a neighborhood information meeting on Tuesday, March 29, 2016 at the site (1833 SW Fillmore Ave). The property lies within the Chesney Park Neighborhood Improvement Association (NIA). The applicants, the operator of the daycare, and two staff members were present for the neighborhood information meeting; no members of the public attended. Thus, no meeting report or sign-in sheet are provided. One letter from the public is attached.

REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES

PUBLIC WORKS/ENGINEERING:	The City Traffic Engineer indicated all drop off/pick up parking shall occur along the west side of SW Fillmore only. The scope of development does not warrant requirements related to storm water quantity regulations.
WATER POLLUTION CONTROL:	The scope of development does not warrant requirements related to storm water quality regulations.

FIRE:	The Fire Department has inspected the site and has no further issues at this time. The applicant will continue to work with the Fire Department throughout the process to approve a "Change of Use".
DEVELOPMENT SERVICES:	The applicant will continue to work with appropriate City staff to obtain all required permits for the required "Change of Use" and Parking Lot Permit.

KEY DATES

SUBMITTAL:	March 4, 2016
NEIGHBORHOOD INFORMATION MEETING:	March 29, 2016
LEGAL NOTICE PUBLICATION:	March 28, 2016
PROPERTY OWNER NOTICE MAILED:	March 25, 2016

STAFF ANALYSIS

EVALUATION: In considering an application for a conditional use permit, the Planning Commission and Governing Body will review the request following standards in Topeka Municipal Code Section 18.245(4)(ix) in order to protect the integrity and character of the zoning district in which the proposed use is located and to minimize adverse effects on surrounding properties and neighborhood. In addition, all conditional use permit applications are evaluated in accordance with the standards established in Topeka Municipal Code Section 18.215.030. The proposed conditional use permit complies with Section 18.215.030.

1. The conformance of the proposed use to the Comprehensive Plan and other adopted planning policies:
   The subject property lies within an area designated as *Residential- Single Family* by the Chesney Park Neighborhood Plan. The residential component of this category recognizes the original character of the neighborhood back when this subdivision was first platted and restricts future residential developments to single-family uses only. As provided for in the Zoning Land Use Matrix TMC 18.60, *"Day Care Facility, Type II"* are allowed in the "R-1" District with approval of a CUP and provided they satisfy design requirements as a part of the CUP approval process. The CUP guidelines for evaluation in TMC18.215 used when reviewing a CUP application indicate one factor in determining land use capability is the intensity of use should be similar to that of surrounding uses. One significant land use compatibility factor supporting the higher intensity use of this site is the proximity to the non-residential uses of the City of Topeka Public Water Distribution Center and the Domer Livestock Arena.

2. The character of the neighborhood including but not limited to: land use, zoning, density, architectural style, building materials, height, structural mass, sitting, open space and floor-to area ratio:
   The neighborhood is characterized by single-family dwellings fronting SW Fillmore St and extending westward into the neighborhood, and industrial uses or uses related to the Kansas Expocentre fronting SW Western and extending to SW Topeka Blvd. The residential blocks on the east side of SW Fillmore between SW 17th and

SW Hampton are designated as "Transition Areas," recognizing the industrial pull on these houses.

3. The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning and uses:
The zoning and uses of nearby properties is for single-family dwellings and has been such since platted in the 1880's with 25 ft. wide lots. A property being used as a "Day Care Center Type II" is allowed with a Conditional Use Permit in the "R-1" Single-Family Dwelling District. The zoning of the property is not changing and existing buildings are being repurposed for this use. This, combined with the property's proximity to higher-intensity uses, render this use compatible with surrounding uses. As approved under the CUP, the proposed use is in harmony with surrounding zoning and land uses.

4. The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations:
The subject property has become less suitable for single-family dwellings since the removal of the original dwelling unit in the late 1960s. Additionally, it has a long history of non-residential uses since the 1970s, further reinforced by the construction of the accessory structure in 1989 and the church structure in 1993. For 30 years, this property was the site of "God's Little Half Acre," which included a garden and a clothing, food, and furniture distribution site for the neighborhood until it closed in 2000. Following this use, it was the site of a Hispanic Pentecostal Church.

5. The length of time the property has remained vacant as zoned:
Both buildings on the property are currently vacant. The building to be used for day care center has been vacant over a substantial period of time. Until recently the other building, which is the larger of the two buildings, has been used as a church.

6. The extent to which the approval of the application would detrimentally affect nearby properties:
Based upon the surrounding land uses and the history of non-residential uses of this site, approval of this application should not have a detrimental effect upon nearby properties, as approved under the CUP. The number of children permitted to be at the day care center shall be limited by the permit issued by the Kansas Department of Health and Environment. The applicant verifies that the hours of operation shall be from 6:30 am to 6:00 pm, further limiting the possible impacts this business will have on nearby properties. Occupied by a day care center, the property will likely have a more positive impact on neighboring properties than if it remained vacant.

7. The extent to which the proposed use would substantially harm the value of nearby properties:
The proposed use will not likely have a negative impact upon the value of nearby properties due to the nature and scale of the day care activities described in the CUP application and that it is repurposing a historically non-residential site for this use.

8. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property:
The proposed use is not likely to have an adverse impact upon the road network based on the application and descriptions of the proposed CUP. The property is served by streets classified as "local" roads with the capacity to handle the traffic generated by the use.

Parents will be required to park on the west side of Fillmore Ave to load and unload their children. By having the loading zone located on the side of the street adjacent to the day cay, it will minimize disruption to local vehicular traffic from pedestrian crossings and will provide a safe loading environment for the children.

Staff will park to rear of the building on the west side, on gravel parking that will allow for two vehicles. Future development of the property will be to replace the gravel parking area with a parking lot compliant with City

standards within one year of the CUP approval. This parking lot will consist of a maximum of five spaces, including one van accessible ADA stall and a bike rack.

9. The extent to which the proposed use would create excessive air pollution, water pollution, noise pollution or other environmental harm:
There is no floodplain or stream buffer on this property. The noise impact on adjacent properties should be minimal due to the restricted hours of operation stated in the application (6:30 am to 6 pm).

10. The economic impact of the proposed use on the community:
There will be an economic benefit to the community by this proposed use. First, taxes will begin being assessed on the property as it will no longer be tax exempt under its previous religious institution status. Second, there will be taxes gained by the start and success of an expanded small business.

11. The gain, if any, to the public health, safety and welfare due to denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application:
There is no apparent gain to the public health, safety and welfare by denial of the application since approval of the application will take a vacant non-residential building in the neighborhood and replace it with a viable use on the property that allows the property to be utilized, maintained and returned to the tax rolls. Alternatively, denial of the application will leave the property in its present vacant state.

STAFF RECOMMENDATION:

The project demonstrates compliance with standards for evaluation as provided for in TMC 18.215.030 Conditional Use Permits for Land Use Compatibility, Site Development, Operating Characteristics, and consistency with the Comprehensive Plan. Based upon the above findings and analysis Planning Staff recommends APPROVAL of this proposal, subject to the following conditions.

1. Use and development of the site in accordance with the approved Conditional Use Permit (CU16/3) and Statement of Operations from applicant dated March 4, 2016.

2. As indicated on the CUP Resolution: "*One (1) wall sign shall be permitted per building not exceeding 40 sq. ft. per sign face. No free-standing permanent, temporary or portable signs shall be permitted on the property.*"

3. The conditional use permit is based on the use as described in the Statement of Operations. In the event of substantial changes in operations, the applicant shall submit a revised Statement of Operations to the Planning Department to allow staff to ascertain compliance with the Conditional Use Permit.

4. As indicated on the CUP Resolution, *"The property owner shall provide a minimum of four (4) parking stalls meeting City standards located off the alley within one (1) year of CUP approval by the Governing Body. A site plan depicting this required parking area shall be approved by the Planning Department at the time of Parking Lot Permit issuance by City of Topeka Development Services Division."*

5. As indicated on the CUP Resolution, *"All drop off and pick up parking shall occur along the west side of SW Fillmore only."*

6. As indicated on the CUP Resolution, *"Pursuant to TMC 18.215.060 The Planning Commission may recommend revocation of any conditional use permit to the Governing Body if the use either fails to comply with any of the conditions of the permit; or the use has expanded or deviated from its original use and purpose; or the use has been found by a court of law, federal or state agency to be an illegal activity or nuisance."*

ATTACHMENTS:

1. Aerial Map
2. Zoning Map
3. Statement of Operations
4. Public Comment Letter

CU16/3 By: Eric Patterson

N
W E
S

Topeka Planning Department - 2016

CU16/3 By: Eric Patterson

Topeka Planning Department - 2016

CUP16/3
Applicant letter

Melissa Patterson
2347 SE Wisconsin Ave
Topeka Kansas 66605
March 4, 2016

City of Topeka
Planning Department
620 SE Madison, 3rd Floor (unit 1)
Topeka, Kansas 66607

Dear City of Topeka:

I am a long time resident of Topeka, Ks. I currently own and operate Patterson Family Child Care Center (PFCCC LLC.) 2347 SE Wisconsin Ave. Topeka Ks. 66605. My passion is education young children. I am looking forwarded to expanding to provide quality child care services to the residential area of Chesney Park NIA, TMTA. Teachable Moments mentored by PFCCC LLC. program is to build an educational foundation for 2 ½, to 5 year olds. The program operation hours will be from 6:30am to 6:00pm. The program focuses on a total learning curriculum that promotes creative, emotional, physical, social, and cognitive development. This is done by provide theme base curriculum along with a Christian Supplement curriculum, which introduces each child and family to God's love through non-denominational materials. Teachable Moments will be licensed by Kansas Department of Health and Environment for 12 children. This will allow the two fulltime staff to give children the quality education and attention they need.

For the safety of the children when arriving to the center. Parents will be required to park on the west side of the street to unload and load their child or children. The staff will have a gravel parking in the rear of the building for two cars. The 6-foot chain-linked fenced in front area will provide for a safe non-commercial playground to help develop the children gross motor skills.

Future development of the property is to add a paved parking lot in the rear of the building within one year of the CUP approval. This parking lot will provide a maximum of five spaces that includes one van accessible ADA stall and bike rack.

I am looking forward to your approval!

Sincerely,

Melissa Patterson

CUP6/3
public comment

To whom it may concern:

My name is Michelle Perez and I am an Office Assistant with the WIC (Women Infant and Children) program as well as a mother of a 6 year old who previously attended Patterson Child Care Center. As an Office Assistant for Shawnee County that provides assistance to parents in need, I see every day the need for balanced preschool education in our community. There is a lack of quality programs to choose from that provide our children with the needed skills to be ready for Kindergarten. I am also a property owner in this neighborhood, and I can see the need for quality child care in this area. I understand there are some reservations about this project, but I fully support this program and the vision the owners have for this project. Please help support the children in Topeka and do not take away a wonderful opportunity to help them come to a quality preschool. Please do not hesitate to contact me with questions or concerns

Thank you,

Michelle Perez

1915 SW Lane St.

Topeka, Ks 66604

785-554-1754

STAFF REPORT – ZONING CASE
TOPEKA PLANNING DEPARTMENT

PLANNING COMMISSION DATE: Monday, April 18, 2016

APPLICATION INFORMATION

APPLICATION CASE NO	Z16/2 - Heartland Management Company
REQUESTED ACTION / CURRENT ZONING:	Rezone from "R-1" Single-Family Dwelling District with a conditional use permit for an accessory parking lot all to "O&I-2" Office and Institutional District/
APPLICANT / PROPERTY OWNER:	Heartland Management Company: Warren J. Newcomer Jr.; President First Assembly of God: Steven E. Peoples, President of the Board
APPLICANT REPRESENTATIVE:	Daren Miller, Heartland Management Co. / Mark Boyd, Schmidt, Beck & Boyd Engineering, LLC
PROPERTY LOCATION / PARCEL ID:	520 SW 27th Street/ 1330702021009000 and a portion of 500 SW 27th Street/ 1330702021011000.
PARCEL SIZE:	1.86 acres
STAFF PLANNER:	Michael Hall, AICP, Current Planning Manager

PROJECT AND SITE INFORMATION

PROPOSED USE / SUMMARY:	Zoning change will allow for a future additional building and accessory parking for the Newcomer Funeral Service Group.
DEVELOPMENT / CASE HISTORY:	CU05/12; a conditional use permit for expansion of the Newcomer Funeral Services Group facility to include the remodel of a former residence for a reception, conference, and assembly facility on that part of the property zoned R-1. Several neighboring property owners testified at the public hearing in opposition to CU05/12. The Governing Body approved CU05/12 in November 2005. CU05/12A (June 2009); a minor amendment to conditional use permit CU05/12 to revise the development plan by removing the reception, conference, and assembly facility, which was never completed, and including in its place a parking lot to serve the Newcomer Funeral Service Group office on the site. Planning staff approved CU05/12A in July 2009. The former residence was demolished in or around 2009. The accessory parking lot has been built.

PHOTOS OF SUBJECT PROPERTY:

ZONING AND CHARACTER OF SURROUNDING PROPERTIES:

Other than the applicant's property (only that part containing the existing office building) the surrounding area is zoned entirely R-1 Single Family Dwelling District. The surrounding area has a predominantly residential character and includes a mix of single family residences and churches. The Topeka Country Club golf course is located to the south on the south side of SW 27th Street. The First Assembly of God Church, including two buildings, is located immediately to the east. Grace United Methodist Church is located to the west across SW Western Avenue. A large 5,600 square foot single family residence, formerly a Florence Crittenton Home for Unwed Mothers, is also located to the west (Shawnee County Appraiser). Single family residences are located on the adjoining land to the north.

DEVELOPMENT STANDARDS AND POLICIES

USE AND DIMENSIONAL STANDARDS OF PROPOSED ZONING COMPARED TO EXISTING ZONING:

The proposed O&I-2 zoning has fewer restrictions on use than the current zoning, although the new zoning provides for greater scrutiny of design.

Section 18.60.010 (Land Use Matrix) includes a complete list of the uses prohibited, conditional, and permitted in the R-1 and O&I-2 zoning districts. Some of the significant uses prohibited under the current R-1 zoning but permitted in the O&I-2 zone include:

- *Community Living Facility Type I* [i]
- *Medical Care Facility Type II* [ii]
- *Medical Equipment Sales and Service (hearing aids, eyeglasses, prosthesis stores, etc.)*
- *Recreation, Indoor Type I (Indoor pools, fitness clubs, skating rinks, gyms, dancing, etc.)*
- *Bank/Financial Institution*
- *Medical and Other Professional Office*
- *Funeral Home or Mortuary without Crematorium*
- *Health Services, Clinic, Health Care Facility*

Assisted Living Facilities and *Funeral Homes* require a conditional use permit under the current R-1 zoning but are permitted in the O&I-2 zoning district.

Required minimum building setbacks in R-1 zoning districts are 30'-front, 7' – side, and 30' – rear. Required minimum building setbacks in O&I-2 zoning districts are 25', 7', and 25', respectively.

Maximum building height permitted in the R-1 zoning district is 42 feet; maximum building height permitted in the O&I-2 district is 60 feet.

Pursuant to TMC 18.235 landscaping is required for new construction or substantial redevelopment in O&I-2 zoning districts. Landscaping regulations typically do not apply to new development or redevelopment in R-1 zoning districts.

OTHER FACTORS

SUBDIVISION PLAT:

The North 150 feet of Lot 1, Block A, Newcomer Subdivision and a part of of Lot 3, Block A, First Assembly Subdivision. The owner

	expects to submit a minor subdivision plat to reflect the purchase of some of the church property on the east.
FLOOD HAZARDS, STREAM BUFFERS:	Not applicable.
UTILITIES:	There is a public sanitary sewer main running parallel to the north property line and located 40 feet from the north property line. The easement for the sanitary sewer is 35 feet from the north property line.
TRANSPORTATION/TRAFFIC:	The property fronts on SW 27th Street and SW Western Avenue. SW 27th is functionally classified as a major collector and is a two-lane street with curb and gutter but no sidewalks. SW Western is a local street with two lanes, curb and gutter and no sidewalks.
HISTORIC PROPERTIES:	There are no "listed" historic properties in the neighborhood. The neighborhood does contain residential structures with historic value and there is potential for the creation of a historic district. The large residence to the west is a former Florence Crittenton Home for Unwed Mothers and was built in 1933. The residence on the north at SW Western and Merriam Court was built in 1938.
NEIGHBORHOOD INFORMATION MEETING:	The applicant conducted a neighborhood information meeting at 6:00 PM on March 22nd. Per City requirements the applicant mailed invitations to all property owners within 300 feet of the property. Eleven citizens attended and several expressed concerns about additional office or commercial zoning and the encroachment of commercial uses into the residential neighborhood.
PUBLIC COMMENT:	Planning staff have received written statements from 9 property owners all objecting to the proposed change in zoning. The concerns expressed include: • The rezone will radically change the historic and residential character of the neighborhood. • The change in zoning and resulting development will negatively affect the values of neighborhood homes. • If there is no immediate plan to construct a new building, the owner should limit the request to a conditional use permit for the office's expanding parking needs. • There is already a large amount of truck traffic to the existing office building (and more office development will generate more traffic). • A zone change to O&I-2 allows a building as high as 60 feet to be built. • The neighborhood is being "gradually invaded by business groups, such as Noller Ford" encroaching from the north. • The residents are concerned about what the owner might do with the property. The lack of trust is in part a result of the owner's demolition of the house that used to be located at the rear of the property.

REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES

PUBLIC WORKS/ENGINEERING:	None
WATER POLLUTION CONTROL:	None
FIRE:	None
DEVELOPMENT SERVICES:	None
Other:	None

KEY DATES

SUBMITTAL:	March 4, 2016
NEIGHBORHOOD INFORMATION MEETING:	March 22, 2016
LEGAL NOTICE PUBLICATION:	March 25, 2016
PROPERTY OWNER NOTICE MAILED:	March 25, 2016

STAFF ANALYSIS

CHARACTER OF NEIGHBORHOOD: The neighborhood is characterized by institutional uses (churches and related facilities), single family residences, and the owner's office located on the subject property. The applicant has expressed his intention to build, at some undetermined future time, a single story building primarily for staff training, smaller in size but similar in form to the existing office building. However, the proposed zoning does not restrict the owner to any specific plan. The unrestricted nature of the proposed O&I-2 zoning provides for potential development that is out of character with the neighborhood.

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The rear of the property north of the parking lot contained a house that was unoccupied for some time. The owner demolished the house in or around 2009 and in 2012 constructed the parking lot, leaving much of the north end of the property vacant but attractively landscaped.

CONFORMANCE TO COMPREHENSIVE PLAN: The subject property lies within an area designated *Urban/Suburban Low Density Residential* by the Land Use and Growth Management Plan – 2040. This category is generally characterized by *"a cohesive display of single- or two-family development up to a maximum of six dwelling units per acre. (pg. 43)".* The subject property, as well as the properties north, west, and east are zoned "R-1" Single-Family Dwelling District. The purpose of the "R-1" district states that it *"is intended that the character and use of this district be for housing and living purposes free from the encroachment of incompatible uses"*.

The proposed rezoning is an expansion of the existing office use which is on the adjacent property immediately south and west of the subject property. The existing office use is zoned "O&I-2" Office and Institutional District. LUGMP –

2040 policies mention that the *"size and scale of office developments should fit the character of the surrounding area. (pg. 45)"*.

The proposed rezoning will add approximately 1 acre to the existing "O&I-2" zoned property. The "O&I-2" district sets a maximum building size at 20,000 square feet of ground floor area and to a height of 60 feet, a scale of building that is not appropriate adjacent to the single family residential homes to the immediate north and west. Further, the O&I-2 district does not contain sufficient building design guidelines or standards to ensure the new building is compatible with the neighborhood. For these reasons the proposed zoning change is not in conformance with the Comprehensive Plan.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES:

The O&I-2 zoning district allows a range of uses, either by right or conditional use permit, that are prohibited in the current R-1 zoning district. Some of these potential uses are not compatible with the adjacent residential uses. The O&I-2 zoning district requires substantial building setbacks but is substantially less restrictive than the current R-1 zoning with regard to building height. A maximum building height of 42 feet is allowed under R-1 zoning. O&I-2 zoning allows a maximum building height of 60 feet, which staff estimates to be a height sufficient for a four-story office building.

While there is some risk to the neighborhood from O&I-2 zoning the owner has never suggested constructing a building with multiple stories and the potential for a four story building on the on the north side of the existing parking lot is limited by property size, the existing sanitary sewer easement located 35 feet from the north property line, and the parking that would be required to serve a four story building.

With the change in zoning use of the property for accessory parking is no longer tied to the conditional use permit for the parking. The conditional use permit includes stringent landscaping requirements which do not need to be enforced once the conditional use permit is replaced by the O&I-2 zoning.

THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE OWNER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER:

The proposed zoning creates considerable uncertainty about the future use and physical development of the property and its effect on adjacent residential property. For this reason denial of the proposed zoning provides substantial protection to neighboring property owners. If the owner wishes to develop the subject property for office use or a use of a similar or lesser intensity, the owner may apply for Planned Unit Development (PUD) zoning tied to a master plan setting parameters for use, setbacks, height, and design. A PUD with a master plan is substantially less risky to adjacent properties and to the surrounding neighborhood.

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

STAFF RECOMMENDATION:

Based upon the above findings and analysis Planning Staff recommends DISAPPROVAL of the proposed zoning change.

ATTACHMENTS:

1. Aerial Map
2. Zoning Map
3. Neighborhood Information Meeting Notes and Sign-in Sheet
4. Photos of Neighboring Properties by Applicant
5. Public Comments

---

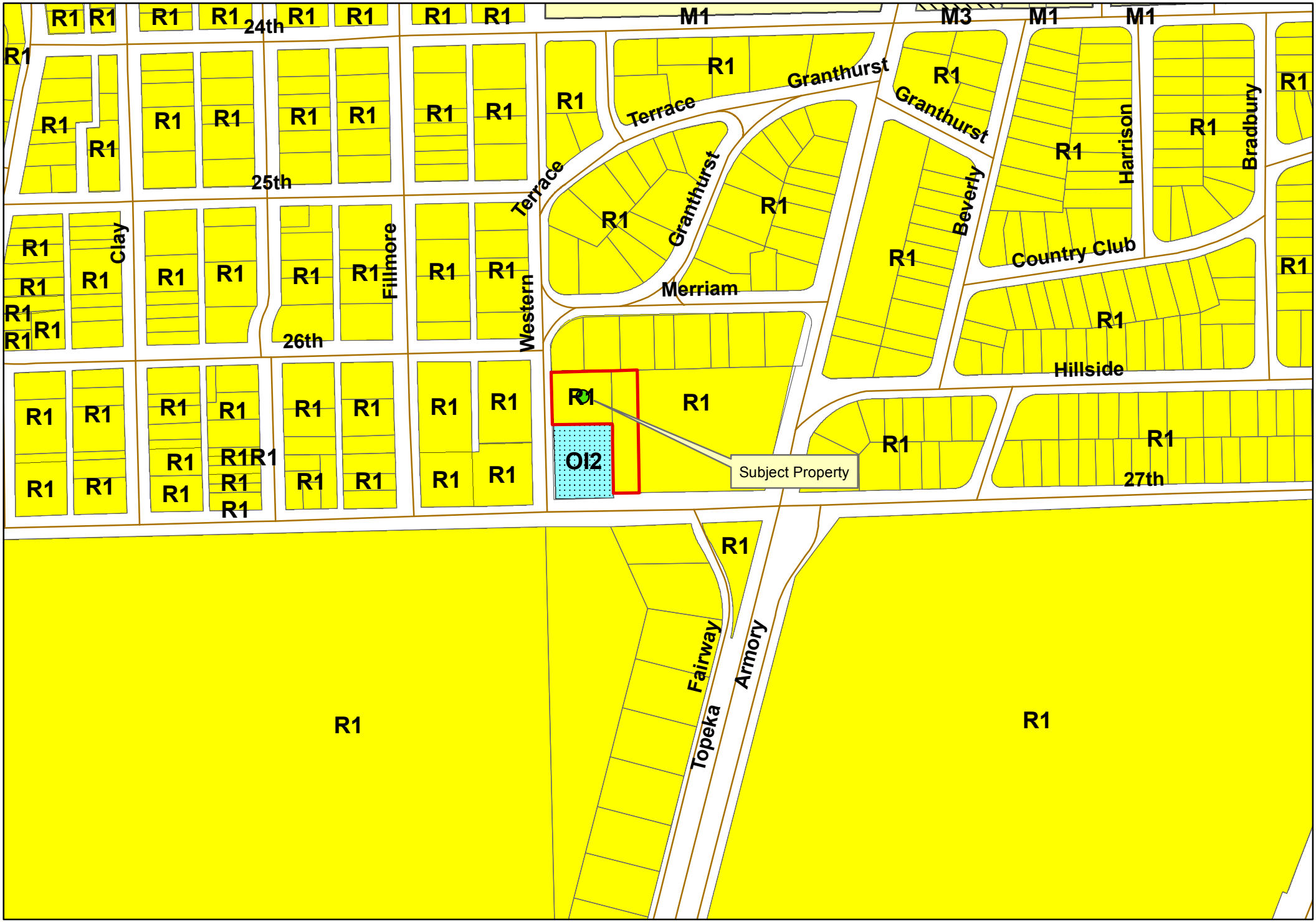
[i] A residential facility other than a hospital for short term residential care and supportive programs for improving living skills relative to chemical dependency, behavioral modification, domestic abuse, mental illness, economic recovery, job training, etc. (TMC 18.55.030 "C" Definitions)

[ii] Dwelling for the personal nursing care and treatment for more than 3 persons.

Z16/2 By: First Assemby Church/Heartland Management Co.

N
W E
S

Topeka Planning Department - 2016



Z16/2 By: First Assemby Church/Heartland Management Co.

N
W E
S

Topeka Planning Department - 2016

Neighborhood Informational Meeting
Heartland Management Co.

3/22/2016

Meeting Notes --

The church started receiving attendees around 5:45 and the meeting formally started at 6:10. There were 11 neighbors in attendance, 3 church members and 1 city official. Mr. Boyd, Mr. Newcomer and I represented the purchaser making the total attendance 15. A sign up sheet was passed through the group to obtain a record of neighbors in attendance.

Mr. Boyd explained the purpose of the meeting was to introduce the neighbors to the proposed zoning going before the planning board on April 18th. This is an opportunity for all parties to better understand the proposal and offers each a forum to ask questions and discuss any concerns. This will allow everyone to be well informed and make for a more productive public planning meeting.

Using power point and handouts Mr. Boyd explained that the zoning for the lot is now R-1 and the change would be to O&I-2. This would be to make the entire plat the same zoning that currently exists where the Newcomer building sits. Mr. Newcomer elaborated that the result of a preliminary meeting with the City revealed that the current CUP "conditional use permit" of the R1 combined with the O&I-2 then again combined with the parking lot addition was not in line with what the city would like for making improvements and they had directed us to plat and zone the area in its entirety.

Mr. Boyd was asked to explain the CUP for the existing property.

The 2 residents of the home across Western to the West and abut the Grace United Methodist Church (formally the Crittenton Home for girls) voiced concerns:

- They worked very hard to get their property rezoned to residential and in a manner that if can never be rezoned again. They don't want to loose any more residential property.
- She stated that the Newcomer employees were very nice and waived and had no issues with the current use or them.
- She stated that the property was always in nice condition and well maintained.
- She asked how much more property are you (Newcomer) going to scoop up and convert in the future. Mr. Newcomer replied he has no plans.
- She stated. One morning excavation equipment damaged the home that previously was located at the North end of the lot and left it in a damaged condition for a year before tearing it down. (Unsubstantiated and not true).
- They stated that Mr. Newcomer lied about converting the home into a training center and instead removed the house. Mr. Newcomer explained the purchase of the property adjacent to 245 NW Independence to house training as well as the problems the vacant home was having and the difficulties discovered to make a conversion.
- She stated she did not like your (Mr. Newcomer) tactics and asked that he just be honest with her. Mr. Newcomer restated the purpose of the meeting and the slides as full disclosure.
- She stated that the City (attendee) looked to be in collusion with Newcomer and was pushing to get this passed. The City staff took about 5 minutes to re-clarify that this was not the case and the purpose of the meeting and the codes. He made the code

- One attendee explained how nice the existing building looked and didn't mind having additional structures but though it would make sense if it matches the residential look that existed.
- One resident asked if Mr. Newcomer would still purchase the property if the zoning did not pass. He stated that he wouldn't and the reason.
- Two residents eluded that they would be satisfied if Newcomer went through the CUP process for adding an additional building now and left the parking lot R-1
    - Most of these were repetitively answered that there were no plans nor had an architect been engaged to design any buildings.

Summary: Several of the residents want Newcomer to design and approve a building with the neighbor's approval under CUP. They want to be included in the style and site layout but are concerned with any improvements.

Many if not most of the attendees expressed distrust about what the owner might do in the future based on what has been done in the past. A couple of people stated that they assumed the City "colluded" with the developer. The City staff attending the meeting clarified that the City is not an advocate but is instead the facilitator of the process and the regulator and welcomed input from the attendees and others.

Newcomer explained that failing to obtain the O&I-2 zoning will likely allow the purchase opportunity to pass by making it more sensible for Newcomer to abandon the existing property and move elsewhere if the need for additional space becomes an issue in the coming years.

Major concerns:

- Further encroachment of non-residential uses into neighborhood.
- Stormwater Drainage on both private property and in street.
- What the O&I-2 zoning allows for future without input from residents (development rights accorded by O&I-2 zoning). Some concern for how a building might be designed (without input from neighbors since this is straight zoning.)
- Impact of the access on Western. It has caused problems and they would like it closed. However, the Western access might be required and is most likely preferred for Fire and other emergency response.
- A few of the attendees asked "if there is no immediate plans for a new building why not just amend the existing CUP

Darren Miller
Newcomer Funeral Service Group

Mark Boyd
SBB Engineering, LLC

Neighborhood Information Meeting
Heartland Management Co.

Name	Address	Phone No. / email
Steve Vogel	5555 SW Meeriam Ct	svogel.email@gmail
Rhonda + Ron Cathey	2532 SW Granthurst Ave	357-1784 / rkw0907@aol.com
Bob + Rebecca Clawson	900 SW 24th St	232-0944
Mike Hall, City Topeka	620 SE MADISON	mghall@topeka.org
Alice Brooks	2525 SW Western	357-0099
Shayne Sayre	2601 SW Western	338-3498
Randy Sawyer	2601 S.W. Western Ave	409 0603
John & Amy Potter	717 SW merriam ct	
DREX B FLOTT	705 SW MERRIAM CT.	Drexburke 7855543738 @cox.net

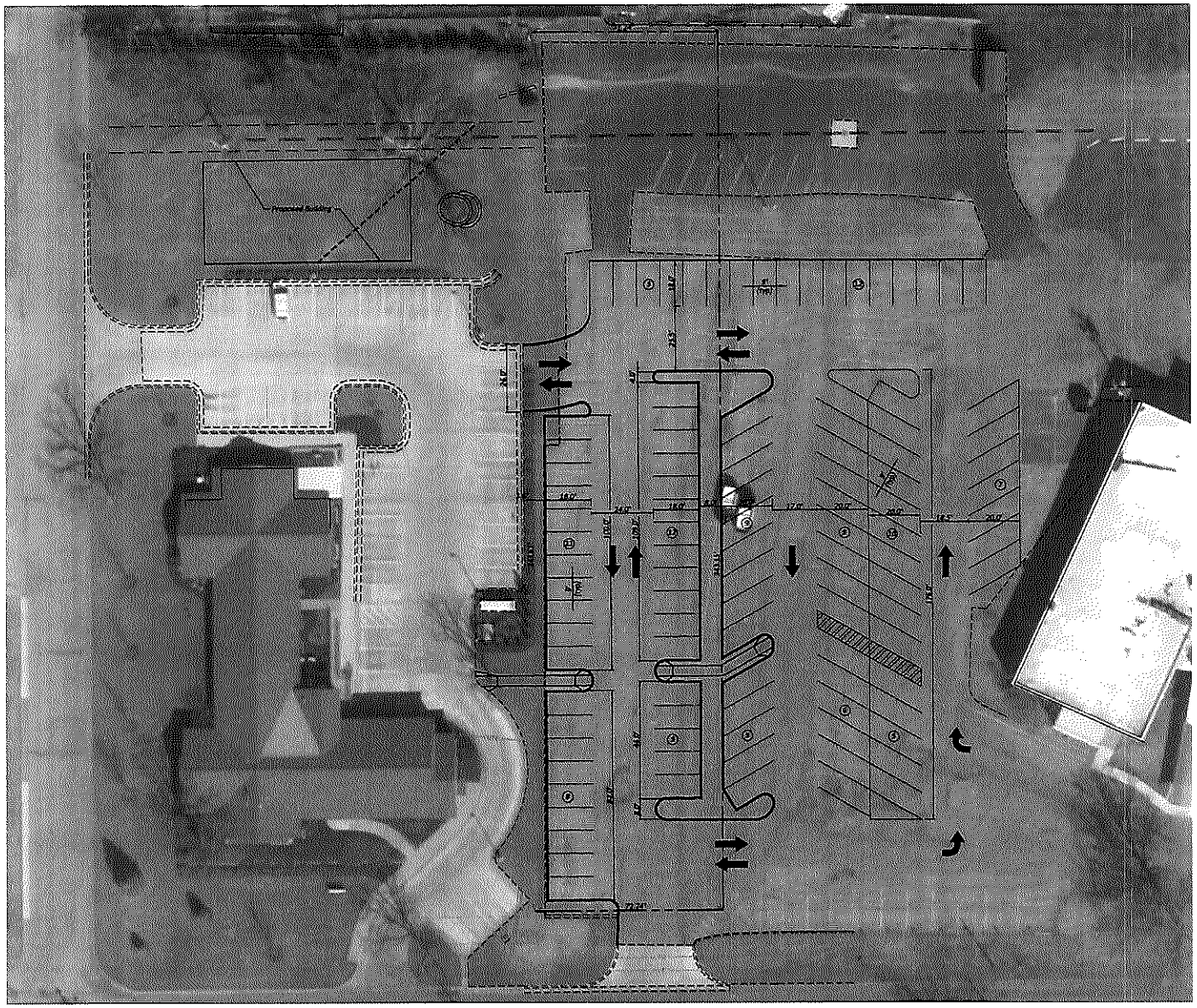
NEIGHBORHOOD INFORMATION MEETING

Heartland Management Co.

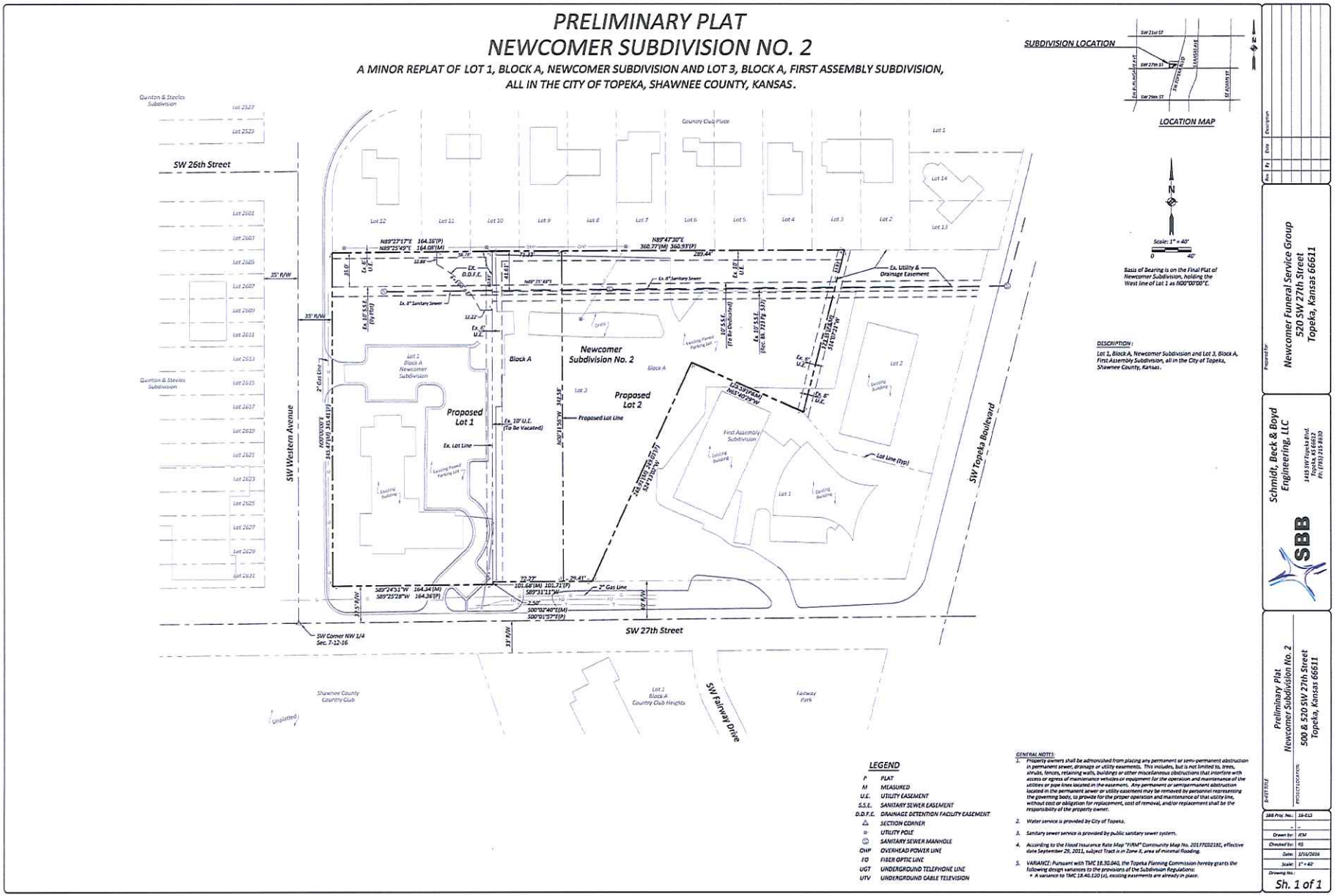
520 SW 27th St.

Rezoning to “O&I-2”

Proposed New Parking Lot Layout



Preliminary Plat



PHOTOS OF NEIGHBORING PROPERTIES BY APPLICANT

SW 26th & Western

SW 26th & Western

PHOTOS OF NEIGHBORING PROPERTIES BY APPLICANT

SW Western Avenue & Merriam Court

Newcomer Funeral Service Group
View from SW 27th

Michael Hall

From: Randy <rhemm@cox.net>
Sent: Sunday, March 27, 2016 1:32 PM
To: Michael Hall; Sylvia Ortiz; Annie Driver
Subject: Changing the zoning from R-1 to O&1-2

Mr. Potter has advised us that the Topeka Planning Department is considering a change for the Newcomer Group at 520 SW 27th of the green space immediately north of the Newcomer building, parking lot north of building, and Assembly of God Church east of building parking lot.

We are located just one block over from this area on Granthurst Ave. We are concerned that this will radically change the character of our neighborhood, be detrimental to properties nearby and will negatively impact the value of our homes and properties. We are also concerned that it will change the single family dwelling district in our neighborhood to an office park.

As a homeowner in this area, we are requesting that your do not approve the zoning to O&1-2 for this area.

Randy and Linda Hemm

Dean Diediker

From: Annie Driver
Sent: Monday, March 28, 2016 10:05 AM
To: Dean Diediker
Subject: FW: R1 zoning

From: Randy Sawyer [mailto:sawbuckx2@hotmail.com]
Sent: Thursday, March 24, 2016 11:25 AM
To: Annie Driver
Subject: R1 zoning

March 24, 2016

Hi, I attended a neighborhood invited zoning information meeting on March 22,2016. It was concerning a possible rezoning, of a property located, at 520 S.W. 27th street in Topeka, Ks 66611.

My question is if all, or a great majority, of the designated property owners, within the 300 foot project boundary either rebuke or demonstrate that they are not in favor of the effort to rezone this R1 area into O&1-2 and Z16/2 areas, then what are the chances of the City of Topeka Planning Department making a decision to overturn the local property owners' wishes, and leave it all as is, a Single Family Dwelling District? If your department does decide override our wishes, then what kind of reasoning would be used for such a decision, if it was decided that property owners and neighborhood residents were not in favor of the action requested?

As we understand the proposal, there is a squeezed in possibility, of a 3,200 sq. ft. building to be built, on the north end of the property. The main proposal, without the attached building's add on permission, is only to re-construct a parking lot that is already in place, for their own present office building.

If this is the case, then we see no sense to rezone, because re-construction of the parking lot is already allowed by the present zoning of R1 with the Conditional Use Permit for a Parking Lot. The new O&1-2 rezoning proposal would open up a pathway for a new building, to be constructed without the neighbors' permission or any say so about it, which is exactly what we do not want.

I am just looking ahead to the Planning meeting scheduled April 18, 2016 and trying to understand our place, as an R1 neighborhood.

I would appreciate any information you could supply to these concerns. I am sorry, but we did not seem to get much guidance from Michael Hall, at the meeting the other night.

Thank you for you time,
Quinton Heights property owner,
Randy Sawyer

Sent from Mail for Windows 10

Michael Hall

From: Michael Hall
Sent: Sunday, March 27, 2016 4:47 PM
To: 'Randy Sawyer'
Cc: Dean Diediker; Bill Fiander
Subject: RE: Proposed Rezoning of 520 SW 27th

Randy,

Prior to the public hearing by the Planning Commission, you may provide me with written comments by email or letter. Any number of persons may sign the letter. You may also call me to express your concerns.

In addition, Kansas law and the Topeka zoning regulations provide owners of property within the area subject to notification (property located within 200 feet of the property proposed to be rezoned) the opportunity to file a protest petition. Links to the procedures and the petition form are at the bottom the web page in this link: http://www.topeka.org/Planning/application_information.shtml

Note that the Protest Petition may be filed only after the public hearing and within 14 days of the public hearing. Protest petitions filed by owners of property within the 200 foot radius of the property proposed for rezoning are valid only if the petition is signed by "owners of twenty percent (20%) of the total area required to be notified . . . excluding streets and public ways."

Please contact me if you have any questions.

Michael Hall, AICP
Current Planning Manager
City of Topeka
785-368-3007

From: Randy Sawyer [mailto:sawbuckx2@hotmail.com]
Sent: Friday, March 25, 2016 10:04 AM
To: Michael Hall
Subject: RE: Proposed Rezoning of 520 SW 27th

Hi, thanks for your reply. I was wondering if a petition type document, including the property owners and some concerned neighborhood organization members' signatures, would be of any help in displaying our concerns of the rezoning situation. If so, could it be presented at the Planning Commission public hearing?

Just trying to look at all of the possible options we may have of this action requested for rezoning.

If so, is there a certain petition document to be used, that is acceptable by the city?

Thanks,
Randy Sawyer

Sent from Mail for Windows 10

Dean Diediker

From: Annie Driver
Sent: Monday, March 28, 2016 10:05 AM
To: Dean Diediker
Subject: FW: Proposed Rezoning of 520 SW 27th

From: Michael Hall
Sent: Thursday, March 24, 2016 12:26 PM
To: sawbuckx2@hotmail.com
Cc: Annie Driver; Bill Fiander
Subject: Proposed Rezoning of 520 SW 27th

Mr. Sawyer,

Annie is out of the office this week but she forwarded your email message to me. I am now the staff planner on this project on behalf of the City. Thank you for taking the time to express your concerns. You may provide input now and prior to the Planning Commission hearing, and you may attend and speak at the public hearing. Written comments will become part of the record for consideration by the Planning Commission. As I stated at the meeting, anyone may contact me by email or by phone if they have questions.

In response to your question in the email, I can say that your input is important as a factor in the decision on the rezone. The Planning Commission will hold the public hearing and make a recommendation to the City Council. The decision is ultimately by the City Council. The rezone application is evaluated based on the criteria in the Topeka Zoning Ordinance as follows. Your comments and concerns will be considered relative to these criteria:

> *(ix) The planning commission shall hold a public hearing and act in a quasijudicial capacity to hear testimony; weigh the facts and conditions; and make findings and conclusions with respect to:*
>
> *(A) The character of the neighborhood.*
>
> *(B) The zoning and use of properties nearby.*
>
> *(C) The suitability of the subject property for the uses of which it has been restricted.*
>
> *(D) The extent to which removal of the restrictions will detrimentally affect nearby properties.*
>
> *(E) The length of time the subject property has remained vacant (or unused) as zoned.*
>
> *(F) The relative gain to the public health, safety and welfare by the destruction of the value of affected property as compared to the hardship imposed upon the individual landowner.*
>
> *(G) Recommendation of professional staff.*

(H) Conformance to adopted or recognized comprehensive plan.

Please contact me if you have further questions or comments.

Michael Hall, AICP
Current Planning Manager
City of Topeka
785-368-3007

Dean Diediker

From: Annie Driver
Sent: Monday, March 28, 2016 10:05 AM
To: Dean Diediker
Subject: FW: Newcomer group zoning proposal

From: Randy Sawyer [mailto:sawbuckx2@hotmail.com]
Sent: Friday, March 25, 2016 5:27 PM
To: Annie Driver
Subject: Newcomer group zoning proposal

Hi, I would just like to mention a few more statement concerning my feelings about this.

1. I see no reason, what so ever, for a rezoning action to happen, when the request is to merely re-construct a parking currently located on the church's property that will then serve the office building at 520 S.W. 27th st Topeka, Kansas.
2. The property is already zoned for R-1 Single Family Dwelling District with a Conditional Use Permit for a Parking Lot.
3. There is a mention, in the proposal, to possibly add a 3,200 sq. ft. building for administrative offices on the north side of the property at 520 S.W. 27th st.
4. In our neighborhood information meeting, on March 22,2016, the owners told us repeatedly that there are no plans to build, no architects have been contracted, and there has been no application made to build, to the city made for such a building mentioned in the proposal.
5. I am in fear of the open ended construction of any building on the property, if it receives the go ahead of the O&1-2 rezoning. The city would allow up to a 60 foot high structure in this category. We probably would not any say about that, in our now residential community.
6. There is already a large amount of truck traffic to the existing business each day. It already has a full parking lot full of cars each week day. We do have a school bus stop, for children, located at the intersection of S.W. 26th at S.W.Western Ave. The bus stops three times a day on school days on the same block of their business . Heavy traffic and children are not a good mix.
7. This company has made an offer to buy the home dwelling property, from the property owners, to the north of where their parking lot and possible 3,200 Sq. ft. building would be constructed.
8. I say let them re-construct their parking lot and do it with the present zoning. Don't have them worry about changing the zoning, since there are no plans to build, according to them. Keep our residential community as it is, residential.

Sent from Mail for Windows 10

Michael Hall

From: Beverly <bevket@cox.net>
Sent: Wednesday, March 30, 2016 10:24 AM
To: Michael Hall; Annie Driver; Sylvia Ortiz
Subject: Change of Zoning request

Dear Mr. Hall, Ms. Driver and Ms. Ortiz

I am writing this email to advise you to please DO NOT change the Zoning for the Newcomer Group a 520 SW 27th.

This area has always been 'residential' and we are gradually being invaded by business groups, such as Noller Ford taking property north of Quinton Heights School.

The re-zoning will radically change the character of our neighborhood and destroy the historic atmosphere of our neighborhood.

There is plenty of unused property in Topeka that Mr. Newcomer can use to expand his business.

Thank You for your consideration.

Beverly J. Ketter
2400 SW Granthurst Ave.
Topeka, KS 66611-1274

785-354-7977

Michael Hall

From: NORMA BURNETT <burnettnj@sbcglobal.net>
Sent: Wednesday, March 30, 2016 4:21 PM
To: Michael Hall
Subject: Zoning Change (burnettnj@sbcglobal.net)

To: Michael Hall
Topeka Planning Department

From: Norma J. Burnett
2419 S. W. Western Avenue
Topeka, Ks 66611-1266

Subject: **Objection** to zoning change from "R-1" to "O & 1-2" by the Newcomer Group at 520 S. W. 27th St.

I am writing to express my ***OBJECTION*** to the above neighborhood zoning change. I have been a resident and home owner in this neighborhood for 50 years. This zoning change would:

-negatively impact the **value** of my home and other properties in the neighborhood.
-would destroy the **historial atmosphere** of the neighborhood. (The homes in this neighborhood were featured in the Topeka Magazine several years ago for their architectual uniqueness.)
-would destroy the **residential character** of the neighborhood.
- increase **traffic** in the neighborhood.
- an office building would be an **"eye sore"** in the neighborhood.

Would you or Mr. Newcomer welcome an office building in your residental neighborhood? I don't think so. There are so many available commercial spaces in Topeka, why destroy historical, beautiful, quiet neighborhoods?

Again I **OBJECT** to this zoning change.

Dean Diediker

From: Michael Hall
Sent: Thursday, March 31, 2016 4:14 PM
To: Randy Sawyer
Cc: Sylvia Ortiz; Bill Fiander; Dean Diediker
Subject: RE: Rezone

Randy,

Thank you for your comments. They are now part of the record and will be considered as a recommendation is made regarding the rezone application.

Michael Hall, AICP
Current Planning Manager
City of Topeka
785-368-3007

From: Randy Sawyer [mailto:sawbuckx2@hotmail.com]
Sent: Thursday, March 31, 2016 3:38 PM
To: Michael Hall
Cc: Sylvia Ortiz
Subject: Rezone

Hi, I would just like to add some more of my feelings, to go on record, pertaining to the objection of the R-1 Residential District rezoning proposal at 520 S.W. 27th street in Topeka, Kansas 66611.

I am the property owner directly across the street, on the west side of S.W. Western Ave., in the 2600 block, of the proposed zoning change. I have lived here since 2003 and in the Quinton Heights neighborhood before that, since 1990. I believe I have a valid neighborly concern toward the above matter.

Back in nearly 2007 or 2008, it is hard to remember when exactly, Mr. Newcomer came to one of our Quinton Heights NIA meetings proclaiming his rational in purchasing the old Rayberg home, which sat directly across from my house, on the east side of S.W. Western Avenue, in the 2600 block. He then told our association that he was purchasing The Rayberg's house and property in order to make provisions for, "Training needs." He also mentioned that a number of his associates would be coming, from all over the country, to attend those training sessions to be held, in the said remodeled house. He also mentioned he would need to raise the roof nearly six inches, in order to accommodate new equipment needs. There was never a mentioning, by him, to demolish the sixty or seventy foot long, one story, beautiful, ranch style home, or to remove the small forest of trees that surrounded that property. This dwelling and property butted to the adjoining northern boundary of the existing Newcomer complex, on the 2600 block of S.W. Western Ave. That property's existing trees blocked the view and the noisy traffic from Topeka Boulevard wonderfully. They also blocked the ever so bright, night, light coming from the Assembly of God's church, which shined nightly on their western parking lot and onto many house at the north end of that parking lot. The same trees delivered, to the neighborhood, the great sense of safety and boundary effects within our historical and residential district.

The purchased house sat empty for nearly two years and the roof line was never raised, as it was proposed. The house sat vacant and there were noted windows that were either not intact or left open. It was later declared that the house's newly rotted foundation was not going to withstand any new construction, according to Mr. Newcomer.

I left for work one morning and returned, to my home directly across the street, that evening and found the beautiful, nearly seventy year old home, demolished to the ground by a backhoe. Nearly seventy years of neighborhood beauty, integrity, and history were instantly erased to a mere pile of rubble. Nothing historically was noted to have been saved or salvaged, just trashed. My heart just sank in awe.

Now, Mr. Newcomer is now telling us there are no plans to build the "proposed 3,200 sq. ft. building," as it is written in his rezoning application, if approved. In the past he did tell our NIA group he would not tear down the Rayberg home, he did. He tore down all of the trees on that property except for the nine that still exist. His neighboring property owner, to the immediate north of the Newcomer property, on S.W. Western Avenue, has passed on to me, that Mr. Newcomer came to his house and recently offered to purchase his R-1 Residential District zoned property extending to Merriam Ct. The offer was denied.

There was a public comment made, from one of the neighborhood members, during the March 22nd Neighborhood Information Meeting, which I was invited to and attended, about how there is, "No Trust," with Mr. Newcomer, within Quinton Heights' neighborhood. The above mentioned items are some of the issues about why I do not have any confidence in him. I do not want him to have an open-ended clause, in a newly rezoned district, to build what ever he may desire. The present R-1 Residential District zoning already allows him to reconstruct his wanted parking lot without any cause to rezone. I am ok with that. I fear that some underlying future building plans, that I am not being informed about, may arise and jeprodize my residential neighborhood.

I do say Mr. Newcomer he has kept a tidy property after all of his changes The results of his changes are that our residential neighborhood virtually has an open and barren area to our eastern border, along the east side of S.W. Western Avenue, in the 2600 block. Topeka Boulevard's traffic view and noises are now so ever present and extend to, at least, the west side of S.W. Western Avenue. We have a good sized volume, of weekday, moderate to heavy and semi-truck traffic, from his existing business (on weekdays), in our residential neighborhood. Those trucks pass by our school bus stop, at the street intersections, of S.W. Western Avenue and S.W. 26th street, loading and unloading children three times a weekday as well. Those trucks are noted as not having the slowest traveling speeds, while entering and exiting through the Newcomer business property. The existing business parking lot already now entertains at least twenty employee vehicles each weekday, in my residential neighborhood. The existing Assembly of God church's blinding, flood, parking lot, light illuminates the whole eastern face of my home, across to the west side of S.W. Western Avenue nightly. It's beam pierces each window on that side, of my three story home every single night. There are few trees left to block the light and noises away from my home, like the old trees had provided, before their destruction.

Please add my new comments to the existing file of this rezoning case.

Thank you,
A very concerned property owner,

Randy Sawyer
2601 S.W. Western Ave
Topeka, Kansas 6661
Sawbuckx2@hotmail.com
785 409 0603

Michael Hall

From: Suzanne Oyler <sue711@att.net>
Sent: Friday, April 01, 2016 3:47 PM
To: Michael Hall
Subject: Zoning change

Michael Hall-

We are against the rezoning of Newcomer Group at 520 SW 27th, Topeka, KS. From "R-1" to "O&1-2" for the following reasons:

This will negatively impact the value of our property.

This will change our neighborhood from a single family dwelling district to an office park.

This will change the character of our neighborhood and destroy the historic atmosphere.

We request the zoning change that is referred to above not be approved.

Gary and Suzanne Oyler

711 SW Terrace Ave.

Topeka, KS. 66611

Michael Hall

From: Cara Snyder <snydercara@hotmail.com>
Sent: Saturday, April 02, 2016 11:29 AM
To: Michael Hall
Cc: Annie Driver; Sylvia Ortiz
Subject: Stop neighborhood zoning change

Dear Mr. Michael Hall and Ms. Annie Driver and Ms. Sylvia Ortiz,

My name is Cara Snyder. My family and I live in the neighborhood of the Newcomer Group at 520 SW 27th where zoning changes are being proposed. I am writing to urge you to not allow for the zoning changes. One of the reasons we moved to this area was to be surrounded by a residential, family-friendly neighborhood. Allowing the change will also ruin the historic character of this residential area.

Please do not allow this zoning change. There are plenty of existing, vacant buildings in Topeka for office space. Do not let our neighborhood become a commercial zone.

Thank you for your attention.

Sincerely,
Cara Snyder
2427 SW Western Ave.
Topeka, KS 66611

Sent from my Verizon Wireless 4G LTE smartphone

Michael Hall

From: Shirley Singer <sansinger48@gmail.com>
Sent: Monday, April 04, 2016 2:11 PM
To: Michael Hall; Annie Driver; Sylvia Ortiz
Subject: Zoning Change at 520 SW 27th

Mr. Michael Hall and Ms. Annie Driver:

My husband and I live across 27th Street (2701 SW Fairway Drive) from the zoning district in question. We oppose the zoning change at this time, primarily because there are no specific building plans being offered to consider. The open-ended plans for an office district in this mainly residential area is unsettling. We currently have a nice residential area and properties, the values of which we are trying hard to maintain. With additional business zoning, the possibility of lowering the home values might occur and would not only hurt the residents, but would also lower the residential revenue tax stream for the city.

In addition, If an office building is truly necessary, there appears to be no shortage of buildings/areas in other parts of the city to utilize. There are other options available in our city.

Lastly, we believe that more business in the area might impact and increase traffic onto 27th Street. This traffic could possibly "spill out" onto 27th across from our driveway, making it even more difficult for us, personally, to back out into the traffic. But, also, more importantly know, that we have much foot-traffic along this section of 27th Street, where no sidewalks exist; so, with increased business traffic, pedestrian safety for many citizens could be compromised.

We appreciate your time and consideration regarding our concerns over the proposed zoning changes.

Sincerely,
Richard and Shirley Singer

Sent from my iPad

Annie Driver

From: jonataylor@cox.net
Sent: Monday, April 04, 2016 4:55 PM
To: Annie Driver
Subject: newcomer group at 520 sw 27th st zoning change from r-1 to o&1-2 my wife and i moved back to the country club addition three years ago after moving away twenty years it was a great neighborhood then and still is . kids play in the street and people t...

Importance: High

Nancy Taylor

STAFF REPORT – CONDITIONAL USE PERMIT
TOPEKA PLANNING DEPARTMENT

PLANNING COMMISSION DATE: April 18, 2016

APPLICATION INFORMATION

APPLICATION CASE NO:	CU16/4 by Donald T. Bell (B & B Backyard)
REQUESTED ACTION / CURRENT ZONING:	Conditional Use Permit for an outdoor music concert facility with a stage and assembly area in a C-4 commercial zoning district (under use category "Recreation, Outdoor Type III).
APPLICANT / PROPERTY OWNER:	Bill Brading, B & B Backyard, Purchaser under Contract with Owner Donald T. Bell
APPLICANT REPRESENTATIVE:	Mark Boyd, SBB Engineering, LLC
PROPERTY ADDRESS & PARCEL ID:	2134 N. Kansas Avenue / 1041704002024000
PHOTOS OF SITE:	
	
PARCEL SIZE:	1.42 Acres

STAFF PLANNER: Michael Hall, AICP, Current Planning Manager

PROJECT AND SITE INFORMATION

PROPOSED USE / SUMMARY:

B & B Backyard is an outdoor concert facility with a music stage and a grass-covered area for standing, seating, and dancing. The concert facility is located on the rear half of the property, with the restaurant Bill's Diner sited at the front of the property.

The area devoted to B & B Backyard is potentially large enough to accommodate over 1,000 patrons, although occupancy is limited by available parking, fire safety, and other city standards. Use of the facility is generally limited to May through September and events are scheduled for two nights per week.

DEVELOPMENT / CASE HISTORY: Fence permit for B & B Backyard issued September 10, 2013. (Permit # 201309101984)

ZONING AND CHARACTER OF SURROUNDING AREA: All lands adjoining the property are zoned C-4 Commercial. An auto body repair shop is located on the south; a retail showroom and office for home remodeling and a motel border on the north; and vacant land and a vacant retail building on the west. Single family residences are located further to the south but within 250 feet of the subject property. Some of the parcels in the area to the south and southeast are zoned R-1 (Single Family Dwelling District) but are not currently used for residential use.

COMPLIANCE WITH DEVELOPMENT STANDARDS AND GUIDELINES

BUILDING SETBACKS: Required building setbacks are 10' side and 25' rear. Accessory buildings are permitted with a lesser side yard setback of 5'. The 560 square foot building along the north property line existed prior to its use for B & B Backyard and is located within one foot of the north property line. The building used for the stage (approx. 395 square feet) is located 5 feet from the south property line and thus complies with the required minimum setback for accessory buildings.

OTHER DIMENSIONAL STANDARDS: The buildings, parking, drives and other related improvements meet applicable dimensional standards.

OFF-STREET PARKING: *One (1) space per 4 occupants is required per zoning regulations in TMC 18.240.* TMC 18.240 allows use of parking offsite with little or no restriction in the C-4 zoning district, although the City may impose restrictions on use of off-site parking as part of the Conditional Use Permit

as deemed appropriate. Per the Americans with Disabilities Act (ADA) 1 accessible space is required for every 25 spaces and at least one of the accessible spaces must be van accessible.

71 parking spaces are proposed for use by B & B Backyard (20 in Bill's Diner lot + 51 in event parking lot). No ADA accessible parking stalls are proposed, although 3 are required per ADA and one must be a van accessible stall. Additional accessible parking may be required if the use relies on off-site parking. Staff recommends the plan be amended to comply with ADA, estimated to result in the net loss of one stall.

The Fire Marshall is requesting two stalls be deleted from the plan at a location where the fire access lane crosses the east edge of the event parking area to allow for emergency response vehicles to turn around.

Adjusting for the inclusion of 3 ADA accessible stalls and the deletion of two stalls for emergency response, there are an estimated 68 parking spaces for the concert facility. If parking is limited to that which is on-site, occupancy of B & B Backyard is limited to 272 patrons.

Parking and Driveway Surfaces: The City's parking regulations (TMC 18.240.020 (b)) require that *"all off-street parking and stacking spaces, aisles and drives shall be surfaced in accordance with the standards and specifications of the city or county."* While the code makes reference to "standards and specifications" there are currently no adopted standards and specifications for temporary or seasonal uses of this nature and open to the public. The City typically requires parking and driveway surfaces to be paved in asphalt or concrete. Fire access drives are required to have the capacity to support emergency response vehicles (fire trucks, primarily) weighing 75,000 pounds, which has typically required concrete or asphalt.

The parking area for Bill's Diner is paved in asphalt and is in good condition. The event parking area is improved with a gravel surface. Staff recommends approval of gravel for the event parking area on the basis its use is limited by its seasonal and event frequency as described in the operations statement and as limited by the Conditional Use Permit (CUP).

City staff are currently working with local civil engineers to create specifications for parking and loading surfaces with limited use. Staff recommend that within a specified time the owner be required to improve the surface of the event parking area to meet the adopted standards.

LANDSCAPING:

The landscape ordinance (TMC 18.235) requires landscape in a quantity based on a point score determined by development area, new parking spaces, and retention of existing trees.

The site contains mature trees along the south side of the property line near the outdoor stage. No details about existing trees were included with the CUP application. A landscape plan shall be submitted in compliance with the landscape ordinance and subject to approval of staff.

DESIGN STANDARDS & GUIDELINES:	Not applicable.
COMPREHENSIVE PLANS:	Land Use & Growth Management Plan. Property designated "Commercial" in Future Land Use Map.
TRANSPORTATION PLANS/MTPO PLANS:	No policies apply specifically to the case.

TRANSPORTATION FACILITIES:	A traffic study is not required for the outdoor concert facility, and the capacity sufficient to accommodate the traffic generated by the proposed use.
UTILITIES:	The City's sanitary sewer and water mains are located in North Kansas Avenue. The outdoor concert facility is currently not connected to City water or sewer. Connection will be required if water or wastewater service is needed or requested for the outdoor concert facility.

OTHER FACTORS

SUBDIVISION PLAT:	Property is not platted. The Planning Director has determined a plat is not required for this application based on the scope of development. A subdivision plat may be required prior to issuance of building permits for additional buildings.
FLOOD HAZARDS, STREAM BUFFERS:	There are no significant flood hazards and no stream buffers. The site is located in the area protected by levee.
HISTORIC PROPERTIES:	None.
NEIGHBORHOOD MEETING:	The applicant conducted a neighborhood information meeting on Monday, March 28, 2016 at Bill's Diner. The property is in the North Topeka East Neighborhood Improvement Association (NIA). Two North Topeka residents attended. One of the attendees is a neighbor and owns on the east side of N. Kansas Avenue and expressed no concerns, that the facility is "well ran" and he has attended many of the music events. The other attendee is the North Topeka West NIA President and expressed her desire that the outdoor concert venue obtain required permits and comply with City regulations. The applicant invited the North Topeka East NIA leadership to the meeting but they did not attend.
OTHER:	Signage. Property contains one existing free-standing sign for Bill's Diner. Staff recommends no additional free-standing signs on the property. If the applicant determines there is a need for an additional free-standing sign, staff recommends it be co-located on the same pylon as the existing Bill's Diner sign. Noise and Other Potential Disturbances. The City regulates noise in

accordance with chapter 9.45 Article II the municipal code. The following sections are particularly relevant:

9.45.170 Prohibition generally.
(a) It shall be unlawful for any person to make, continue or allow to be made or continued any excessive, unnecessary, unusual or loud noise which injures or endangers the comfort, repose, health, or safety of any person of reasonable sensibilities, or which interferes with the use or enjoyment of property of any person of reasonable sensibilities, unless the making and continuing of such noise is necessary for the protection and preservation of property or the health and safety of an individual; provided, that the provisions of this article shall not apply to such occasional and infrequent uses as authorized by resolution approved by the city council, upon a showing by an applicant and determination by the council that the proposed use does not offend the spirit of the findings of TMC 9.45.150.
(b) The acts mentioned in the following sections of this article, among others, are declared to be loud, disturbing and unnecessary noises in violation of this article, but such enumeration shall not be deemed to be exclusive.

9.45.190 Sound-producing device.
(a) The use or operation of any device capable of producing or amplifying sound in such manner as to disturb the peace, quiet and comfort of any person of reasonable sensibilities is unlawful.
(b) The use or operation of any device identified in subsection (a) of this section between the hours of 11:00 p.m. and 7:00 a.m. which is audible at a distance of 50 feet from the premises, building, structure or vehicle in which the device is located shall be prima facie evidence of a violation of this section. (Ord. 19775 § 3, 10-23-12.)

Over a two-year period (2014-2015) the Topeka Police Department responded to three citizen complaints about loud music. At least two of these were from the same person who resides at a location over two miles from the outdoor concert facility. For their investigation the Police Department made direct contact with 8 to 9 households living in the mobile home park located less than one quarter mile from concert facility at the northwest corner of N. Kansas Avenue and US Highway 24. Although the residents had heard music from the facility not one of them stated they objected to the operation of the facility and the sounds it generates. Police have received no complaints from the motel located immediately north of the facility.

The noise ordinance provides the Police Department the discretion to determine a noise complaint to be “reasonable” or “not reasonable”. On the basis of their investigation, and in large part because of the distance of the complainant’s residence from the facility, the Police Department concluded the complaint to be “not reasonable”.

According to TMC 9.45.190 the use of a device for amplifying music and other sounds between the hours of 11 pm and 7 am, with sound audible from a distance of 50 feet or more from the premises, is a violation of the

noise ordinance. The operator of an establishment generating music by an amplifier past 11 pm in such a way that violates TMC 9.45.190 may seek and be granted a "noise exception" by the City Council.

Other than noise incidents, Police Department records indicate very few if any substantial criminal or harmful activities or effects related to the outdoor concert facility.

REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES

PUBLIC WORKS/ENGINEERING:

Future development and platting will warrant dedication of ROW on Kansas Ave; 52.5' from center line (35' currently) and possible closure of one of the two accesses as shown as they do not meet City of Topeka Design criteria for access control.

Heavy reliance on off-site parking potentially creates pedestrian-vehicle conflicts. There will be a tendency for patrons parking off-site to jaywalk, more specifically, to cross Kansas Avenue and other streets without using pedestrian crossings. (See also TMC 18.215.030(b)(1)

Per Storm Water Engineer (Quantity) the applicant shall provide a "drainage statement" describing any storm water impacts and what will be done to address those impacts.

WATER POLLUTION CONTROL:

Per Storm Water Engineer (Quality). Storm water quality treatment measures shall be required in the event the increase in impervious surface covers one acre or more in surface area. The existing gravel parking area, the new fire access lane, event stage, and all other impervious surfaces directly related to the event facility shall be counted toward the one-acre threshold for storm water quality treatment requirements. The applicant has added a note to the CUP plan making this statement.

FIRE:

The Fire Department has provided a list of comments and conditions. Staff's recommended revisions to the CUP site plan incorporate the Fire Department's comments and conditions.

DEVELOPMENT SERVICES:

The change of use of a storage building for a bar service and use by entertainers, construction of the stage at the southeast, any mechanical, electrical, plumbing required for use of the area all require building and trades permits. The City intends to ensure that the permits and codes required to ensure life safety are obtained and complied with before the use continues.

Installation of a tent even as a temporary structure requires review and approval for installation of a temporary structure permit (limited to use in place for a maximum of 6 months).

The intent is to work with the owner to gain compliance with

	regulations, progressing in phases with "corrective" action as needed. Development Services' comments and conditions have been incorporated in the CUP plan.
OTHER:	Municipal code administered primarily by the City Clerk requires licenses for Drinking Club Establishment, establishment Open After Midnight, and Dance Hall. The applicant currently has a Drinking Club Establishment License effective until July 2016.

KEY DATES

SUBMITTAL:	March 7, 2016
NEIGHBORHOOD INFORMATION MEETING:	March 28, 2016
LEGAL NOTICE PUBLICATION:	Published March 28, 2016
PROPERTY OWNER NOTICE MAILED:	Mailed March 25, 2016

STAFF ANALYSIS

EVALUATION: In considering an application for a conditional use permit, the Planning Commission and Governing Body will review the request following standards in Topeka Municipal Code Section 18.245(4)(ix) in order to protect the integrity and character of the zoning district in which the proposed use is located and to minimize adverse effects on surrounding properties and neighborhood. In addition, all conditional use permit applications are evaluated in accordance with the standards established in TMC 18.215.030. Staff has determined that the CUP site plan, including the conditions of the site plan, complies with TMC 18.215.030.

1. The conformance of the proposed use to the Comprehensive Plan and other adopted planning policies: The subject property lies within an area designated *Commercial* by the Future Land Use Map in the Land Use and Growth Management Plan – 2040 (LUGMP). The LUGMP reflects the existing C-4 Commercial District zoning that has existed for a long period of time and the area's location near US 24 Highway, where it is positioned to serve large-scale commercial uses easily accessible by arterials and highways. The LUGMP does not envision substantial changes to zoning and land use for this property and the surrounding area, and an outdoor concert facility is consistent with the LUGMP.

2. The character of the neighborhood including but not limited to: land use, zoning, density, architectural style, building materials, height, structural mass, sitting, open space and floor-to area ratio: The physical elements of the outdoor concert facility are consistent with the character of the surrounding area. The outdoor concert facility includes a fenced outdoor lawn-covered area, two relatively small accessory buildings, and parking area. The surrounding neighborhood is characterized by a mix of retail and service oriented businesses, a motel, and vacant land. Single family residences, fronting on NE Lyman Road are located 400 feet or more to the south. The outdoor concert facility's other effects are controlled sufficiently by the limiting conditions of the conditional use permit.

3. The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning and uses: The outdoor concert facility is compatible with the zoning of all adjacent properties which are all zoned C-4 Commercial District, the least restrictive of Topeka's commercial districts. C-4 permits uses "*typically characterized by outdoor display, storage and/or sale of merchandise, by repair of motor vehicles, by outdoor commercial amusement and recreational activities, or by activities or operations conducted in buildings and structures not completely enclosed.*" (TMC 18.155.010)

   There are lands within 200 feet of the outdoor concert facility that are zoned R-1 Single Family Dwelling District. The noise, traffic, and other effects of the outdoor concert facility are effectively controlled by the limiting conditions of the conditional use permit. The conditional use permit will help to ensure there is little or no negative impact to the residentially zoned properties in the vicinity.

4. The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations: The current C-4 zoning is not particularly restrictive and thus does provide for a broad range of potential uses. The property is suitable for uses allowed by right in the C-4 district, but there is presumably limited demand for such uses. The subject property and adjacent parcels have not been developed or used to the extent that the current zoning allows presumably because of their location near the outer edge of North Topeka. At 1.42 acres, the subject property is a large parcel and, if limited to the small restaurant on the front third of the property, would be underutilized.

5. The length of time the property has remained vacant as zoned: Without the outdoor concert facility the property would not be entirely vacant since the existing Bill's Diner restaurant occupies the approximate front third of the property. The restaurant building was built in 1969. Other than the storage building at rear and along the north property line, the rear two thirds of the property has been vacant for at least 70 years. The fact that the property has been vacant for a long time lends support to the conditional use permit for an outdoor concert facility.

6. The extent to which the approval of the application would detrimentally affect nearby properties: Approval of the conditional use permit for the outdoor concert facility is not anticipated to have any detriment effect on nearby properties. Police records indicate few if any substantial complaints about noise. Furthermore, aside from noise incidents, Police Department records indicate very few if any substantial criminal or other harmful activities or effects related to the outdoor concert facility.

   The noise, traffic, and other potential effects of the outdoor concert facility are effectively controlled by the limiting conditions of the conditional use permit. The conditional use permit will help to ensure there is little or no negative impact to the commercial and residential properties in the vicinity.

7. The extent to which the proposed use would substantially harm the value of nearby properties: The proposed use will not likely harm the value of nearby properties for the same reasons it will not detrimentally affect nearby properties.

8. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property: North Kansas Avenue and the surrounding street network have adequate capacity to accommodate the traffic generated by the outdoor concert facility. The conditional use permit requires the outdoor concert facility to comply with the City's parking standards. The parking standards allow for the use of off-site parking and reliance on off-site parking is anticipated for some events and, because the outdoor concert facility generates parking demand only on Friday and Saturday evenings, its parking demand will not conflict with the parking needs of surrounding uses. There are multiple opportunities for off-site parking. The applicant has indicated they have informal agreements with owners in the area for off-site parking. The conditional use permit requires the applicant to submit documented shared parking agreements with owners prior to using off-site parking.

9. The extent to which the proposed use would create excessive air pollution, water pollution, noise pollution or other environmental harm: The anticipated environmental impacts of the outdoor concert facility are storm water runoff and noise. The conditional use permit requires the applicant to address the impacts of storm water drainage by the issuance of a "drainage statement" subject to review by storm water engineering staff.

   The outdoor concert facility has operated for over two years and it has generated few complaints about noise. However, the conditional use permit contains conditions that specifically control noise and help to ensure compliance with the City's noise ordinance.

10. The economic impact of the proposed use on the community: The outdoor concert facility provides an entertainment option to the community and has been well received. It presumably attracts patrons to North Topeka who, in addition to spending money at the outdoor concert facility, very likely patronize other businesses in the area. Provided its potential negative effects are controlled, the concert facility is a positive contribution to the quality of life for citizens of Topeka and the surrounding area.

11. The gain, if any, to the public health, safety and welfare due to denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application: The conditions of the conditional use permit help to ensure the public health, safety and welfare of the community are being maintained if not enhanced. Denial of the conditional use permit, or overly burdensome conditions placed on the outdoor concert facility, will deny the applicant of the ability to operate a profitable business enterprise.

STAFF RECOMMENDATION:

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

1. Use and development of the property shall comply with the approved Conditional Use Permit Site Plan for B & B Backyard (CU16/4) and the plan modifications and conditions as follows.

2. The site plan dated received March 31, 2016 shall be revised as follows:

   a. Include three accessible parking spaces, including one van-accessible space, in the Event Parking Area in compliance the Americans with Disabilities Act (ADA). Paving of ADA parking spaces and an access aisle to the event facility with concrete, asphalt, or other approved material will be required.
   b. Revise Note #2 to state*: "Off-street parking is required at a rate of one (1) space per four (4) occupants. The number of patrons allowed at the outdoor concert facility at any single time is a function of this parking ratio, the quantity of parking spaces on the property, and the quantity of spaces utilized on private property off site. The applicant shall submit to the City of Topeka Planning Department acceptable documentation of a shared parking agreement for all parking utilized off-site. Additional accessible parking spaces may be required as determined by the total quantity of spaces on and off-site."*
   c. Replace Note #3 to state*: "Compliance with all applicable codes for buildings and construction (Title 14, Topeka Municipal Code) is required. Building permits and certificates of occupancy shall be obtained for any buildings used for or in association with the outdoor concert facility."*

d. Revise Note #4 to state: *"As conditions and circumstances warrant the Planning Department may report to the Planning Commission regarding compliance with conditions of the conditional use permit and impacts of the outdoor concert facility to the neighborhood and community. Pursuant to TMC 18.215.060 the Planning Commission may recommend revocation of any conditional use permit to the Governing Body if the use either fails to comply with any of the conditions of the permit; or the use has expanded or deviated from its original use and purpose; or the use has been found by a court of law, federal or state agency to be an illegal activity or nuisance."*
e. Replace Note #6 to state: *"A landscape plan shall be submitted to the Topeka Planning Department demonstrating compliance with the City of Topeka Landscape Regulations in TMC18.235. Landscaping is required along the north and south edges of the Event parking area. All required landscape improvements shall be completed prior to April 1, 2017 or the opening date of the outdoor concert facility for the 2017 season, whichever is later."*
f. Replace Note #7 to state: *"The outdoor concert facility shall comply with all requirements of the Fire Department in accordance with the documented conditions dated March 21, 2016 or as amended by the Fire Department."*
g. Revise the "fire access lane" on the CUP site plan as needed to reflect with Fire Department requirements in accordance with the Fire Department's conditions dated March 21, 2016 or as amended by the Fire Department.
h. Delete Note #8.
i. Delete Note #11.
j. Add note*: "Approval of a subdivision plat by the City of Topeka may be required prior to issuance of building permits for additional buildings."*
k. Add three accessible parking spaces, including one van-accessible space, to the event parking area to comply with ADA. Accessible spaces shall be located as close to the "outdoor lawn seating area" and "ticket area" as possible. The location and improvements associated with the accessible parking spaces are subject to review and approval by City of Topeka Development Services.
l. Remove two parking stalls at the east edge of the event parking area where the fire access lane intersects with the outdoor lawn seating area for the purpose of providing a turnaround for emergency response vehicles.
m. In the Project Data section of the CUP site plan replace "Amplified Sound Limited to 7:00 p.m. to 12:00 p.m." with *"The use of amplified sound shall comply with the City of Topeka noise regulations in TMC Chapter 9.45, Article II."*
n. Identify location of temporary toilet facilities on the CUP site plan.
o. Identify the general location of tents, canopies, and any other temporary structures on the CUP site plan.

3. The applicant shall submit a "drainage statement" describing any storm water impacts and what will be done to address those impacts. The drainage statement is subject to review and approval by City of Topeka departments of Public Works and Utilities.

4. Tents or other temporary or portable structures are subject to licensing and permit requirement of the departments and divisions of Fire, Development Services, the City Clerk, and other divisions. Serving of alcohol and operation of a drinking establishment is subject to licensing requirements administered by the City Clerk.

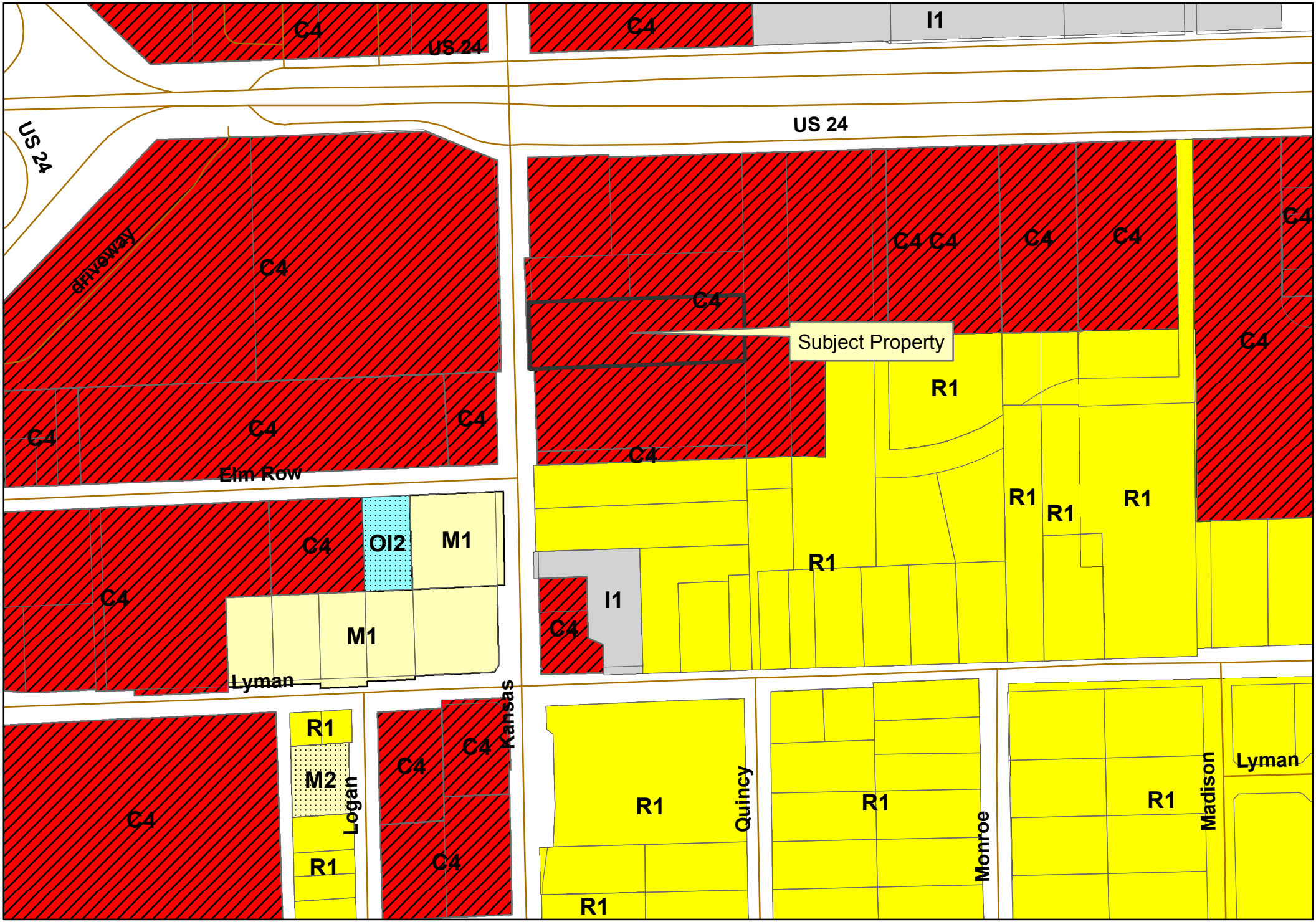
ATTACHMENTS:

1. Aerial Map
2. Zoning Map
3. CUP Site Plan
4. Operations Statement
5. Comments and Conditions, Topeka Fire Department
6. Neighborhood Information Meeting Minutes and Sign-in Sheet

CU16/4 By: Donald T. Bell

N
W E
S

Topeka Planning Department - 2016

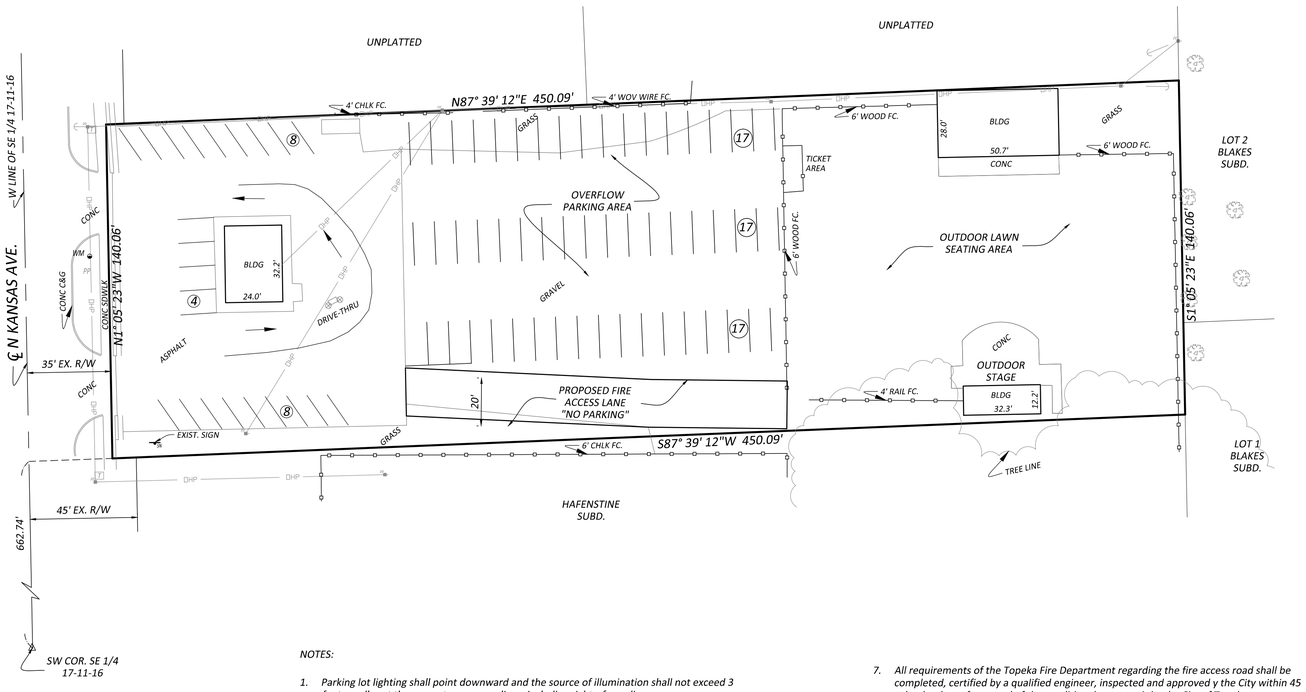


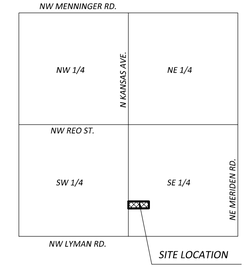
CU16/4 By: Donald T. Bell

N
W E
S

Topeka Planning Department - 2016

A CONDITIONAL USE PERMIT
for B&B BACKYARD





VICINITY MAP
SEC. 17, TWP 11 S, RNG 16 E

LEGEND

- SECTION CORNER
- WM — WATER METER
- POWER POLE
- SIGN
- LP — LIGHT POLE
- POWER POLE
- W — WATER LINE
- OHP — OVERHEAD POWER LINE
- S — SANITARY SEWER LINE
- STORM SEWER LINE
- D — TREE (DECIDUOUS)

N

Scale: 1" = 30'
0 30'

LEGAL DESCRIPTION:

Beginning at a point on the West line of the Southeast Quarter of Section 17, Township 11 South, Range 16 East of the 6th P.M., which is 462.74 feet North of the Southwest corner of said Quarter Section; thence East parallel with the South line of said Quarter Section 485.09 feet; thence North 340.06 feet; thence West 485.09 feet to the West line of said Quarter Section; thence South 340.06 feet to the place of beginning, in Shawnee County, Kansas.
EXCEPT the following tract: Part of the Southeast Quarter of Section 17, Township 11 South, Range 16 East of the 6th P.M., described as follows; Beginning at a point on the West line of the Southeast Quarter of Section 17, Township 11 South, Range 16 East, which is 462.74 feet North of the Southwest Corner of said Quarter Section; thence East parallel with the South line of said Quarter Section, 485.09 feet; thence North 200 feet; thence West 485.09 feet to the West line of said Quarter Section; thence South 200 feet to the point of beginning, In Shawnee County, Kansas.
AND EXCEPT A tract of land in the Southeast Quarter of Section 17, Township 11 South, Range 16 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as: Commencing at the Southwest Corner of said Southeast Quarter; thence North 01 degrees 05 minutes and 23 seconds West, on the West line of said Southeast Quarter, 662.74 feet; thence North 87 degrees 39 minutes and 12 seconds East, 30.01 feet to the point of beginning; thence continuing on North 87 degrees 39 minutes and 12 seconds East, on the North Line of Lot 1, Block A, Hafenstine Subdivision No. 3, 5.00 feet; thence North 01 degree 05 minutes and 23 seconds West, 140.06 feet; thence South 87 degrees 39 minutes and 12 seconds West, 5.00 feet; thence South 01 degree, 05 minutes and 23 seconds East, 140.06 feet to the point of beginning as set out in Warranty Deed recorded in Book 3171, Page 986.

PROPERTY OWNERS:

Donald T. Bell
2134 N Kansas Ave.
Topeka, KS 66608

Bill Brading
Purchaser Under Contract
3311 N Kansas Ave.
Topeka, KS 66617

STATEMENT OF USE:

Conditional Use Permit to allow for an Outside Recreation Type III facility providing an outdoor concert venue.

PROJECT DATA:

Existing Zoning: "C-4" Commercial District
Parcel Size: 1.45 Acres
Parking Data:
Existing Stalls : 20 Regular Spaces
Proposed Stalls: 50 Regular Spaces
70 Total Spaces
Season of Operation: April thru September
Days of Operation: Friday, Saturday & Sunday
Hours of Operation: 7:00 p.m. to 2:00 a.m.
Amplified Sound Limited to 7:00 p.m. to 12:00 a.m.

NOTES:

1. *Parking lot lighting shall point downward and the source of illumination shall not exceed 3 foot-candles at the property lines, including right-of-way lines.*
2. *Based on required parking of 1 stall per 4 occupants, there is on-site parking provided for a maximum of 288 persons. Occupancy exceeds 288 persons is permitted provided a copy of an executed 'Shared Parking Agreement' be submitted to the Topeka Planning Department and the occupancy is approved by the Topeka Fire Department.*
3. *Except where specified below all required permits and improvements shall be obtained and completed prior to continued use of the property as an outdoor concert facility.*
   a) *For any of the buildings used for or in association with the outdoor concert facility, building permits and certificate of occupancy shall be obtained prior to use of the property as an outdoor concert facility.*
   b) *All required landscape improvements shall be completed prior to April 1, 2017 or the opening date of the outdoor concert facility for the 2017 season, whichever is later.*
   c) *Construction of all restrooms required by Topeka Municipal Code for this land use shall be completed and certificate of occupancy granted prior to April 1, 2018 or the opening date of the outdoor concert facility for the 2018 season, whichever is grater.*
4. *At 18 months commencing from the date of approval of the Conditional Use Permit by the City Council the City of Topeka Planning Department will facilitate an evaluation of the event facility's compliance with conditions of the Conditional Use Permit and all related licenses and permits. Pursuant to TMC 18.215.060 The Planning Commission may recommend revocation of any conditional use permit to the Governing Body if the use either fails to comply with any of the conditions of the permit; or the use has expanded or deviated from its original use and purpose; or the use has been found by a court of law, federal or state agency to be an illegal activity or nuisance.*
5. *Additional free-standing signs for the outdoor concert venue shall not be permitted west of the event parking area. A sign for the outdoor concert venue may be added to the existing free-standing sign (pole sign) for Bill's Diner with the area not to exceed 32 square feet per sign face. A maximum of one monument sign not to exceed 6 feet in height and 32 square feet per sign face shall be permitted east of the west edge of the event parking area. A maximum of two wall signs, including product advertising, shall be permitted not to exceed a cumulative area total of 64 square feet,. Wall signs may be attached to the west side of the fence surrounding the event facility. Electronic message center signage may be incorporated within the above described signage in accordance with the Topeka sign regulations per TMC 18.20 and 18.25. A sign permit is required unless specifically exempted by the Topeka sign regulations.*
6. *A Landscape Plan shall be submitted to the Planning Department demonstrating consistency with the City of Topeka Landscape Regulations TMC 18.235. the 'developed area' for landscape points shall be considered the land occupied by the event parking lot and outdoor stage structure. Landscaping shall be emphasized along the boundaries of parking area and the Kansas Avenue street frontage.*
7. *All requirements of the Topeka Fire Department regarding the fire access road shall be completed, certified by a qualified engineer, inspected and approved y the City within 45 calendar days of approval of the conditional use permit by the City of Topeka.*
8. *The Fire Access lane shall be improved to support 75,000 lbs. and all requirements of the Fire Department shall be completed prior to issuance of a Certificate of Occupancy. The capacity of the fire lane to meet Fire Department Requirements shall be certified by a licensed engineer.*
9. *Use of Event Parking Area is limited to events only and not for customer parking for the restaurant or for other parking.*
10. *The surface of the event parking area shall be filled and maintained in a manner to prevent rutting, ponding, and dust. Event parking shall be paved in accordance with City standards prior to April 1, 2017 or the opening date of the outdoor concert facility for the 2017 season, whichever is later.*
11. *The outdoor event facility shall comply with all requirements of the Fire Department in accordance with conditions dated _____.*
12. *The City of Topeka may require, prior to the construction of any additional buildings, dedication of 17.5 feet of additional street right-of-way (ROW) resulting in 52.5 feet of ROW from the centerline of N. Kansas Avenue.*
13. *Closure of one of the driveway access may be required prior to the construction of any additional buildings or substantial intensification of land use.*
14. *Stormwater quality treatment shall be required in the event the increase in impervious surface covers one acre or more in surface area, The existing gravel parking area, the new fire access lane, event stage, and all other impervious surfaces directly related to the event facility shall be counted toward the one-acre threshold for stormwater quality treatment requirements.*

Rev.	By	Date	Description

Prepared for:
BILL BRADING AND LEE BROWNING
B&B BACKYARD
2134 N KANSAS AVE.
TOPEKA, KS 66608

Schmidt, Beck & Boyd Engineering, LLC
1415 SW Topeka Blvd.
Topeka, KS 66612
Ph: (785) 215-8630

SBB

SHEET TITLE: CONDITIONAL USE PERMIT

PROJECT TITLE: B&B BACKYARD
2134 N KANSAS AVE.
TOPEKA, KS 66608

SBB Proj. No.:	16-040
–	–
Drawn by:	MB
Checked by:	JL
Date:	3/4/2016
Scale:	1"=30'
Drawing No.:	

SBB
Schmidt, Beck & Boyd
Engineering / Surveying

City of Topeka Planning Dept.
620 SE Madison, 3rd Floor
Topeka, KS 66607

March 14, 2016

Re: Backyard BBQ Conditional Use Permit (CU16/4) - Statement of Operations.

To whom it may concern;

The following information is provided by the applicant to support data in the CUP application and Site Plan document.

The project is to provide the community a family oriented music venue where attendees can bring their lawn chairs and enjoy local talent in an informal and relaxing atmosphere while engaging with friends and family. The CUP would allow for an "Outdoor Recreation Type III" on property zoned "C-4" Commercial. The owner wishes to provide a seasonal, outdoor music concert venue, operating during the months of April thru October, primarily on Friday and Saturday nights, between the hours of 7:00 p.m. to 2:00 a.m. with the average attendance expected at around 300 people. The owners would like to reserve four weekends within the operating months whereby a weekend festival could be organized and performances could be expanded to Friday 7:00 pm to 2:00 am, Saturday 12:00 pm to 2:00 am, and Sunday 12:00 pm to 7:00 pm. The maximum number of performances per year would be 66.

The average attendance is expected to be 300 attendees with performances occasionally reaching an attendance of 1000. Based on an average occupancy of 300 the parking requirement is 1 stall per 4 occupants or 75 available spaces. The existing diner has 30 spaces available that can be utilized since its operating hours do not coincide with the event time frame. An additional 45 spaces can be accommodated by the on-site overflow parking area which currently exists. An attached exhibit is provided for the purpose of identifying parking stall counts. Additional off-site parking is available for the occasional performance where the attendance exceeds the parking limits on the site.

CITY OF TOPEKA

Fire Department
Fire Prevention Division
620 SE Madison St Unt 5
Topeka, KS 66607-1118
Tel: (785) 368-4000
Fax: (785) 368-0170

Greg T Bailey Sr, Fire Chief
www.topeka.org

Date: 3.21.16
Conditional Use Permit 16/4 – BB Backyard – 2134 N Kansas Ave. – Fire Review
Owners: Bill Brading, Lee Browning

References: 2006 International Fire Code (IFC), 2006 Life Safety Code (LSC)

1. **IFC 503.1.1** Fire Department access roads are required to within 150' of all portions of the building as measured by an approved route.
   Current access, measured from the pavement is approx. 340'.
   The proposed Fire Lane must extend past the gate and into the venue for access to existing structures.

2. **IFC 503.2.5** Fire apparatus roads in excess of 150' shall be provided with an approved turn-around.
   The proposed Fire Access Lane on CUP 16/4 is over 150', dead-ends and does not provide a turn around.

3. **IFC 503.2.3** Fire apparatus roads shall be designed and maintained to support imposed loads and surfaced to provide all-weather driving.
   A licensed engineer shall submit an analysis showing that the proposed Fire Lane will support 75,000lbs.
   The Fire Lane must be 20' wide and marked.
   The proposed Fire Access Lane currently shown on the CUP may be temporarily approved for the 2016 season with revisions, reduced approved occupant load and no further structures added to the site.

4. **IFC 508.5.1** Buildings are required to be within 400 feet of a hydrant as measured by an approved route.
   The "shed" and the stage are located approx. 700' and 625' form the nearest hydrant.
   Any additional development requires additional hydrants to be located per the fire code.

5. **IFC 1004.8** The occupant load of outdoor areas is to be assigned by the fire code official.
   The tentative possible occupant load of 300 is to be discussed with the owners, and other city departments.

6. **LSC 13.2.5.4.2, LSC 13.2.5.4.3** Access and egress routes shall be maintained for patrons, management, security, and emergency responders to move about without undue hindrance.
   LSC 13.2.5.9 A layout of proposed seating area is to be submitted for approval showing approx. 6' aisles and egress routes to the Exits. Seating is to generally stay in the defined area.

7. **LSC 7.2.1.4.3** Exit doors shall swing in the direction of egress travel.

8. **LSC 13.2.2.3** Exit doors shall be provided with panic hardware.

9. **LSC 13.2.8** Means of egress shall be illuminated.

10. **LSC 13.2.10.1** Exit signs are required at the Exits either internally or externally illuminated.

11. **LSC 13.2.9** Emergency lighting is required and shall provide 1 foot candle of light to all egress paths and routes.

12. **IFC 906.1** Fire extinguishers shall be provided per NFPA 10 with approx. 4-6 extinguishers sized at 2A 10BC.

13. **IFC Chapter 24** The tent is not shown on CUP. A permit is required for tents in excess of 200 square feet.
    A site diagram is to be submitted showing tent location and distances to lot lines, buildings and other tents.
    A seating diagram is to be submitted showing seating, aisles and exits.
    Requirements include but are not limited to; posting of occupant load/seating diagram/tent permit/No Smoking signs, provide flame retardant flame propagation certificate and/or tent must have label, combustibles (hay/straw/shavings etc) shall not be used in tent or within 20', Exit signs are required, emergency lighting may be required, extinguishers are required.

14. **LSC 13.7.2.4** Portable cooking equipment is to be approved by the Fire Department.

15. **LSC 13.7.3 Open Flame and Pyrotechnics**
    Any proposed pyrotechnics are to be approved by the Fire Department and comply with NFPA 1126 Standard for the Use of Pyrotechnics before a Proximate Audience.

    Any flame effects are to be approved by the Fire Department and comply with NFPA 160 Standard for Flame Effects Before an Audience.

16. **LSC 13.7.6 Crowd Manager** The Life Safety Code requires a crowd manager in assembly occupancies over 250. A crowd manager may be considered as a compensatory measure for other temporary allowances with fire access and hydrants.

17. **RV is not shown on the CUP-** Please show all proposed structures, vehicles, hazards or fuel loads.

Date: March 28, 2016
To: City of Topeka Planning Department
From: Schmidt, Beck, & Boyd Engineering, LLC
Mark A. Boyd
Re: B&B Backyard Conditional Use Permit
Neighborhood Meeting Minutes

To whom it may concern:

On March 28, 2016 at 6:00 P.M., we held a publicized meeting for the above referenced case. There were 2 people present during the meeting. An attendance sheet is attached for name and address. Others in attendance were Michael Hall and Bill Fiander with the Topeka Planning Department, Bill Brading and Lee Browning, applicants, and Mark Boyd with SBB Engineering.

We introduced the project and explained why we were asking for a Conditional Use Permit. The conditions of the CUP were briefly covered and then opened for questions or comments.

One of the attendees is a neighbor and owns a house south of the CUP on the east side of N Kansas Ave. He really didn't have any concerns stating that the event has been well ran and has attended many of the music venues in the past. He also stated that he hasn't had or heard of any issues associated with parking or unruly behavior.

The other attendee was there representing the North Topeka West NIA and asked prepared questions regarding parking and the permitted use. The concern that whatever would be ultimately allowed under the CUP that they comply and do so legally.

The owner was present to address questions or concerns.

Respectfully submitted,

Mark A. Boyd
Schmidt, Beck & Boyd Engineering, LLC

B & B Backyard Neighborhood Information Meeting 3/28/16

PLEASE PRINT

IF YOU HAVE NOT PROVIDED INFO BEFORE

NAME	MAILING ADDRESS	PHONE NO E-MAIL NO
Derek Myrick	2114 N Kansas Ave.	785-221-7571
Teresa Miller	1820 NW Polk St	785-234-0840