

TOPEKA PLANNING COMMISSION

A G E N D A

Monday, November 21, 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.

All information forwarded to the City Council can be accessed via the internet on Thursday prior to the City Council meeting at: <https://www.topeka.org/calendar>



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
Ariane Burson
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
Taylor Ricketts, Planner I
Kris Wagers, Office Specialist

AGENDA

Topeka Planning Commission

Monday, November 21, 2016 at 6:00 P.M.

- A. Roll call**
- B. Approval of minutes – October 17, 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. Z82/17A Master Planned Unit Development Plan for Rolley Office Park by: Team Pi LLC** requesting to amend the Master PUD Plan (use group for O&I-1 Office and Institutional uses) on property at 3715 SW Westview Avenue to allow the existing 3,240 sq. ft. garage structure to be used for the indoor warehousing/storage of racing vehicles and to allow the outdoor storage of trailers next to this garage building. **(Driver) - Continued by Applicant**
 - 2. Z16/4 by Topeka Planning Commission** requesting to amend the District Zoning Classification from “RR-1” Residential Reserve District to “R-1” Single Family Dwelling District on 15 acres of property located approximately 400 feet north of SW 45th Street and approximately 2,300 feet west of SW Burlingame Road. **(Driver)**
 - 3. P14/11 Misty Harbor Estates Subdivision No. 5** A revised final plat for forty single family residential lots on property located approximately 870 ft. north of SW 45th Street and lying between SW Gage and SW Burlingame all being inside the city limits. **(Driver)**
- F. Discussion Items**
 - 1. Amendment to the Comprehensive Zoning Regulations, TMC 18.50.030, 18.60, and 18.225** that will convert all C-5 Commercial District zoned properties to D-1 Downtown District and eliminate the C-5 District from the zoning regulations. The area is generally bounded by SW 3rd Street (north), SW Topeka Blvd (west), SE Jefferson (east), and SW 11th Street (south).
 - 2. Zoning Code/Matrix Amendments (Group C)**

Review of Title 18 of the Topeka Municipal Code and potential amendments, including:

 - Artisan Manufacturing
 - Cargo Containers
 - Fences
 - Applicability of Mixed Use Districts
 - Free Little Libraries
 - Condition of Signs
- G. Adjournment**



CITY OF TOPEKA
TOPEKA PLANNING COMMISSION

MINUTES

Monday, October 17, 2016

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

Members present: Carole Jordan, Katrina Ringler, Wiley Kannarr, Dennis Haugh, Rosa Cavazos (5)

Members Absent: Scott Gales , Patrick Woods, Brian Armstrong (3)

Staff Present: Bill Fiander, Planning Director; Mike Hall, Planner III; Annie Driver, Planner II; Kris Wagers, Office Specialist; Mary Feighny, Legal

Mr. Fiander announced that in the absence of both the Chair and Vice-Chair, a Commissioner would need to be elected to serve as Interim Chair. A quorum was present. Motion by Mr. Haugh for Mr. Kannarr to serve as Chair for the 10/18/2016 meeting; second by Ms. Ringler. **APPROVED (5-0-0)**

Mr. Kannarr took the gavel and presided over the evening's meeting.

A) Roll Call – Five members present for a quorum.

B) Approval of Minutes from September 19, 2016

Motion to approve as typed; moved by Ms. Jordan, second by Ms. Cavazos. **APPROVED (5-0-0)**

C) Communications to the Commission –

Mr. Fiander told Commissioners that the September cases would be heard at the October 19 City Council meeting so he would bring an update to the November Planning Commission meeting.

Mr. Fiander stated that there will be four public meetings for Futures 2040, each to be held in a different quadrant of the community. Meeting dates will be November 2, 3, 9, 16 (2016) and additional information will be provided.

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

Ms. Cavazos reported that she had 2 communications “by accident” regarding CU16/5 but nothing was said that wasn’t public knowledge / included in the agenda packet.

E) Public Hearings

1) CU16/5 By: 901 Real Estate LLC requesting a Conditional Use Permit for a Correctional Placement Facility, General” on property located at 2035 SW Western and presently zoned “I-1” Light Industrial District and requesting a Conditional Use Permit for a “Surface Parking Lot in Association with a Principal Use” on property located along the east side of SW Fillmore between SW 20th and SW Hampton streets and presently zoned “M-1” Two Family Dwelling District. **(Driver)**

Ms. Driver reviewed the staff report and staff recommendations, reading Conditions #2 and #10 into the record: (2) Adding note: *“The Conditional Use Permit shall expire five (5) years upon the date of City Council approval of the Resolution. The property owner(s) is responsible for notifying the Planning Department and shall apply to re-new the Conditional Use Permit following the same procedures set forth with approval of an initial application.”* (10) Add site plan note: *“In the event the alley vacation is not approved, the site plan shall be revised to reflect fencing around parking lots, but not across or within the public alley.”*

DRAFT

Mr. Haugh asked Ms. Driver how she felt the Neighborhood Information Meeting (NIM) went. Ms. Driver stated that there had been discussion at the 9/26/16 NIM meeting about security, staffing, entry provisions, the possible need to relocate a bus stop, fencing, the need for cooperation and open communication with the police, the types of crimes residents had been convicted of.

Mr. Haugh asked regarding police concern about the parking & access to parking, and Ms. Driver confirmed that they wanted a single entry point into the facility for vehicles and to limit points of exit/entry for pedestrians.

Mr. Fiander added that there were questions about the impact the facility may have on the Expocentre, especially in regard to the number of children and families that attend events there. He also noted that representatives from Topeka Police Department had been in attendance to help address concerns.

Ms. Cavazos asked if there were concerns expressed about the children's center on 19th street. Ms. Driver stated nothing was brought up by the neighborhood. Ms. Cavazos also asked if this would be a facility for people not just from Topeka but from the state of Kansas, and Ms. Driver confirmed.

Ms. Jordan asked about the 50+ jobs mentioned in the report and Mr. Fiander stated he believed they'd be a combination of security and administrative.

With no further questions from Commissioners at this time, Mr. Troy Adams came forward representing City of Faith.

Mr. Adams stated City of Faith (CoF) is a non-profit, faith based organization that has been in business for 30+ years operating work-release programs or residential re-entry centers in Louisiana (90 bed facility & 160 bed facility) and Arkansas (45 bed facility). He explained that everyone in their facilities must have a job unless physically unable, they must pay subsistence to the facility, and CoF accounts for their whereabouts 24/7. He stated that CoF has not been detrimental to any of the areas they have facilities in, and added that a Head Start program chose to move in across the street from one of their Louisiana facilities.

Mr. Kannarr asked regarding the nature of offenses, and Mr. Adams explained that they're federal offenses that might include drug offenses (that's the majority), armed robbery/bank robbery. They do not take offenders who were convicted of heinous crimes, murders, crimes against children, or sex offenders.

Mr. Haugh asked for statistics on crimes committed by clients over the years. Mr. Adams stated he could not, but it's very rare that they have a resident commit a crime. He added that any time a resident couldn't be located for 20 minutes, they're reported to the federal marshal's office as an escapee.

Ms. Jordan asked regarding staff ratios, and Mr. Adams stated there are typically 14 security staff, 5 administrative, and 3 multipurpose.

Ms. Cavazos asked how closely CoF works with the police/sheriff department and Mr. Adams explained that by contract they must have a Community Relations Advisory Board that meets at least once a month, made up of representatives from the community and police department.

Ms. Ringler asked for confirmation that a parole office will be on the 1st floor and Mr. Adams stated he believes this is the plan. That is separate from CoF, which will be on the 2nd floor.

With no further questions from commissioners, Mr. Kannarr declared the **public hearing open**.

Jessica Janes, of 1935 SW Central Park, speaking against the proposal. Ms. Janes stated she was not notified by the City or the applicant of the proposal / NIM and she wanted to know why.

Ms. Janes spoke about a streetlight she had reported being out at 20th & Central Park since the beginning of the summer and that the light hadn't been repaired even after 3 requests. She feels this is a testament to what the city thinks about the area she lives in.

Ms. Janes owns a childcare/daycare center which she believes serves as a safe haven for the children who attend. She spoke about field trips to the Fire Station #5 and how she wouldn't be comfortable walking the children past a facility such as the one proposed. She added that she believes the facility would have a detrimental affect on the businesses nearby.

Ms. Janes gave a petition to Ms. Driver.

Mr. Kannarr asked Ms. Driver why Ms. Janes didn't receive notification of the NIM or case, and Ms. Driver explained that Neighborhood Meetings have a radius of 300' notification and the Janes property is not contained within 300' of the boundary of the case property. She added that the NIA president was informed.

Mr. Kannarr asked Ms. Janes how many children they have at their home daycare. Ms. Janes replied that they see about 25 children per day; the group daycare home is licensed for 12 children at any given time with 2 adults there.

Jeff Chabon, representing Topeka Expocentre as General Manager, speaking against the proposal.

Mr. Chabon spoke about tourism and the people who come to Topeka because of the events at the Expocentre, many of which are children/youth events, including high school wrestling and college & high school athletics. etc. Mr. Chabon referred to renovation plans the Expocentre expects to begin in 2017 and voiced concern regarding what people will think of the area having a facility such as CoF in such close proximity. He added that the Expocentre has 800+ events per year and they're busy 12 months a year.

Josh Smith, of the Shawnee County Counselor's Office, representing Shawnee County Board of Commissioners, speaking against the proposal. Mr. Smith stated he has concern about the types of crimes committed by residents of CoF and cited some Federal Bureau of Prisons statistics from a publication he stated was published 9/24/16. Statistics included: 46.4% of offenders are drug offenders, 23.7% are "violent offenders" which include robberies, burglaries, kidnapping, aggravated assault, and arson. He stated that "heinous" is subjective. Mr. Smith also referenced a 2013 New York Times article that cited a Pennsylvania study and spoke to other states as well.

Mike Morse, of Kansas Commercial Real Estate, speaking in support of the proposal. Mr. Morse stated that a facility that currently handles residents such as would reside at the proposed CoF facility is located across the street from Highland Park High School. Mr. Morse stated that he had attended the NIM and the TPD representatives were supportive of the project. Referencing the statistics given by Mr. Smith, Mr. Morse stated that the success rate for Grace (CoF) is 83%; 83% do not commit another crime/return to prison. He stated that's one of the reasons the program exists – to stop the cycle.

Mr. Morse stated that the property in question has been vacant for years and has been vandalized and trash (including tires, couches, etc.) dumped on the property. He stated the new owner has cleaned up, painted, mowed, and wants to re-invest in the central part of the city. He added that had Shawnee County been concerned about the neighborhood, they could have purchased the property when it was on the market.

Mr. Morse stated that the current owner has met all requests made by the Planning Department.

Rich Eckert, of the Shawnee County Counselor's Office, representing Shawnee County Board of Commissioners, speaking against the proposal. Mr. Eckert spoke about the county's intention to invest \$45+ million in the Expocentre, focusing on the popularity of equine, horse facilities, and the plan to build arenas and stall barns on most of the property owned by Sn County around the Expocentre and across the street from the proposed facility in question. He spoke about the number of horse shows currently held and planned for in the future, about how they are 24 hour events, with shows taking place late into the night and care of the horses taking place all the time. He stated there are no houses around the Expocentre because of

events held there and questioned putting a 50 bed residence across the street. He stated it's not a proper place to put any residential, much less a correctional residential.

Other statements made by Mr. Eckert included the idea that the 50 jobs created would be 50 jobs lost by Mirror, Inc. (currently under contract), and that while he didn't think anyone would be in favor of putting the facility across from Kansas Children's Discovery Center, in fact far more children go through the Expocentre grounds than the Discovery Center. He stated that during wrestling events 1,000 children might go through the Expocentre in a weekend; 20,000 go through the horse barns and of those, 9,000 are children. They expect that to at least double with new additions.

Mr. Kannarr pointed out that the property in question is currently undeveloped and the area has a high crime rate, and he asked if that affects the Expocentre. Mr. Eckert stated that car break-ins and theft are simply an issue where they're located and he doesn't think it would change whether the facility goes in or not; it's simply a fact of the matter in that neighborhood. He added that with planned Expocentre improvements, the neighborhood should become safer because of improved lighting.

Ms. Ringler asked if Mr. Eckert saw a benefit to giving the proposed facility a 5 year trial to see how it goes. Mr. Eckert's reply was no.

Major Scott, of Topeka Police Department, speaking regarding the proposal. Major Scott stated that TPD will enforce the laws that are put in place. Major Scott stated that he/TPD asked how the property can be made better and safer, so a CPTED (Crime Prevention through Environmental Development) was done and recommendations were made. He pointed out that the lots just off Fillmore have been a problem for the neighborhood for some time because they're overgrown and not open to natural surveillance. As stated before, the applicant agreed to comply with all recommendations made.

Major Scott stated that TPD has worked with Mirror, Inc. who have a similar facility, and he added that when people come in for relocation, TPD likes to know where they're at. Facilities such as this provide a central location where officers can talk with staff, review surveillance tapes, etc. if necessary.

Regarding the 1st floor State Parole Office – Major Scott stated that the offices are open 8-5 so there will be no evening activity with that.

He referenced the advisory board, meetings which TPD would be sure to have their community police officer attend.

Steve Clinkenbeard, owner of 901 Real Estate, speaking in support of the proposal. Mr. Clinkenbeard stated that he bought the property in April and has made improvements. Soon after purchasing, the RFP came out from Dept. of Corrections and the facility seemed adequate so they bid. He stated he's worked with Kansas Dept. of Corrections. He clarified that regarding the 50 jobs referred to, 35 were to come from Department of Corrections and 15 from City of Faith.

Mr. Clinkenbeard spoke to why so much parking was needed and the fact that the residents are required to hold jobs. He also spoke to the concern for children in proximity to the facility, adding that the other side is that residents of the proposed facility would be people who made mistakes and went to jail, served their time, and now CoF is there to help them get back on their feet. When their time at CoF is complete, they will have a job and the ability to make a living. He confirmed that the first floor will be Kansas parole office, open 8-5, and added that the current location of the parole office is just 6 blocks away, or 5 blocks from Expocentre.

Mr. Clinkenbeard stated that Mirror Inc. currently has a similar facility near Highland Park HS and noted that we're not reading in the papers about problems arising.

Ann Marshall of 1713 SW Lane speaking in support of the proposal. Ms. Marshall stated that she's a resident of Chesney Park, a member of the NIA, but not representing the NIA. She stated that she's lived in the neighborhood since 1986. She spoke about how the NIA has worked to improve the neighborhood and make it safer, working with the community police, Officer Scott, Bill Fiander of the Planning Department, etc.

She stated that the realtor/owner has taken a piece of property that was trashed and a risk for health and safety and has cleaned it up and put it back on the rolls. She stated that having someone on site and regularly using a facility cuts down on crime in the neighborhood. She thinks the realtor and CoF people are willing to work with the neighborhood. She pointed out that there is crime in the neighborhood and ex-felons living there already, and stated that at least CoF residents would be tracked.

Mr. Clinkenbeard of 901 Real Estate returned to the podium to answer questions. He stated that the property is in a revitalization zone, and 901 Real Estate is looking to put half million dollars back into the real estate to revitalize it. The property is not going to attract a law firm, CPA firm, etc. He believes we must trust that the Dept. of Corrections and CoF know what they're doing and have procedures. He expressed concern about financial incentives the Expocentre might have to be against the proposal, stating he has often thought that if that property is improved and then it is taken, it's a lot easier to take it as a vacant building than it is with two leases in it and improved properties. He added that 901 Real Estate is going to improve [the property] and make it more valuable, and if it's in [the Expocentre's] plans, it's going to cost them more.

Mr. Kannarr declared the **public hearing closed**.

Additional discussion took place among Planning Commissioners, including Mr. Haugh asking what controls there were over CoF residents once they left the facility, such as on their way to work, etc. Mr. Adams returned to the podium to explain that residents have a certain amount of time to get from one place to another and if they don't report in on time, then it goes into escape procedures. Mr. Haugh stated that gives no protection if they choose to do something during that time period, and Mr. Adams agreed that they are in a reintegration system and have to earn the trust they're given.

Ms. Jordan asked for and received from Ms. Driver confirmation that if CoF does not get the contract, the Conditional Use Permit will not be necessary.

Discussion continued and Mr. Kannarr called for a motion. Ms. Feighny explained that one option would be to defer a decision to the next Planning Commission meeting, especially in light of the fact that 3 commissioners were not in attendance. Ms. Cavazos asked for and received confirmation from Ms. Feighny that with the present attendance, 3 votes would be required for a motion to pass. Mr. Kannarr asked if there was a timeline on the contract and whether a deferral would have a negative impact. After discussion, Mr. Adams returned to the podium and stated that a deferral would be a hardship because it also pushes back a vote by the Governing Body.

Ms. Jordan moved to defer, second by Ms. Cavazos. Following discussion and on the recommendation of Ms. Feighny, the motion was amended by Ms. Jordan to a motion to defer to the next scheduled Planning Commission meeting as determined by Planning Staff, continuing the public hearing to that date as well. Ms. Cavazos's second stood, and there was discussion about what would happen at the next Planning Commission meeting if the decision was deferred. A vote was taken. MOTION FAILED TO PASS (0-5-0 with all present voting against).

There was discussion about the possibility of splitting the parking lot CUP out from the rest of the case, but it was agreed that the application could not be split.

Motion by Mr. Haugh to **recommend to the Governing Body denial of the Conditional Use Permit;** second by Ms. Cavazos. **APPROVAL (3-2-0** with Ms. Ringler and Ms. Jordan dissenting).

F) F. Action Items

- 1) Initiation of re-zoning for Misty Harbor Estates No. 5

Mr. Fiander reviewed the proposed initiation, explaining that with a positive vote, staff would begin work on

the re-zoning and the case would come before the Planning Commission at the November meeting. Mr. Fiander noted that moving forward depends on Council approving an annexation that is before the at their 10/19/16 meeting.

Motion by Mr. Haugh to initiate rezoning of Misty Harbor Estates No. 5, contingent upon Governing Body approval of annexation of the property, second by Ms. Ringler. APPROVAL (5-0-0)

G) Discussion Items

1) Zoning Code/Matrix Amendments (Group B)

Mr. Hall reviewed proposed updates to Title 18 of the Topeka Municipal Code and potential amendments, stating these have the potential to make significant changes to how zoning regulations are administered. He stated the proposals are in the spirit of modernizing the code and keeping up with the way business is conducted in the city. Items/proposals reviewed and discussed included the following:

- Short Term Rental Housing (Bed & Breakfast Home or Inn)
- Artisan Manufacturing
- Cargo Containers
- Setbacks for Uncovered Decks, Porches, Stair Landings, and Ramps

With no further agenda items, meeting was adjourned at 8:10PM.

Z16/04 – Topeka Planning Commission
(Misty Harbor Subdivision #5)

STAFF REPORT – ZONING CASE
TOPEKA PLANNING DEPARTMENT

PLANNING COMMISSION DATE: Monday, November 21, 2016

APPLICATION INFORMATION

APPLICATION CASE NO: Z16/04 – Topeka Planning Commission (*Misty Harbor Subdivision #5*)

REQUESTED ACTION / CURRENT ZONING: Zoning change from “RR-1” Residential Reserve District TO “R-1” Single Family Dwelling District

APPLICANT / PROPERTY OWNER: Topeka Planning Commission

PROPERTY LOCATION / PARCEL ID: A 15 acre property lying 400 ft. north of SW 45th Street and 2,300 ft. west of SW Burlingame Road

PARCEL SIZE: 15 acres

STAFF PLANNER: Annie Driver, AICP, Planner II

PROJECT AND SITE INFORMATION

PROPOSED USE / SUMMARY: Forty (40), ¼ to ½ acre single-family residential lots (2.6 DUs/acre).

DEVELOPMENT / CASE HISTORY: The property is currently undeveloped. A final plat was approved by the Planning Commission on January 21, 2015 for forty single family lots as Phase 5 of Misty Harbor Estates Subdivision. Misty Harbor Estates #5 was annexed on October 18, 2016. The Planning Commission initiated the rezoning of Misty Harbor Estates #5 on October 17, 2016. The initial preliminary plat for Misty Harbor Estates Subdivision was approved in 2002.

BACKGROUND

The purpose of the “RR-1” zoning district is, *“to provide for a transitional area between urbanized development and rural-agricultural areas. ‘RR-1’ zoning is intended to allow for the gradual development of urban uses while providing for the coexistence of agricultural farmland based upon the availability of municipal services.”* In essence, this land is “reserved” for future urbanization. Once platted and annexed, these subdivisions in theory lose their transitional status as designated under “RR-1” zoning and should reflect a more appropriate urban zoning classification.

By converting “RR-1” single-family subdivisions to “R-1”, it prohibits the types of agricultural/farming uses allowed by right that are no longer compatible with the expectations of a single-family

development.

DEVELOPMENT STANDARDS AND POLICIES

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

Uses permitted by-right in "RR-1" and not permitted in "R-1":

- *Agriculture- Refers to land devoted to the production of plants, animals, fish, or horticultural products, including but not limited to: forages, grains and feed crops; dairy animals and dairy products; poultry and poultry products; beef, cattle, sheep, swine and horses; aquaculture; trees and forest products; fruits, nuts and berries; vegetables; or nursery, floral, ornamental and greenhouse products. (TMC 18.55 Definitions)*

Uses allowed through Conditional Use Permit in "RR-1" and not permitted in "R-1":

- *Recreational Vehicle Short Term Campgrounds*
- *Animal Care and Services Type II (including outdoor kenneling and veterinary care of horses, cattle, sheep, goats, and swine)*
- *Billboards*
- *Oil/Gas Drilling*
- *Construction & Demolition Landfills*
- *Sanitary Landfills*

Dimensional Standards:

"RR-1" compared "R-1" Dimensional Standards	RR-1	R-1
Minimum lot area	20 acres	6,500 sq. ft.
Maximum building coverage	10%	45%
Minimum lot width	300'	60'
Maximum density	None	None

OTHER FACTORS

SUBDIVISION PLAT:	Misty Harbor Subdivision #5. The final plat was approved by the Planning Commission January 21, 2015. The final plat will be considered by the City Council in conjunction with street benefit district petition in January 2017.
FLOOD HAZARDS, STREAM BUFFERS:	A extremely small portion of the property lies within the 100-year flood elevation and is covered by a stormwater management easement. The large majority of the property, including all lots, falls within Area "X" area of minimal flooding.
UTILITIES:	<p>Water: Developer will connect to an existing 6" main along SW 43rd Street which currently extends into the subject property with two extensions off the end each measuring 157' and 75' respectively. Developer will connect to these at their own expense.</p> <p>Sanitary Sewer: The developer will extend the existing 8" gravity sewer mains from the south into the subject property at their own expense.</p>
TRANSPORTATION/TRAFFIC:	The lots have direct access off of the extensions of SW 43 rd Street, SW 44 th Street, and SW Lakeside Drive (local streets).
HISTORIC PROPERTIES:	Not applicable
NEIGHBORHOOD INFORMATION MEETING:	Not required

REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES

PUBLIC WORKS/ENGINEERING:	No issues
WATER POLLUTION CONTROL:	No issues
FIRE:	No issues
DEVELOPMENT SERVICES:	No issues

KEY DATES

SUBMITTAL:	October 17, 2016 (Rezoning initiated)
NEIGHBORHOOD INFORMATION MEETING:	Not required
LEGAL NOTICE PUBLICATION:	October 26, 2016
PROPERTY OWNER NOTICE MAILED:	October 28, 2016

STAFF ANALYSIS

CHARACTER OF NEIGHBORHOOD: The neighborhoods surrounding the subject property have been developed for single-family dwellings at an urbanized density of approximately 3 dwelling units per acre or greater.

ZONING AND USES OF PROPERTIES NEARBY: The surrounding areas inside the city limits lying to the north, west, and south are zoned "R-1" Single-Family Dwelling District and developed for single-family residential uses. The property lying southeast and east remains zoned "RR-1" and is in the County, and is designated for agricultural usage and include a few single family dwellings. The properties west of SW Burlingame Road are all zoned "R-1" and are located inside the city limits.

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The subject property is undeveloped. The property was initially preliminary platted in 2000 as Misty Harbor Estates Subdivision. This is the fifth phase of the subdivision.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The subject property is currently zoned "RR-1" Residential Reserve District, which allows uses no longer compatible with development inside the city limits. As it is currently zoned, there are some uses permitted, such as, farming/agricultural land uses that are not reflective of the property's current urban status. Other such uses are allowed by Conditional Use Permit (e.g. outdoor kennels and veterinary care of cattle, horses, and swine; billboards; sanitary and demolition landfills; oil/gas drilling; storage of fertilizers and pesticides), which are likely to be seen as nuisances in urban single-family residential neighborhoods. Therefore, the subject property is no longer seen as suitable for uses to which it has been restricted.

CONFORMANCE TO COMPREHENSIVE PLAN: Prior to its annexation, the property lay within Tier 2 of the *Urban Growth Area*. Tier 2 areas are contiguous to the City Limits where urban infrastructure and services are readily available. The development of single family residential on the subject property allows the city to expand in a compact and affordable manner.

Prior to its annexation, the subject property was designated *Residential Urban Growth Area* on the Future Land Use Map - 2040. This category is characterized as being for future "*urban residential neighborhoods and is expected to systematically urbanize in a compact manner and the City of Topeka expands services and infrastructure in the future*". The proposed zoning for the subject property, as well as the current zoning for properties north, west, and south is "R-1" Single-Family Dwelling District and developed as single-family

residential lots. 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"*. Rezoning the property to the "R-1" Single-Family Dwelling District makes the subdivision compatible with the other urbanized, single-family subdivisions in the City that are contiguous to the site and prohibits the development of potentially incompatible uses. Upon its annexation on October 18, 2016, the subject is now within Tier 1 of the Urban Growth Area. Tier 1 contains those areas inside the city limits that are first priority for future growth and urban development.

Therefore, the rezoning proposal is in conformance with the Comprehensive Plan.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: There will not be a detrimental effect upon adjacent properties by rezoning to "R-1" Single-Family Dwelling District since this will give the property a zoning classification that is consistent with its location within an urbanizing area and inside the city limits. As fringe areas south and west of Topeka grow and are annexed, this area will only continue to become more urban in character, making the "RR-1" Residential Reserve District no longer appropriate since these properties are inside the city limits.

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: There is no hardship or reduced property value to the landowners since the zoning will be consistent with the zoning and/or land uses of surrounding properties that are inside the city limits. Additionally, the property has been subdivided and annexed to allow for the construction of forty single family houses consistent with the R-1 zoning district. As no detrimental effects are anticipated by the rezoning, there appears to be no particular gain to the public health, safety, and welfare by maintaining the present restrictions for the "RR-1" District. The "RR-1" District may allow incompatible uses with a developing, urbanized single-family neighborhood.

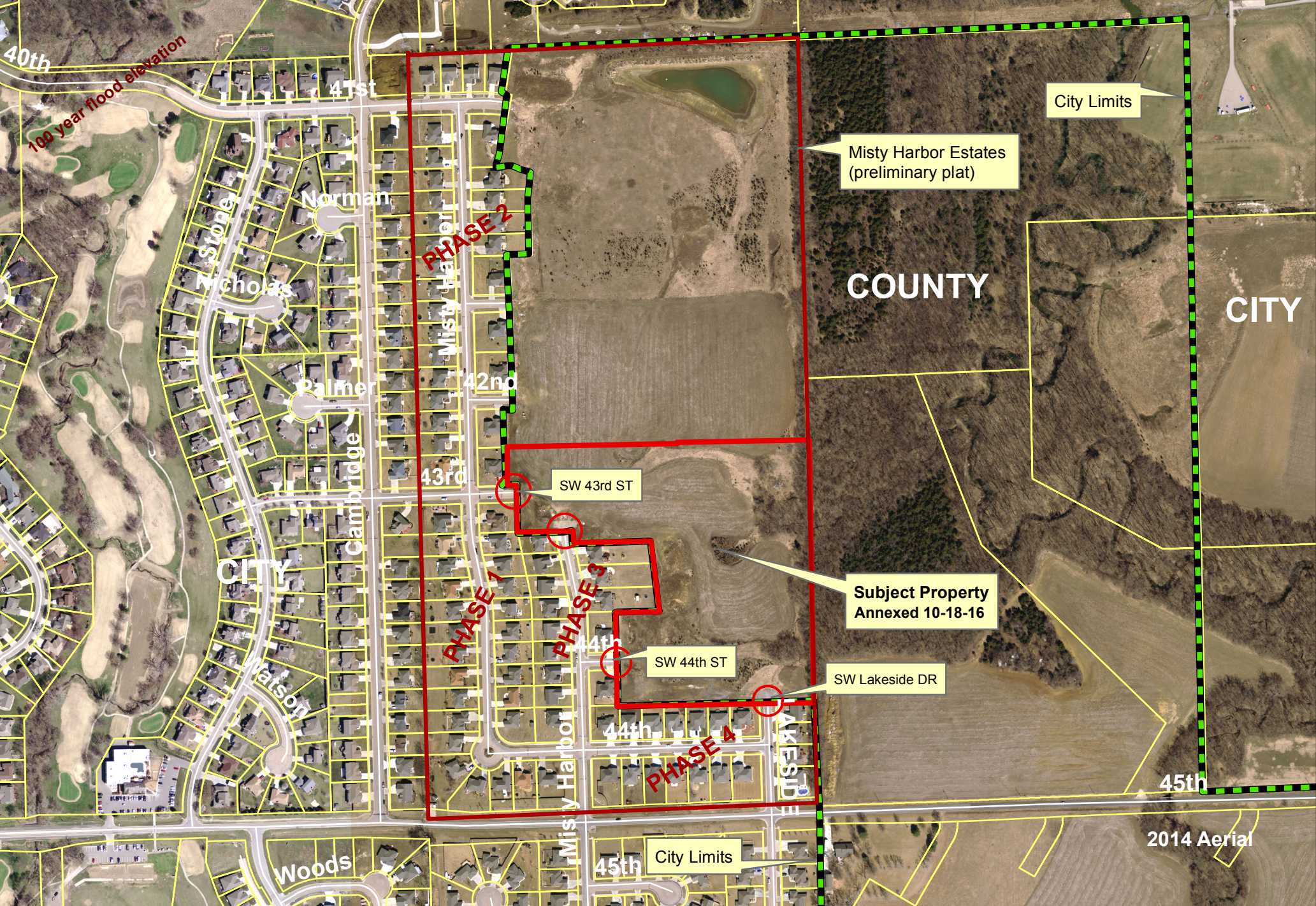
AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are presently available to this area or will be extended at developer expense.

STAFF RECOMMENDATION:

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

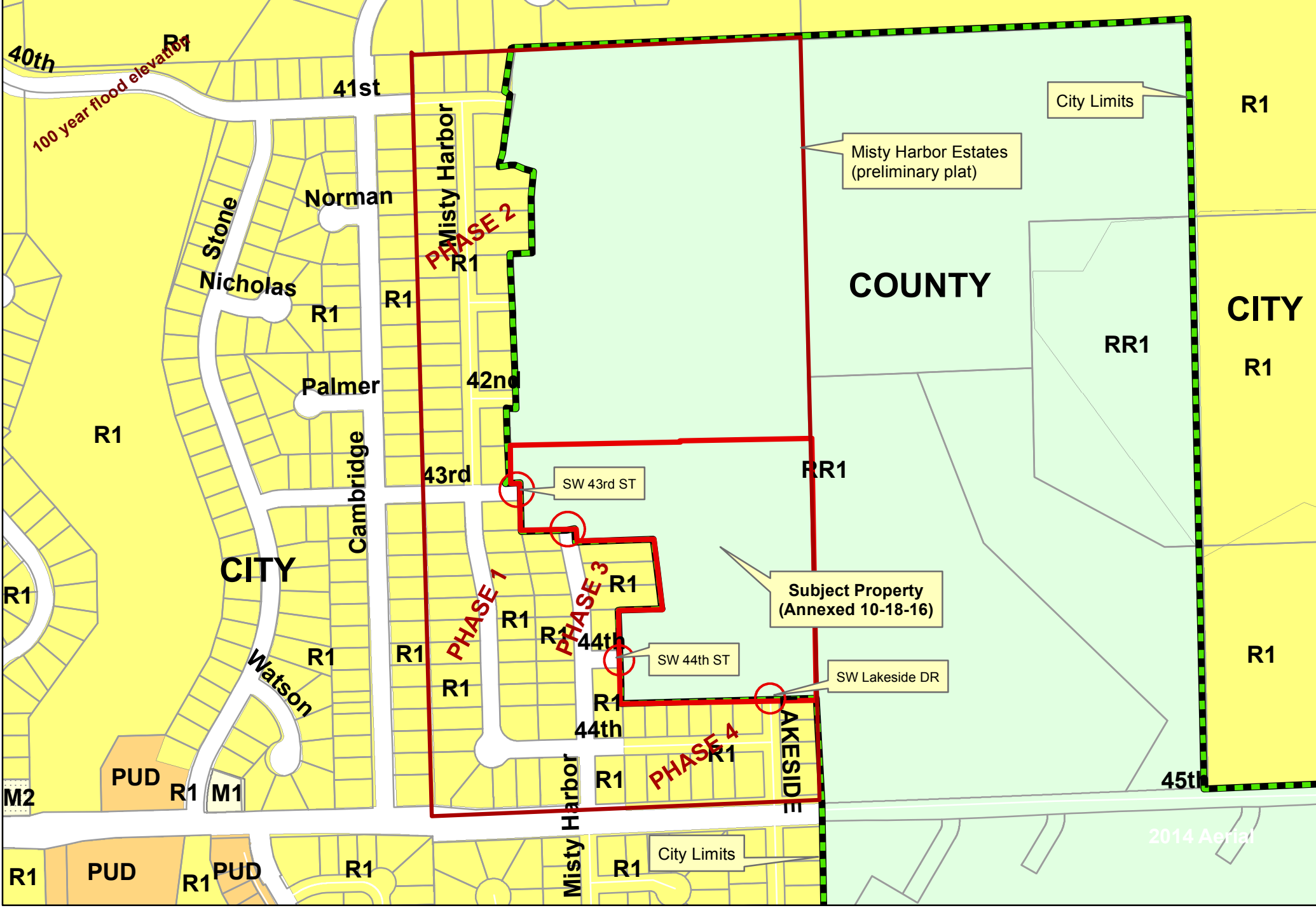
ATTACHMENTS:

1. Aerial Map
2. Zoning Map



Z16/4 by Topeka Planning Commission (Misty Harbor Estates Subdivision #5)





**Z16/04 By Topeka Planning Commission
Misty Harbor Estates Subdivision #5**



P14/11

Misty Harbor Estates Subdivision #5

SUBDIVISION REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

Preliminary Plat Phase

Preliminary and Final Plat Phase

Revised Final Plat Phase

NAME: Misty Harbor Estates Subdivision #5 - [P14/11]

OWNER/DEVELOPER: F & L Enterprises

ENGINEER/SURVEYOR: Bartlett & West Engineers /Steve LaCasse

GENERAL LOCATION: On property that lies between SW Gage Blvd and SW Burlingame Road, the centerline of the tract is approximately 870 ft. north of SW 45th Street.

JURISDICTION: Class "A" Subdivision that is located inside the city limits.

ANNEXATION: The property was annexed by the Topeka City Council on October 18, 2016.

Area	# of Lots	Residential Density	Proposed Land Use	Zoning
15.39 acres	40	2.6 DUs/acre	Single-family dwellings	*RR-1
<p>*Pending Zoning Case: The Planning Commission initiated the rezoning of the property to "R-1" Single Family Dwelling District at its October 17, 2016 meeting. The zone change is heard in conjunction tonight.</p>				
<p>Design: The property is irregular in shape measuring approximately 670' X 1030'. The final plat comprises a 40-lot, four-block subdivision with its primary access from SW 45th Street. SW Lakeside Drive, SW 44th Street, SW 43rd Street, and SW Misty Harbor Drive are extended from the boundary of the subdivision to provide access to the residential lots. SW Lakeside Drive terminates at the north boundary of the subdivision and will be extended with a future final plat for Misty Harbor Estates. This final plat proposes two phases. Phase 1 accommodates 14 lots and Phase II accommodates 26 lots.</p>				

BACKGROUND: The initial master preliminary plat for Misty Harbor Estates, allowing a total of 220 lots, was approved August 19, 2002 by the Planning Commission. Misty Harbor Estates Subdivision #5 represents the fifth phase of this master preliminary plat. **The Planning Commission initially approved this final plat phase on January 21, 2015.* That final plat never went to City Council because it was in part delayed by the applicant so that its approval could coincide with City Council approval of the benefit district for street improvements. Upon reviewing the phasing plan for the street benefit district, staff discovered the first phase leaves a dead-end street (SW 43rd Street) exceeding 500 ft. This altered phasing plan from the original final plat allows for two phases rather than a single phase and requires a design variance from the Planning Commission for the street exceeding 500 ft. pursuant to TMC 18.40.050(c).

SERVICES AND FACILITIES:

1. **WATER SERVICE:** The development is to be serviced by the City of Topeka public water supply and distribution system by means of a connection to the existing 6" water mains to be extended to this property at developer expense from SW 43rd Street, SW 44th Street, and SW Lakeside Drive.
2. **SEWAGE DISPOSAL:** The development is to be serviced by the City of Topeka public wastewater treatment

plant and collection system by means of connection to the 8" sanitary sewer mains to be extended from SW 43rd Street, SW 44th Street, and SW Lakeside Drive with all connections being at developer expense.

3. WASTEWATER PLAN SERVICE AREA: The property is located within the *Urban Service Area* as reflected by the Land Use and Growth Management Plan - 2040, which requires service by a sanitary sewer system. The proposal and is in full compliance with said Plan.
4. DRAINAGE CONDITIONS: The Stormwater Management Report as submitted by the consultant to the City of Topeka Department of Public Works has been approved per memo dated October 28, 2016. Stormwater management easements are shown as required by the City Engineer.
5. STREET PLAN/ACCESS: Phase I allows the subdivision's primary access from the connections of SW 43rd Street on the west side boundary and SW Misty Harbor Drive on the south side boundary. SW 43rd will connect to Lakeside Drive and dead-end at a length of 535 ft. until the completion of Phase II. Phase II will connect SW Lakeside Drive to SW 45th Street. SW 45th Street is a two-lane arterial roadway.
6. FIRE DISTRICT: City of Topeka Fire Department
7. STREAM BUFFER/FLOOD PLAIN: The property is not affected by a stream buffer. The property primarily lies within Zone "X" Area of Minimal Flooding.
8. SCHOOL DISTRICT: Auburn-Washburn USD 437
9. PARKS/OPEN SPACE: The subdivision is located in Parkland Fee District #6 and requires a parkland fee of \$300 per new single-family lot. The fee will be collected per single-family residential lot at time of building permit issuance.

WAIVER/VARIANCE TO STANDARDS:

- Pursuant to TMC 18.35.160, the Topeka Planning Commission will need to grant an extension to the six month time limit on its approval of the preliminary plat. Staff is supportive of the Planning Commission granting this extension since the overall street design, lot configuration, and density have not been altered significantly from what was originally approved by the Planning Commission. The Planning Commission re-approved the preliminary plat at its January 21, 2015 meeting.
- Pursuant with TMC 18.30.040 Design variances, the Topeka Planning Commission needs to grant a variance to the provisions of TMC 18.40.120 regarding the placement of a 16 ft. utility easement along the entire length of the boundary of the subdivision for Block D due to the placement of the drainage detention facility being located to the rear of these lots and all utilities being placed in the right-of-way of SW Lakeside Drive. The Planning Commission approved this design variance at its January 21, 2015 meeting.
- Pursuant with TMC 18.30.040 Design variances, the Topeka Planning Commission needs to grant a variance to the provisions of TMC 18.40.050(c) regarding dead-end lengths in excess of 500 ft. for SW 43rd Street until Lakeside Drive is extended to connect with SW 45th Street as a part of Phase II. Staff recommends approval of this design variance. The phasing plan and variance accommodates the reasonable development of the property in a manner that is financially feasible for the developer. Another connection in to the subdivision off of SW 45th Street will occur as part of Phase II when Lakeside Drive is extended. The design causes no detrimental impact to public safety. Fire and Engineering have approved proposed phasing and benefit district for street improvements.

CAPITAL IMPROVEMENT PLAN (CIP): There are no projects listed in the City's 2017-2021 Capital Improvement Plan (CIP) that will widen SW 45th Street to arterial standards between SW Gage and SW Burlingame.

CONFORMANCE TO COMPREHENSIVE PLAN: The Topeka Land Use and Growth Management Plan-2040 establishes this area for *Urban/Suburban Low Density Residential* land uses. The expected residential density of this proposal is 2.6 dwelling units per acre, which is in conformance with the LUGMP – 2040 policies that recommend densities up to 6 dwelling units/acre within areas classified *Urban/Suburban Low Density Residential*.

The property is now located within Tier 1 of the Urban Growth Area (city limits) as designated in the LUGMP-2040. With the exception of SW 45th Street, the full set of urban services (sanitary sewer, water, Fire, Police) are available or will be extended to the subdivision.

While SW 45th Street is not yet planned in the City's 2017-2021 CIP for future improvement to urban arterial street standards (e.g. 3-5 lanes), Misty Harbor Estates No. 5 represents the fifth phase of the original preliminary plat. Development of this 40-lot subdivision continues building a previously approved neighborhood. Further, the property is contiguous with the City limits on the east and south boundaries, and as future phases of Misty Harbor Estates continue to develop to the north, the development will ultimately link up with the city to the north.

This project represents an infill development that is appropriate within city limits. The subdivision's development will allow the city to grow compactly and efficiently. Therefore, the proposal is consistent with the policies and principles of the Land Use and Growth Management Plan.

STAFF ANALYSIS:

With approval of the design variances, the subdivision conforms to the established standards and provisions of the City Subdivision Regulations relative to design criteria. The subdivision is compatible with adjacent development and will not overburden existing public infrastructure facilities. Based upon the above findings and staff analysis, the Planning Department recommends the revised final plat for Misty Harbor Estates Subdivision #5 be **APPROVED**.

Prepared By:

Annie Driver, AICP

Planner II



P14/11 Misty Harbor Estates Subdivision #5 (final plat phase)



BOOK : _____ PAGE :

DATE : _____ TIME : ____

A FINAL PLAT FOR: MISTY HARBOR ESTATES No. 5

A TRACT OF LAND IN THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 23,
TOWNSHIP 12 SOUTH, RANGE 15 EAST OF THE 6TH P.M., SHAWNEE COUNTY, KANSAS

NOTES :

1. WATER SERVICE IS BY THE CITY OF TOPEKA. PURSUANT TO WATER ENGINEERING, AREAS WHERE LOCAL WATER SUPPLY IS:
LESS THAN 40 PSI, THE BUILDER IS REQUIRED TO INCREASE WATER PRESSURE TO AT LEAST 40 PSI. GREATER THAN THE MAXIMUM WATER PRESSURE ALLOWED, SHALL BE GOVERNED BY THE UPC AND ITS AMENDMENTS.
2. SANITARY SEWER SERVICE SHALL BE BY THE CITY OF TOPEKA.
3. THIS PROPERTY LIES WITHIN ZONE X (AREA OF MINIMAL FLOODING) ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FLOOD INSURANCE RATE MAP NO. 20177C0302E WITH AN EFFECTIVE DATE OF SEPTEMBER 29, 2011, AND ZONE AE (BASE FLOOD ELEVATIONS DETERMINED).
4. ALL UTILITIES SHALL BE PLACED UNDERGROUND PURSUANT TO THE CITY'S RIGHT-OF-WAY MANAGEMENT STANDARDS.
5. PROPERTY OWNERS SHALL BE ADMONISHED FROM PLACING ANY PERMANENT OR SEMI-PERMANENT OBSTRUCTION IN PERMANENT SEWER, DRAINAGE OR UTILITY EASEMENTS. THIS INCLUDES, BUT IS NOT LIMITED TO, TREES, SHRUBS, FENCES, RETAINING WALLS, BUILDINGS OR OTHER MISCELLANEOUS OBSTRUCTIONS THAT INTERFERE WITH ACCESS OR EGRESS OF MAINTENANCE VEHICLES OR EQUIPMENT FOR THE OPERATION AND MAINTENANCE OF THE UTILITIES OR PIPE LINES LOCATED IN THE EASEMENT. ANY PERMANENT OR SEMI-PERMANENT OBSTRUCTION LOCATED IN THE PERMANENT SEWER OR UTILITY EASEMENT MAY BE REMOVED BY PERSONNEL REPRESENTING THE GOVERNING BODY, TO PROVIDE FOR THE PROPER OPERATION AND MAINTENANCE OF THAT UTILITY LINE, WITHOUT COST OR OBLIGATION FOR REPLACEMENT. COST OF REMOVAL, AND/OR REPLACEMENT SHALL BE THE RESPONSIBILITY OF THE PROPERTY OWNER.
6. EASEMENTS ARE HEREBY GRANTED TO THE PUBLIC AS FOLLOWS : "UTILITY EASEMENTS" TO ALLOW PUBLIC UTILITY PROVIDERS, CONTRACTORS, AND AUTHORIZED AGENTS TO LOCATE, CONSTRUCT AND MAINTAIN FACILITIES TO PROVIDE UTILITY SERVICE TO THE PUBLIC. ALL PUBLIC UTILITIES SPECIFICALLY INCLUDING BUT NOT LIMITED TO WATER, GAS, SEWER, STORMWATER, AND TELECOMMUNICATIONS MAY PLACE OR LOCATE THEIR FACILITIES OVER, UNDER AND ALONG THE STRIPS MARKED "UTILITY EASEMENTS." A TEMPORARY CONSTRUCTION EASEMENT OF 12 FEET ADJACENT TO THE SIDE OF THE UTILITY EASEMENT IS DEDICATED FOR THE USE OF THE PUBLIC UTILITIES WHILE INITIAL CONSTRUCTIONS OF THE PUBLIC UTILITIES' FACILITIES ARE IN PROGRESS.
7. DRAINAGE EASEMENTS ARE HEREBY ESTABLISHED AS SHOWN TO PROVIDE FOR THE UNOBSTRUCTED OVERLAND FLOW OF SURFACE WATER AND/OR THE CONSTRUCTION AND MAINTENANCE OF PIPE, FLUME, DITCH OR ANY OR ALL IMPROVEMENT FOR THE DRAINAGE OF SAID WATER, ALL AS MAY BE DETERMINED AND/OR APPROVED BY THE DIRECTOR OF THE APPLICABLE DEPARTMENT OF PUBLIC WORKS. PROPERTY OWNERS SHALL NOT PLACE ANY PERMANENT OR SEMI-PERMANENT OBSTRUCTION IN SAID EASEMENTS. ALL MAINTENANCE WITHIN THE DRAINAGE EASEMENT (DE) SHALL BE THE RIGHT, DUTY AND RESPONSIBILITY OF THE PROPERTY OWNER(S) OF THE PROPERTY IN WHICH THE EASEMENT IS SO LOCATED, HOWEVER, IF MAINTENANCE IS NEGLECTED OR SUBJECT TO OTHER UNUSUAL CIRCUMSTANCES AND IS DETERMINED TO BE A HAZARD OR THREAT TO PUBLIC SAFETY BY THE DIRECTOR OF THE APPLICABLE DEPARTMENT OF PUBLIC WORKS, CORRECTIVE MAINTENANCE MAY BE PERFORMED BY THE GOVERNING JURISDICTION WITH COSTS ASSESSED TO AND BORNE UPON, SAID PROPERTY OWNER(S). OFFICIALS REPRESENTING THE APPLICABLE DEPARTMENT OF PUBLIC WORKS SHALL HAVE THE RIGHT TO ENTER UPON THE EASEMENT FOR PURPOSES OF PERIODIC INSPECTION AND/OR CORRECTIVE MAINTENANCE.
8. DRAINAGE DETENTION FACILITY EASEMENTS ARE HEREBY ESTABLISHED AS SHOWN TO PROVIDE FOR THE DETENTION OF STORM SURFACE WATER AND CONSTRUCTED AS APPROVED BY THE DIRECTOR OF THE DEPARTMENT OF PUBLIC WORKS OF THE APPLICABLE GOVERNMENTAL JURISDICTION. ALL MAINTENANCE WITHIN THE DRAINAGE DETENTION FACILITY EASEMENT (DDFE) SHALL BE THE RIGHT, DUTY AND RESPONSIBILITY OF THE PROPERTY OWNER(S) OF THE PROPERTY IN WHICH THE EASEMENT IS SO LOCATED, HOWEVER, IF MAINTENANCE IS NEGLECTED OR SUBJECT TO OTHER UNUSUAL CIRCUMSTANCES AND IS DETERMINED TO BE A HAZARD OR THREAT TO PUBLIC SAFETY BY THE DIRECTOR OF THE APPLICABLE DEPARTMENT OF PUBLIC WORKS, CORRECTIVE MAINTENANCE MAY BE PERFORMED BY THE GOVERNING JURISDICTION WITH COST ASSESSED TO AND BORNE UPON, SAID PROPERTY OWNER(S). OFFICIALS REPRESENTING THE APPLICABLE DEPARTMENT OF PUBLIC WORKS SHALL HAVE THE RIGHT TO ENTER UPON THE EASEMENT FOR PURPOSES OF PERIODIC INSPECTION AND /OR CORRECTIVE MAINTENANCE OF THE FACILITY. UPON RECEIVING WRITTEN APPROVAL FROM THE APPROPRIATE DEPARTMENT OF PUBLIC WORKS, PROPERTY OWNER(S) MAY CONSTRUCT IMPROVEMENTS WITHIN THE EASEMENT, PROVIDED THE IMPROVEMENT DOES NOT INTERFERE WITH THE FUNCTION OF THE DETENTION FACILITY.
9. NO BUILDING PERMITS SHALL BE ISSUED UNTIL SEWER SERVICE PLANS ARE APPROVED BY CITY OF TOPEKA PUBLIC WORKS DEPARTMENT AND UNTIL ARRANGEMENTS FOR THE INSTALLATION OF WATER MAINS AND/OR CONNECTION CHARGES HAVE BEEN MADE WITH THE CITY WATER DEPARTMENT.
10. MINIMUM OPENING ELEVATIONS SHALL BE 1 FT ABOVE THE ADJACENT 100-YEAR WATER SURFACE ELEVATION.
11. GREEN SPACE EASEMENTS ARE NON-BUILDABLE AND RESERVED FOR TREES, SHRUBS, TRAILS, GAZEBOS, ETC. THE LOT OWNER(S) SHALL NOT FENCE OR BUILD ANY HABITABLE STRUCTURES WITHIN SAID EASEMENT.
12. ALL LOT CORNERS WILL BE SET POST CONSTRUCTION.
13. PURSUANT WITH TMC 18.30.040 DESIGN VARIANCES, THE TOPEKA PLANNING COMMISSION HEREBY GRANTS A VARIANCE TO THE PROVISIONS OF TMC 18.40.120 REGARDING THE PLACEMENT OF A 16 FEET UTILITY EASEMENT ALONG THE ENTIRE LENGTH OF THE BOUNDARY OF THE SUBDIVISION FOR BLOCK D DUE TO THE LOCATION OF THE DRAINAGE DETENTION FACILITY BEING LOCATED TO THE REAR OF THESE LOTS.
14. PURSUANT WITH TMC 18.30.040 DESIGN VARIANCES OF SUBDIVISION REGULATIONS, THE TOPEKA PLANNING COMMISSION HEREBY GRANTS A DESIGN VARIANCE TO SECTION 18.40.050(c) REGARDING THE DEAD END LENGTH IN EXCESS OF 500 FT FOR SW 43RD STREET UNTIL CONNECTIONS ARE MADE WITH PHASE II.

NOTES :

14. STORMWATER MANAGEMENT EASEMENTS (SME) ARE HEREBY ESTABLISHED AS SHOWN OR DESCRIBED TO PROVIDE FOR THE MANAGEMENT OF STORM WATER INCLUDING, BUT NOT LIMITED TO, DETENTION, RETENTION, STORAGE AND TREATMENT OF STORM WATER. PROPERTY OWNERS AND THEIR ASSIGNS OR SUCCESSORS (PROPERTY OWNERS) AGREE TO INSTALL, CONSTRUCT, RECONSTRUCT, REPLACE, ENLARGE, REPAIR, OPERATE, AND PROVIDE PERPETUAL MAINTENANCE OF PIPE, FLUME, DITCH, SWALE, VEGETATIVE AREAS OR MECHANICAL DEVICES FOR STORM WATER CONVEYANCE AND/OR TREATMENT, OR ANY IMPROVEMENT IN THE SME FOR THE DRAINAGE AND/OR TREATMENT OF SAID STORM WATER. NO CHANGE TO THE GRADE, TOPOGRAPHY OR STORM WATER MANAGEMENT STRUCTURES AND IMPROVEMENTS IN THE SME SHALL BE MADE WITHOUT PRIOR WRITTEN APPROVAL OF THE APPLICABLE PUBLIC WORKS DIRECTOR OR HIS/HER DESIGNEE. PROPERTY OWNERS SHALL NOT PLACE OR PERMIT ANY PERMANENT, SEMI-PERMANENT OR TEMPORARY OBSTRUCTION IN SAID SME INCLUDING, BUT NOT LIMITED TO, TREES, SHRUBS, VEGETATION, ROCKS, FENCES, RETAINING WALLS, LANDSCAPING, STRUCTURES, BUILDINGS, OR OTHER OBSTRUCTIONS THAT INTERFERE WITH OR OBSTRUCT DESIGNATED WATER FLOW AND/OR TREATMENT PROCESS IN AN ENGINEERED CHANNEL, CONDUIT, STRUCTURE OR AREA, NOR SHALL PROPERTY OWNERS OBSTRUCT, PREVENT OR OTHERWISE HINDER INGRESS, EGRESS, OR OPERATION OF MAINTENANCE VEHICLES, EQUIPMENT AND PERSONNEL. UPON RECEIVING WRITTEN PERMISSION FROM THE APPLICABLE PUBLIC WORKS DIRECTOR OR HIS/HER DESIGNEE, PROPERTY OWNERS MAY CONSTRUCT AT THEIR OWN PERIL OTHER LIMITED IMPROVEMENTS AND/OR LANDSCAPING WITHIN THE SME WHICH DO NOT AND WILL NOT INTERFERE WITH THE FUNCTION OF THE STORMWATER MANAGEMENT SYSTEM. ANY OBSTRUCTIONS OR IMPROVEMENTS IN THE SME, PERMITTED OR NOT PERMITTED, MAY BE REMOVED BY THE APPLICABLE PUBLIC WORKS DEPARTMENT OR ITS CONTRACTOR TO PROVIDE FOR DESIGNATED WATER FLOW AND/OR TREATMENT PROCESS OF THE STORM WATER MANAGEMENT SYSTEM. COST OF REMOVAL, DAMAGE AND ANY REPAIR OR REPLACEMENT SHALL BE THE RESPONSIBILITY OF THE PROPERTY OWNERS OF THE PROPERTY ON WHICH THE SME IS LOCATED. HOWEVER, IF DESIGNED WATER FLOW AND/OR TREATMENT PROCESS ARE IMPEDED BY NEGLECTED MAINTENANCE, SYSTEM FAILURE OR ARE SUBJECT TO OTHER UNUSUAL CIRCUMSTANCES CAUSING A HAZARD OR THREAT TO PUBLIC SAFETY, AS DETERMINED BY THE APPLICABLE PUBLIC WORKS DIRECTOR OR HIS/HER DESIGNEE, EMERGENCY OR CORRECTIVE MAINTENANCE MAY BE PERFORMED BY THE APPLICABLE PUBLIC WORKS DEPARTMENT OR ITS CONTRACTOR WITH COSTS CHARGED TO SAID PROPERTY OWNERS. UNPAID COSTS SHALL BE ASSESSED TO AND IMPOSED AS A LIEN ON THE LAND. THE APPLICABLE PUBLIC WORKS DEPARTMENT STAFF AND THEIR CONTRACTORS SHALL HAVE THE RIGHT TO ENTER UPON THE SME FOR PURPOSES OF PERIODIC OR SPECIAL INSPECTION AND/OR CORRECTIVE MEASURES.
15. S.M.E. ACCESS EASEMENTS ARE DESIGNATED FOR USE OF THE APPLICABLE PUBLIC WORKS DEPARTMENT STAFF AND THEIR CONTRACTORS TO ACCESS SME EASEMENTS.

LEGAL DESCRIPTION

A TRACT OF LAND IN THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 12 SOUTH, RANGE 15 EAST OF THE SIXTH PRINCIPAL MERIDIAN, IN SHAWNEE COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID EAST HALF OF THE SOUTHWEST QUARTER; THENCE ON AN ASSUMED AZIMUTH OF 179 DEGREES 58 MINUTES 50 SECONDS, 1359.42 FEET ALONG THE EAST LINE OF SAID EAST HALF TO THE POINT OF BEGINNING; THENCE 179 DEGREES 58 MINUTES 50 SECONDS, 894.93 FEET ALONG SAID EAST LINE TO THE NORTHEAST CORNER OF MISTY HARBOR ESTATES NO. 4, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE 269 DEGREES 57 MINUTES 54 SECONDS, 669.05 FEET ALONG THE NORTH LINE OF SAID MISTY HARBOR ESTATES NO. 4 TO THE EAST LINE OF MISTY HARBOR ESTATES NO. 3, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE ALONG THE BOUNDARY OF SAID MISTY HARBOR ESTATES NO. 3 THE FOLLOWING SIX COURSES: 359 DEGREES 57 MINUTES 54 SECONDS, 320.00 FEET; THENCE 89 DEGREES 57 MINUTES 54 SECONDS, 150.00 FEET; THENCE 353 DEGREES 51 MINUTES 26 SECONDS, 241.37 FEET; THENCE 269 DEGREES 57 MINUTES 54 SECONDS, 261.69 FEET; THENCE NORTHERLY, 39.52 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 297.20 FEET, WITH A CHORD WHICH BEARS 356 DEGREES 09 MINUTES 24 SECONDS, 39.49 FEET; THENCE 269 DEGREES 57 MINUTES 54 SECONDS, 190.00 FEET TO THE EAST LINE OF MISTY HARBOR ESTATES, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE 359 DEGREES 57 MINUTES 54 SECONDS, 160.00 FEET ALONG SAID EAST LINE TO THE NORTH LINE OF SAID MISTY HARBOR ESTATES; THENCE 269 DEGREES 57 MINUTES 54 SECONDS, 30.00 FEET ALONG SAID NORTH LINE TO THE SOUTHEAST CORNER OF MISTY HARBOR ESTATES NO. 2, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE 359 DEGREES 57 MINUTES 54 SECONDS, 130.63 FEET ALONG THE EAST LINE OF SAID MISTY HARBOR ESTATES NO. 2; THENCE 89 DEGREES 57 MINUTES 54 SECONDS, 580.41 FEET; THENCE NORTHERLY, 5.01 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 500.00 FEET, WITH A CHORD WHICH BEARS 357 DEGREES 55 MINUTES 01 SECONDS, 5.01 FEET; THENCE 89 DEGREES 58 MINUTES 50 SECONDS, 449.05 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 15.39 ACRES, MORE OR LESS.

SURVEYOR CERTIFICATE:

I HEREBY CERTIFY THE DETAILS OF THIS PLAT TO BE CORRECT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT ALL BOUNDARY CORNERS OF THIS SUBDIVISION HAVE BEEN MONUMENTED, ACCORDING TO KANSAS STATE STATUTE, THIS 30TH DAY OF APRIL, 2014.

ROBERT J. BORSICK LS #1180
BARTLETT & WEST

REVIEWED BY THE COUNTY SURVEYOR THIS _____ DAY OF _____
20____, IN ACCORDANCE WITH KSA CHAPTER 58, ARTICLE 20.

DEBORAH J. THOMAS, LS #1461
COUNTY SURVEYOR

DEDICATION:

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNER(S) OF THE DESCRIBED TRACT OF LAND HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS AND BLOCKS AND PUBLIC WAYS, (STREETS AND ROADS). THE PUBLIC WAYS NOT HERETOFORE DEDICATED ARE DEDICATED TO THE PUBLIC. THE UTILITY EASEMENTS SHOWN HEREON ARE HEREBY DEDICATED FOR USE BY PUBLIC UTILITIES TO LOCATE, CONSTRUCT AND MAINTAIN, OR AUTHORIZE THE LOCATION, CONSTRUCTION, MAINTENANCE AND USE OF CONDUITS FOR ALL OR ANY PURPOSE INCLUDING WATER, GAS, SEWER MAINS, POLES AND WIRES OR ANY OR ALL OF THEM OVER, UNDER AND ALONG STRIPS MARKED "UE". UTILITY EASEMENTS INCLUDE A 12-FOOT TEMPORARY CONSTRUCTION EASEMENT ADJACENT TO ALL UTILITY EASEMENTS. SAID CONSTRUCTION EASEMENTS ARE AUTOMATICALLY NULL AND VOID FOLLOWING INITIAL INSTALLATION OF UTILITIES WITHIN SAID UTILITY EASEMENTS AND SHALL NOT REQUIRE ANY ACTION BY THE GOVERNING BODY TO VACATE, REMOVE OR OTHERWISE ELIMINATE. FURTHERMORE, INITIAL UTILITY CONSTRUCTION SHALL BE CONSIDERED COMPLETE ON ANY LOT ON WHICH THERE IS AN OCCUPIED STRUCTURE.

NOTICE: IN THE EVENT THERE ARE OTHER OWNER(S) OR THOSE HOLDING ANY PROPRIETARY INTEREST IN ANY LAND CONTAINED IN THIS SUBDIVISION WHOM DO NOT APPEAR AND DULY ACKNOWLEDGE THIS PLAT PRIOR TO THE TIME OF RECORDING, THE PLAT SHALL BE NULL AND VOID.

IN TESTIMONY WHEREOF: THE OWNER(S), F & L ENTERPRISES, INC., A KANSAS CORPORATION BY CHRISTINA K. LEIFRIED, PRESIDENT, HAS CAUSED THESE PRESENTS TO BE SIGNED THIS _____ DAY OF _____, 20____.

FLOYD MCMILLIN, PRESIDENT,
F & L ENTERPRISES, INC.

STATE OF KANSAS, COUNTY OF SHAWNEE, SS:

BE IT REMEMBERED THAT ON THIS _____ DAY OF _____, 20____, BEFORE ME A NOTARY PUBLIC, IN AND FOR THE COUNTY AND STATE AFORESAID, CAME CHRISTINA K. LEIFRIED, PRESIDENT, OF F & L ENTERPRISES, INC., WHO IS PERSONALLY KNOWN TO ME TO BE THE SAME PERSON(S) WHO EXECUTED THE WITHIN INSTRUMENT OF WRITING, AND SUCH PERSON(S) DULY ACKNOWLEDGED THE EXECUTION OF THE SAME.

IN TESTIMONY WHEREOF: I HAVE HEREUNTO SET MY HAND, AND AFFIXED MY SEAL THE DAY AND YEAR LAST WRITTEN ABOVE.

NOTARY PUBLIC MY COMMISSION EXPIRES _____

CERTIFICATE OF APPROVALS:

APPROVED BY THE TOPEKA PLANNING COMMISSION THIS _____ DAY OF _____ 20____.

SCOTT GALES BILL FIANDER
PLANNING COMMISSION CHAIRMAN PLANNING COMMISSION SECRETARY

THIS SUBDIVISION HAS BEEN PRESENTED TO THE CITY COUNCIL, CITY

OF TOPEKA, KANSAS, ON THE _____ DAY OF _____, 20____ FOR ACCEPTANCE OF LAND TO BE DEDICATED FOR PUBLIC PURPOSES. THE CITY COUNCIL HEREBY ACCEPTS THE LAND FOR PUBLIC PURPOSES.

LARRY WOLGAST, MAYOR BRENDA YOUNGER, CITY CLERK

ENTERED ON THE TRANSFER RECORD OF SHAWNEE COUNTY, KANSAS THIS

_____ DAY OF _____, 20____

CYNTHIA A. BECK, COUNTY CLERK

FILED FOR RECORD IN THE OFFICE OF THE SHAWNEE COUNTY REGISTER OF DEEDS THIS

____ DAY OF _____, 20____ AT _____ O'CLOCK.

REBECCA J. NIOCE, REGISTER OF DEEDS

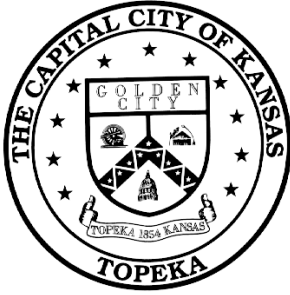
BARTLETT & WEST
1800 SW EXECUTIVE DRIVE - TOPEKA, KS 66615-8880
PHONE 781.947.3388 - FAX 781.947.9378
WWW.BARTLETTWEST.COM

A FINAL PLAT FOR:

MISTY HARBOR NO. 5
TOPEKA, SHAWNEE COUNTY, KANSAS

DESIGNED BY:	ACS
DRAWN BY:	RCP
APPROVED BY:	RJB
DESIGN PROJ:	13507.500
CONST PROJ:	
SCALE:	AS SHOWN
DATE:	MAY 2014
DRAWING NO:	
SHEET NO:	2 of 2

Discussion Item #1
Downtown Zoning D-1 Conversion



CITY OF TOPEKA

PLANNING DEPARTMENT
620 SE Madison Street, Unit 11
Topeka, Kansas 66607-1118
Tel.: (785) 368-3728
Fax: (785) 368-2535

MEMORANDUM

To: Topeka Planning Commission

From: Dan Warner, AICP, Comprehensive Planning Manager

Re: Downtown Zoning D-1 Conversion

Date: November 21, 2016

In recent years Downtown has seen increased investment and greater overall interest in its historic character. The City of Topeka invested \$5 million, which was matched with more than \$2 million of private investment, to upgrade the streetscape and utility infrastructure along Kansas Avenue.

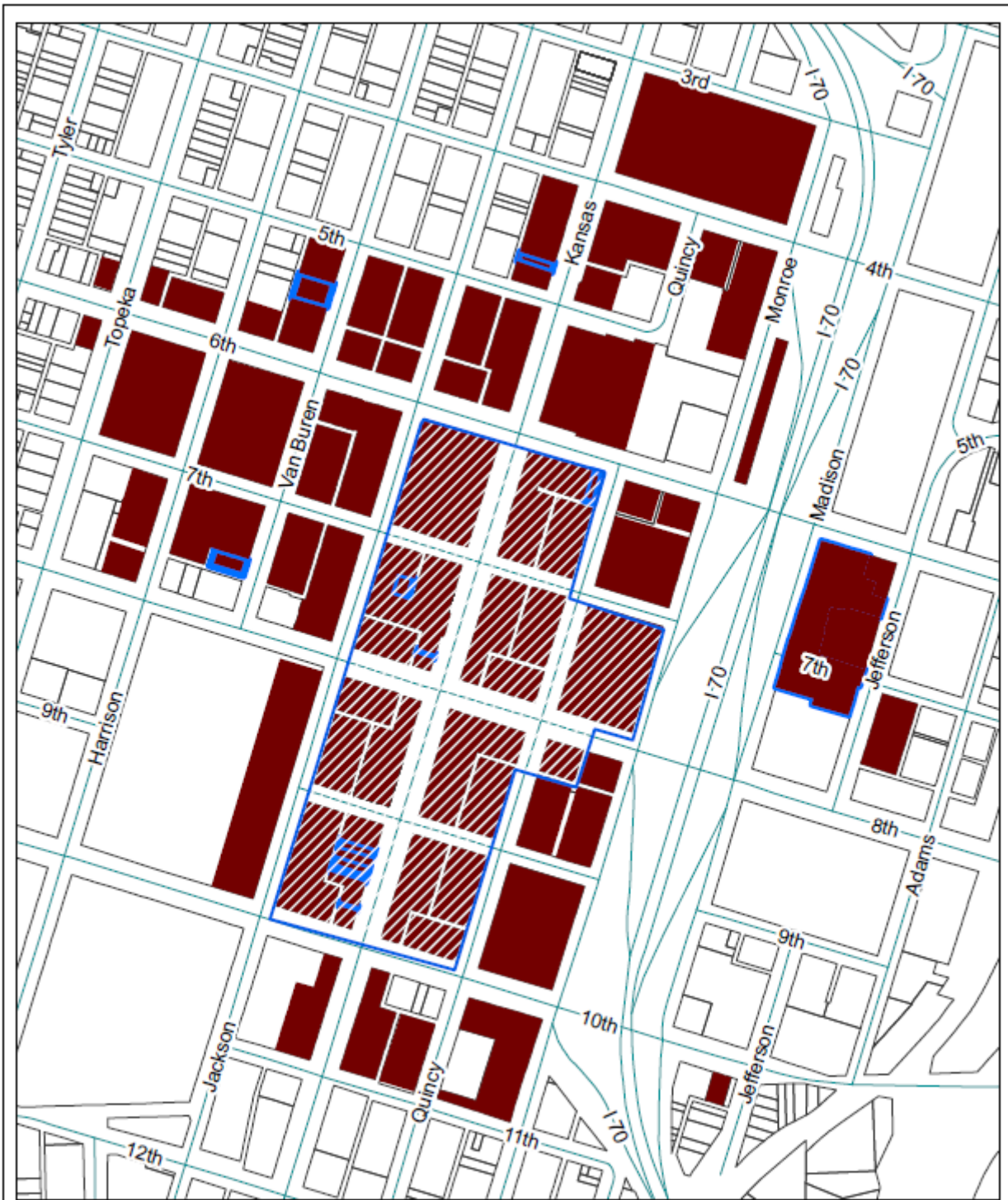
Additionally, two historic districts were added to the Register of Historic Kansas Places on May 10, 2015 and design guidelines were written and approved for the two historic districts in 2016.

The current C-5 downtown zoning (map on 2nd page) does not protect mixed use or urban design character. The D-1 zoning does and further assures integrity of the historic districts. There are three components to the D-1 District:

- use matrix,
- design guidelines, and
- signs.



We would like to present, review and discuss each of these components with the Planning Commission at this time. The intention is to bring back this item for a public hearing at the January 23, 2017 meeting.

Outreach efforts to date include meeting regularly with a group of design professionals in the summer of 2015 to review the design guidelines. This item was presented to the Topeka Landmarks Commission for review and comment on November 10, 2016. In addition, a neighborhood information meeting was held with C-5 property owners, Downtown Topeka, Inc., and other stakeholders on November 14, 2016.




 Topeka Planning Department

Downtown Zoning Map ("C-5")

	S. KS. Ave Historic District
	"C-5" District

Residential

		Approval Levels ● = Allowed Use S = Allowed per Special Use Requirements under Chapter 18.225 S/C = If unable to meet Special Use Requirements, may apply for CUP. C = Conditional Use Permit (CUP) approved by Governing Body																										
# = See Definition in Chapter 18.55 Topeka Municipal Code		See Design Standards for "X" & "D" Districts																										
Use	Description	R-1/R-2/R-3 Single Family Dwelling	R-4 Manufactured Homes	M-1 Two Family Dwelling	M-1a Limited Multiple Family Dwelling	M-2 Multiple Family Dwelling	M-3 Multiple Family Dwelling	O&I-1 - Office And Institutional	O&I-2 - Office And Institutional	O&I-3 - Office And Institutional	C-1 Commercial	C-2 Commercial	C-3 Commercial	C-4 Commercial	C-5 Commercial	I-1 Light Industrial	I-2 Heavy Industrial	U-1 University	MS-1 Medical Service	X-1 Mixed Use	X-2 Mixed Use	X-3 Mixed Use	D-1 Downtown Mixed Use	D-2 Downtown Mixed Use	D-3 Downtown Mixed Use	RR-1 Residential Reserve	OS-1 Open Space	
Residential		Districts																										
Assisted Living Facility #	has individual living units where at least 6 persons receive	C	C	C	C	●	●	●	●	●	-	-	-	-	-	-	-	-	●	C	C	C	●	S	C	-	C	-
Bed & Breakfast Home #	owner-occupied home with up to 4 guest rooms	C	-	C	C	S	S	-	-	-	-	-	-	-	-	-	-	-	●	●	●	●	●	●	●	●	●	-
Bed & Breakfast Inn #	single-family dwelling for up to 10 guests	C	-	C	C	S/C	S/C	C	C	C	●	●	●	●	●	●	●	●	-	●	●	●	●	●	●	●	●	-
Boarding House #	dwelling where lodging, with or without food, for 3 - 20 persons is provided	-	-	-	-	C	●	-	-	-	-	-	-	-	-	-	-	-	●	C	C	C	●	●	●	●	●	-
Caretaker's Residence		-	-	-	-	-	-	-	-	-	-	-	●	●	-	●	●	-	-	-	-	-	-	-	-	-	-	-
Community Living Facility, Type I #	dwelling operation for short-term residential care for improving living skills	-	-	-	-	-	C	-	●	●	-	●	●	●	●	-	-	-	●	-	-	-	●	●	-	-	-	-
Community Living Facility, Type II #	dwelling operation for residential care providing an intermediate and primary treatment setting	-	-	-	-	-	-	-	C	●	-	●	●	●	●	-	-	-	●	-	-	-	●	●	-	-	-	-
Correctional Placement Residence or Facility General #	residential/rehabilitation facility occupied by more than 15 individuals	-	-	-	-	-	C	-	C	C	-	-	C	C	-	C	C	-	C	-	-	-	●	●	-	-	-	-
Correctional Placement Residence or Facility Limited #	residential/rehabilitation facility occupied by 3 to 15 individuals	-	-	-	-	-	C	C	C	C	-	-	-	-	-	-	-	-	C	-	C	-	●	●	-	-	-	-
Crisis Center, Type I #	may include meals and merchandise to residents	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	-	C	-	●	C	-	-	-
Crisis Center, Type II #	facility used for immediate human social service functions including meals, merchandise or shelter	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	-	C	-	●	C	-	-	-
Dwelling, Detached Single-Family #		●	-	●	●	●	●	-	-	-	-	-	-	-	-	-	-	-	●	●	●	●	●	●	●	●	●	●
Dwelling, Attached Single-Family #		-	-	●	●	●	●	-	-	-	-	-	-	-	-	-	-	-	●	●	●	●	●	●	●	●	●	-
Dwelling, Two-Family # (Duplex)		-	-	●	●	●	●	-	-	-	-	-	-	-	-	-	-	-	●	●	●	●	●	●	●	●	●	-
Dwelling, Three/Four-Family	includes 3-4 unit row or town houses #	-	-	●	●	●	●	-	-	-	-	-	-	-	-	-	-	-	●	●	●	●	●	●	●	●	●	-
Dwelling, Multiple-Family #	structure with at least 5 units	-	-	-	-	●	●	-	-	-	-	-	-	-	-	-	-	-	●	C	C	●	●	●	●	●	●	-
Dwelling Units Above Ground Floor or Basement	other than medical care & community living facility	-	-	-	-	-	-	●	●	●	●	●	●	●	●	-	-	-	●	●	●	●	●	●	●	●	●	-
Dwelling Units on main floor	subordinate to principal non-residential uses	-	-	-	-	-	-	S	S	S	S	S	S	S	S	-	-	-	S	S	S	S	S	S	S	S	S	-
Group Home #	licensed dwelling for up to 8 with disability & 1 or 2 staff	●	●	●	●	●	●	-	-	-	-	-	-	-	-	-	-	-	●	●	C	C	●	●	●	●	●	-
Group Residence, General #	dwelling occupied by 9 to 15 persons and at least 8 with a disability	-	-	-	-	C	C	-	C	-	-	-	-	-	-	-	-	-	●	-	-	-	●	●	-	-	C	-
Group Residence, Limited #	dwelling occupied by up to 10 persons, up to 8 with a disability, and up to 2 staff residents	C	C	C	C	●	●	C	C	-	-	-	-	-	-	-	-	-	●	C	-	-	●	●	-	-	C	-
Home Care, type I #	nonsecure dwelling with residential/nursing care for up to 8 care receivers	●	●	●	●	●	●	-	-	-	-	-	-	-	-	-	-	-	●	●	C	C	●	●	●	●	●	-
Home Care, type II #	nonsecure dwelling with residential/nursing care for up to 12 care receivers	C	C	C	C	●	●	-	-	-	-	-	-	-	-	-	-	-	●	C	C	C	●	●	●	●	●	-
Management/Leasing Facilities	for managing an onsite multi-family community Refer to IMC 18.225	-	-	S/C	S/C	S/C	S/C	-	-	-	-	-	-	-	-	-	-	-	S/C	●	●	●	S/C	S/C	S/C	S/C	-	-
Medical Care Facility, type I #	dwelling for the personal nursing care & treatment for up to 2 persons	●	●	●	●	●	●	-	-	-	-	-	-	-	-	-	-	-	●	-	-	-	●	●	-	-	●	-
Medical Care Facility, type II #	dwelling for the personal nursing care & treatment for more than 3 persons	-	-	-	-	C	C	C	●	●	-	●	●	●	●	●	●	-	●	-	-	-	●	●	-	-	-	-
Mobile Home #, Manufactured Home #	residential structure manufactured off-site excluding "residential- design manufactured home"	-	S	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	●	-	-	-	-

		Approval Levels ● = Allowed Use S = Allowed per Special Use Requirements under Chapter 18.225 S/C = If unable to meet Special Use Requirements, may apply for CUP. C = Conditional Use Permit (CUP) approved by Governing Body																										
# = See Definition in Chapter 18.55 Topeka Municipal Code		See Design Standards for "X" & "D" Districts																										
Use	Description	R-1/R-2/R-3 Single Family Dwelling	R-4 Manufactured Homes	M-1 Two Family Dwelling	M-1a Limited Multiple Family Dwelling	M-2 Multiple Family Dwelling	M-3 Multiple Family Dwelling	O&I-1 - Office And Institutional	O&I-2 - Office And Institutional	O&I-3 - Office And Institutional	C-1 Commercial	C-2 Commercial	C-3 Commercial	C-4 Commercial	C-5 Commercial	I-1 Light Industrial	I-2 Heavy Industrial	U-1 University	MS-1 Medical Service	X-1 Mixed Use	X-2 Mixed Use	X-3 Mixed Use	D-1 Downtown Mixed Use	D-2 Downtown Mixed Use	D-3 Downtown Mixed Use	RR-1 Residential Reserve	OS-1 Open Space	
Residential		Districts																										
Residential-Design Manufactured Home #	At least 22' wide on a permanent foundation, pitched roof, and siding/roofing materials similar to site built homes except in R-4.	●	●	●	●	●	●	-	-	-	-	-	-	-	-	-	-	-	●	●	●	●	●	●	●	●	-	
Residential Care Facility, Type I #	nonsecure dwelling in which residential care is provided for children and/or adults on 24-hr basis, up to 4 persons	●	●	●	●	●	●	-	-	-	-	-	-	-	-	-	-	-	●	●	C	C	●	●	C	-	●	-
Residential Care Facility, Type II #	nonsecure dwelling in which residential care is provided for children and/or adults on 24-hr basis, up to 10 persons	●	●	●	●	●	●	-	-	-	-	-	-	-	-	-	-	-	●	C	C	C	●	●	C	-	●	-
Residential Care Facility, Type III #	nonsecure dwelling in which residential care is provided to children and/or adults on a 24-hour basis	-	-	-	-	C	●	-	-	-	-	-	-	-	-	-	-	-	●	-	-	-	-	-	-	-	-	-
Student or Faculty Housing		-	-	-	-	●	●	-	-	-	-	-	-	-	-	-	-	●	●	-	-	-	-	●	●	-	-	-

		Approval Levels ● = Allowed Use S = Allowed per Special Use Requirements under Chapter 18.225 S/C = If unable to meet Special Use Requirements, may apply for CUP. C = Conditional Use Permit (CUP) approved by Governing Body																										
# = See Definition in Chapter 18.55 Topeka Municipal Code		See Design Standards for "X" & "D" Districts																										
Use	Description	R-1/R-2/R-3 Single Family Dwelling	R-4 Manufactured Homes	M-1 Two Family Dwelling	M-1a Limited Multiple Family Dwelling	M-2 Multiple Family Dwelling	M-3 Multiple Family Dwelling	O&I-1 - Office And Institutional	O&I-2 - Office And Institutional	O&I-3 - Office And Institutional	C-1 Commercial	C-2 Commercial	C-3 Commercial	C-4 Commercial	C-5 Commercial	I-1 Light Industrial	I-2 Heavy Industrial	U-1 University	MS-1 Medical Service	X-1 Mixed Use	X-2 Mixed Use	X-3 Mixed Use	D-1 Downtown Mixed Use	D-2 Downtown Mixed Use	D-3 Downtown Mixed Use	RR-1 Residential Reserve	OS-1 Open Space	
Commercial/Office																												
Animal Care and Services type I#	for common household pets in an enclosed building	-	-	-	-	-	-	S	S	S	-	S	S	●	S	●	●	-	-	●	C	C	●	S	C	C	C	-
Animal Care and Services type II#	services within an enclosed building	-	-	-	-	-	-	-	-	-	-	-	-	●	-	●	●	-	-	-	-	-	-	-	-	-	C	-
Artisan Manufacturing #	Refer to TMC18.225	-	-	-	-	-	-	-	-	-	C	C	C	S	●	●	●	-	-	S	S	S	●	S	C	S	-	-
Auction House		-	-	-	-	-	-	-	-	-	-	-	-	●	●	●	●	-	-	-	-	-	-	-	-	-	-	-
Automobile or Vehicle Carwash #		-	-	-	-	-	-	-	-	-	-	S	S	S	S	●	●	-	-	-	-	-	-	-	-	-	-	-
Automotive Rental Establishments		-	-	-	-	-	-	-	-	-	-	S	●	●	●	●	●	-	-	-	-	-	-	-	-	-	-	-
Auto Service Station, type I #	convenience store with gas sales	-	-	-	-	-	-	-	-	-	C	S	S	S	S	●	●	-	-	●	●	●	●	S	C	●	-	-
Auto Service Station, type II #	excludes drive-train work	-	-	-	-	-	-	-	-	-	-	S	S	S	S	●	●	-	-	C	●	●	●	●	S	C	●	-
Auto Service Station, type III #	includes drive-train work	-	-	-	-	-	-	-	-	-	-	C	C	S	S	●	●	-	-	C	C	-	●	C	-	C	-	-
Automobile Sales & Service	excludes heavy duty vehicles and type III auto services	-	-	-	-	-	-	-	-	-	-	S	S	S	S	●	●	-	-	C	S	-	-	-	-	-	-	-
Automobile, Boat, Truck, Heavy & Ag Equipment, Sales/Services	includes heavy-duty trucks, rec. vehicles, trailers and type III service	-	-	-	-	-	-	-	-	-	-	-	-	S	-	●	●	-	-	-	-	-	-	-	-	-	-	-
Automobile or Vehicle Tow Lot and Body Shop	not including wrecking yards or long-term storage of disabled vehicles	-	-	-	-	-	-	-	-	-	-	-	-	S	-	●	●	-	-	-	-	-	-	-	-	-	-	-
Bakery (Commercial)	including wholesale distribution	-	-	-	-	-	-	-	-	-	-	-	-	●	-	●	●	-	-	●	-	-	-	-	-	-	-	-
Bank/Financial Institution	Does not include drive in/drive throughs	-	-	-	-	-	-	●	●	●	●	●	●	●	●	●	●	-	-	●	●	●	●	●	●	●	●	-
Bars and Taverns	includes allowing a microbrewery as an accessory use.	-	-	-	-	-	-	-	-	-	-	G	G	G	G	●	●	-	-	G	G	●	●	●	G	●	-	-
Billboard/Panel Poster Sign # (See Section 18.25.110 TMC)	off-premise advertising signs	-	-	-	-	-	-	-	-	-	-	-	●	●	●	●	●	-	-	-	-	-	-	G	C	-	C	C
Billboard, Modified Legal Non-Conforming Billboards	relocation, remodeling or rebuilding of legal non-conforming billboards	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Body Art Service/ Tattooing, Body-Piercing	excludes ear-piercing only	-	-	-	-	-	-	-	-	-	-	●	●	●	●	●	●	-	-	●	●	●	●	●	●	●	●	-
Brew Pub #	includes a microbrewery as an accessory use. Microbrewery limited to 5000 barrels per year (155,000 gallons).	-	-	-	-	-	-	-	-	-	-	●	●	●	●	●	●	-	-	●	●	●	●	●	●	●	●	-
Building, Construction, & Mechanical Contractor Office	showroom, shop & sales including plumbing, heating, air, electrical, etc.	-	-	-	-	-	-	-	-	-	-	-	-	●	●	●	●	-	-	●	●	●	●	●	●	●	●	-
Catering		-	-	-	-	-	-	-	-	-	-	●	●	●	●	●	●	-	-	●	●	●	●	●	●	●	●	-
Check cashing/pay-day loans/title loans		-	-	-	-	-	-	-	-	-	-	●	●	●	●	●	●	-	-	●	●	●	●	●	●	●	●	-
Drinking Establishment #	includes allowing a microbrewery as an accessory use. Microbrewery limited to 5000 barrels per year 155,000 gallons.	-	-	-	-	-	-	-	-	-	-	C	C	●	G	●	●	-	-	C	C	●	●	●	●	●	●	-
Drive through establishments/facilities	Refer to TMC18.225	-	-	-	-	-	-	S	S	S	S	S	S	S	S	S	S	-	-	S	S	S	S	S	S	S	S	-
Funeral Home, Mortuary # without Crematorium	Includes the display and sale of related products	-	-	-	-	-	-	●	●	●	-	●	●	●	●	●	●	-	-	●	●	-	●	●	C	-	-	
Funeral Home, Mortuary # with Crematorium	Includes the display and sale of related products	-	-	-	-	-	-	-	C	●	-	●	●	●	●	●	●	-	-	-	-	-	●	●	-	-	-	-
Grave Monuments & Markers	includes display but not stone engraving or cutting.	-	-	-	-	-	-	-	-	-	-	●	●	●	●	●	●	-	-	-	-	-	-	●	●	●	●	-
Gun Ranges, Indoor		-	-	-	-	-	-	-	-	-	-	-	-	C	-	S	S	-	-	-	-	-	-	-	-	-	-	-
Health Services #, Clinic #, Health Care Facility #	May include a pharmacy as part of the facility	-	-	-	-	-	-	-	●	●	-	●	●	●	●	●	●	-	-	●	●	●	●	●	●	●	●	-
Home Improvement & Building Supply	outdoor display, storage Retail merchandise, outdoor display limited to only C-4 & I see TMC18.225.	-	-	-	-	-	-	-	-	-	-	●	●	●	●	●	●	-	-	●	●	●	●	●	●	●	●	-
Labor Pools #		-	-	-	-	-	-	-	-	-	-	●	●	●	●	●	●	-	-	-	-	-	-	-	-	-	-	-
Hospital #	institution providing inpatient health services, medical or surgical care, and related facilities	-	-	-	-	-	-	-	C	●	-	●	●	●	●	●	●	-	-	-	-	-	-	●	●	-	-	-
Hotel #, Motel #	commercial establishment providing sleeping rooms for overnight guests	-	-	-	-	-	-	-	-	-	-	●	●	●	●	●	●	-	-	-	-	C	C	●	●	C	C	-

Use		Description	Approval Levels																										
			● = Allowed Use S = Allowed per Special Use Requirements under Chapter 18.225 S/C = If unable to meet Special Use Requirements, may apply for CUP. C = Conditional Use Permit (CUP) approved by Governing Body																										
# = See Definition in Chapter 18.55 Topeka Municipal Code		See Design Standards for "X" & "D" Districts																											
			R-1/R-2/R-3 Single Family Dwelling	R-4 Manufactured Homes	M-1 Two Family Dwelling	M-1a Limited Multiple Family Dwelling	M-2 Multiple Family Dwelling	M-3 Multiple Family Dwelling	O&I-1 - Office And Institutional	O&I-2 - Office And Institutional	O&I-3 - Office And Institutional	C-1 Commercial	C-2 Commercial	C-3 Commercial	C-4 Commercial	C-5 Commercial	I-1 Light Industrial	I-2 Heavy Industrial	U-1 University	MS-1 Medical Service	X-1 Mixed Use	X-2 Mixed Use	X-3 Mixed Use	D-1 Downtown Mixed Use	D-2 Downtown Mixed Use	D-3 Downtown Mixed Use	RR-1 Residential Reserve	OS-1 Open Space	
			Districts																										
Commercial/Office																													
Lawn/Garden Centers	landscape materials, lawn & garden equipment and supplies		●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Liquor Sales, Packaged Goods			●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Manufactured Housing & Accessory Structure Sales			●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Medical Equipment	Hearing aids, eyeglasses, prosthesis stores, etc.		●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Mobile Retail Vendors #	Refer to TMC 18.225 mobile retail vendors		S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Office #, Professional Office #	includes medical offices		●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Oil/Gas Well Drilling			●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Parking, Surface Lot - As a stand alone Principal Use	temporary storage of vehicles as a principal use		●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Parking, Surface Lot, in association with a Principal Use.	temporary storage of vehicles as in association with a principal use		C	C	C	C	S/C	S/C	S/C	S/C	S/C	S/C	S/C	●	●	●	●	●	●	●	C	C	C	C	C	C	C	C	C
Parking Garage, (Multi-Level)	temporary storage of vehicles as a principal use		●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Patio/Garden, Hardware			●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Pawn Shops/Second Hand Shops	For outdoor display, see Retail Merchandise Outdoor Display		●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Personal Services #	including beauty & barber shops, laundromats, dry-cleaning, tailors, tanning salons, etc.		●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Pet Shops			●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Pharmacy # & Drugstores	retail sales of drugs, prosthesis, rehabilitation equipment & medicine. Does not include drive throughs		●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Printing/ Copy Center			●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Radio & TV Broadcasting/ Recording Studio			●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Rental Establishment	general equipment and domestic items		●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Restaurant, Family Dining, carry-out # (Delicatessen)	limited to 50 seats and no drive-throughs. in C-1.		●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Restaurant, drive-in/drive through #	Refer to TMC 18.225 for drive throughs		●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Restaurant, fast-food #			●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Retail Merchandise, Outdoor Display	See TMC 18.225 Retail Merchandise outdoor display, no truck bodies or earge containers used for storage in any district except in I-1 and I-2		●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Retail Sales/Service #	sale and repair of items having a low intensity		●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Gun Sales and Service			●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Theaters #	enclosed structure used for performances for admitted audiences		●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Tobacco Shop	Includes Tobacco & Smoke Shop/Hookah Houses/E cigarettes Shop/cigar shops		●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Truck Stop #			●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●

		Approval Levels																												
		<ul style="list-style-type: none"> ● = Allowed Use S = Allowed per Special Use Requirements under Chapter 18.225 S/C = If unable to meet Special Use Requirements, may apply for CUP. C = Conditional Use Permit (CUP) approved by Governing Body 																												
# = See Definition in Chapter 18.55 Topeka Municipal Code		See Design Standards for "X" & "D" Districts																												
Use	Description	R-1/R-2/R-3 Single Family Dwelling	R-4 Manufactured Homes	M-1 Two Family Dwelling	M-1a Limited Multiple Family Dwelling	M-2 Multiple Family Dwelling	M-3 Multiple Family Dwelling	O&I-1 - Office And Institutional	O&I-2 - Office And Institutional	O&I-3 - Office And Institutional	C-1 Commercial	C-2 Commercial	C-3 Commercial	C-4 Commercial	C-5 Commercial	I-1 Light Industrial	I-2 Heavy Industrial	U-1 University	MS-1 Medical Service	X-1 Mixed Use	X-2 Mixed Use	X-3 Mixed Use	D-1 Downtown Mixed Use	D-1 Downtown Mixed Use	D-2 Downtown Mixed Use	D-3 Downtown Mixed Use	RR-1 Residential Reserve	OS-1 Open Space		
Industrial		Districts																												
Airport	including landing strips & heliports	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	-	-	-	-	C	-	
Agriculture #	agricultural activity and the production, storage, processing of agricultural products	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	●	
Agricultural Product Sales & Storage	storage & retail sales of raw food material, fertilizers, pesticides, and similar products for crop/livestock production	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	●	-	-	-	-	-	-	-	-	-	-	C	-
Automobile Wrecking and/or Salvage Yards #	Refer to TMC 5.135	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	-	-	-	-	-	-
Boiling Works		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	●	-	-	-	●	-	-	-	-	-	-	-	-
Contractor Yards		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	●	-	-	-	-	-	-	-	-	-	-	-	-
Heliport	heliport only	C	-	-	-	-	-	-	-	C	C	-	-	-	-	-	-	-	●	-	-	-	-	-	-	-	-	-	C	-
Landfill, Demolition #		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	S	-	-	-	-	-	-	-	-	-	C	-	
Landfill, Sanitary #		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	-	-	-	-	C	-	
Laundry, Commercial #; Dry- Cleaning, Dyeing		-	-	-	-	-	-	-	-	-	-	-	-	-	●	●	●	●	-	-	-	-	-	-	-	-	-	-	-	-
Machinery and Equipment Repair and Restoration		-	-	-	-	-	-	-	-	-	-	-	-	-	●	●	●	●	-	-	-	●	-	-	-	-	-	-	-	-
Manufacturing/Processing Type I #	few if any off-site impacts	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	●	-	-	-	●	-	-	-	-	-	●	-	-
Manufacturing/Processing Type II #	up to medium off-site impacts	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	●	-	-	-	C	-	-	-	-	-	C	-	-
Manufacturing/Processing Type III #	potential for significant off-site impacts	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	-	-	-	-	-	-
Microbrewery # <u>Micro- Alcohol Production#</u>	in X & D Districts limited to 5,000-barrels per year. Taprooms allowed in C-5, X-3 & D-1 Refer to TMC 18.225.	-	-	-	-	-	-	-	-	-	-	-	-	-	●	●	●	●	-	-	-	S	S	G	S	S	S	-	-	
Publishing Establishments and Distribution		-	-	-	-	-	-	-	-	-	-	-	-	-	●	●	●	●	-	-	-	-	-	-	-	-	-	-	-	-
Raw Material Extraction	extraction, processing, storage, and sale of these materials	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	-	-	-	C	-	
Recycling Depot	collection, storage, & processing of recyclables	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	S	-	-	-	-	-	-	-	-	-	-	-	-
Research Lab #, Testing or Development Laboratory	facility for scientific investigation or engineering & development	-	-	-	-	-	-	-	-	●	-	●	●	●	●	●	●	-	-	C	●	C	●	●	-	-	-	-	-	-
Railroad Facilities		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	●	-	-	-	-	-	-	-	-	-	-	-	-
Self-Storage, type I #	Indoor storage with indoor access	-	-	-	-	-	-	-	-	-	-	C	S	S	-	●	●	-	-	C	S	-	-	-	-	-	-	P	-	-
Self-Storage, type II (allows boat/RVs) #	Indoor and outdoor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	●	-	-	C	-	-	-	-	-	-	-	-	-	-
Small Wind Energy System	Non-residential use only	C	C	C	C	C	C	C	C	C	C	C	C	C	C	G	C	C	C	C	C	C	C	●	C	C	C	C	C	
Storage of non-merchandise, outdoor	in C-4 and I-1 see Retail Merchandise- Outdoor Display. See 18.225 Outdoor storage of non-merchandise. No truck bodies or cargo containers used for storage except in I-1/I-2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S/C	S/C	-	-	-	C	C	-	-	-	-	-	-	-
Tower, Communication #, Transmission Tower #	ground-mounted free-standing structure transmitting or receiving tv, radio, & microwave frequencies Refer to TMC 18.20	C	C	C	C	C	C	C	C	C	C	C	S	S	S	S	C	C	-	-	-	-	●	C	C	C	C	-	-	
Towers, Receiving and Commercial Broadcasting	For radio and television Refer to TMC 18.20	-	-	-	-	-	-	-	C	C	-	-	-	C	-	C	-	-	C	-	-	-	-	-	-	-	-	-	-	-
Truck/Freight/Bus Terminal	In C-5 bus terminal only	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	●	●	-	-	-	-	-	-	-	-	-	-	-	-
Bus Terminal		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	●	-	-	-	-	-	-	-	-	-	-	-
Warehouse #, Storage #, Distribution Facilities;	structure for storing goods, wares, and merchandise. For accessory truck bodies/cargo containers refer to TMC 18.210.20 Accessory Uses.	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	●	-	-	-	●	C	-	-	-	-	-	-	-
Welding, Tinsmithing & Machine Shop		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	●	-	-	-	●	-	-	-	-	-	-	-	-

		Approval Levels ● = Allowed Use S = Allowed per Special Use Requirements under Chapter 18.225 S/C = If unable to meet Special Use Requirements, may apply for CUP. C = Conditional Use Permit (CUP) approved by Governing Body																										
# = See Definition in Chapter 18.55 Topeka Municipal Code		See Design Standards for "X" & "D" Districts																										
Use	Description	R-1/R-2/R-3 Single Family Dwelling	R-4 Manufactured Homes	M-1 Two Family Dwelling	M-1a Limited Multiple Family Dwelling	M-2 Multiple Family Dwelling	M-3 Multiple Family Dwelling	O&I-1 - Office And Institutional	O&I-2 - Office And Institutional	O&I-3 - Office And Institutional	C-1 Commercial	C-2 Commercial	C-3 Commercial	C-4 Commercial	C-5 Commercial	I-1 Light Industrial	I-2 Heavy Industrial	U-1 University	MS-1 Medical Service	X-1 Mixed Use	X-2 Mixed Use	X-3 Mixed Use	D-1 Downtown Mixed Use	D-2 Downtown Mixed Use	D-3 Downtown Mixed Use	RR-1 Residential Reserve	OS-1 Open Space	
Civic, Cultural and Recreational																												
Art and Portrait Galleries	Framing and sales of pictures and frames must be subordinate to the principal use	-	-	-	-	-	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Artist Studios	Framing and sales of pictures and frames must be subordinate to the principal use	-	-	-	-	-	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Cemetery #	See standards in Chapter 18.225 TMC	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	C
Class "A" & "B" Clubs #	as licensed by state alcohol beverage control board (e.g. ELKS)	-	-	-	-	-	-	-	-	-	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Club or Lodge, Private # (excludes Class "A" & "B" Clubs)	organization for social, educational, or recreational purposes. Not licensed by the State.	-	-	-	-	-	-	-	-	-	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Common Open space # (within a development and for its occupants)	natural areas and passive recreational facilities only	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Community Center #	building open to the public for recreational and/or educational activities	C	C	C	C	C	C	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Cultural Facility #, Museum # Library		C	C	C	C	C	C	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Day Care Facility, Type I #	dwelling unit where care is provided for up to 12 children and/or adults	S	S	S	S	S	S	-	-	-	-	-	-	-	-	-	-	-	-	-	●	●	●	●	●	●	●	●
Day Care Facility, Type II # (Includes Child Cares and Pre- Schools)*	structure where care is provided for children and/or adults. Refer to TMC 18.225.	C	C	C	C	S	S	S	S	S	S	S	S	S	S	C	-	●	S	S	S	S	●	S	C	C	C	-
Fairgrounds		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Farmers' Market #	Conditional Uses in R & M Districts are limited to 2.5-acre or larger sites	C	C	C	C	C	C	C	C	C	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Gardens, Community Type I #	No permanent sales	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Gardens, Community Type II #	Sales/Non-Type I Standards	C	C	C	C	C	C	C	C	C	S	S	S	S	S	S	S	C	C	C	C	C	C	C	C	C	C	C
Golf Course #, Country Club #		S/C	S/C	S/C	S/C	S/C	S/C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S/C
Government Services, Type I	government administrative offices and services	C	C	C	C	C	C	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Government Services, Type II	police, fire, and ambulance stations	C	C	C	C	C	C	C	C	C	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Open Spaces #		●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Private Residential Recreational Facility (allows clubhouses; "Recreation, Indoor Type I"; and "Recreation, Outdoor Type I" uses)	located within a residential project and only for its residents and their guests	●	●	●	●	●	●	-	-	-	-	-	-	-	-	-	-	-	-	-	●	●	●	●	●	●	●	●
Park #	owned or controlled by public	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Public Utility Facilities, Type I # (See Section 18.50.100(c)(1) of Topeka Municipal Code)	non-major facilities are exempt from zoning use restrictions	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Public Utility Facilities, Type II # (See Section 18.50.100(c)(1)(i,ii,iii) of Topeka Municipal Code)	major facilities including: pump stations, towers, treatment plants, etc.	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Reception, Conference, and Assembly Facilities	For Conditional Uses Refer to TMC 18.225	C	-	C	C	C	C	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Recreation, Indoor Type I # (lower intensity recreational uses)	Indoor pools, fitness clubs, skating rinks, gyms, dancing, martial arts, etc.	-	-	-	-	-	-	C	●	●	C	●	●	●	●	●	●	●	●	●	C	C	C	●	●	●	●	●
Recreation, Indoor Type II # (higher intensity recreational uses)	pool & billiard halls, bowling alleys, arcades, indoor amusement parks, etc.	-	-	-	-	-	-	-	-	-	-	C	C	●	●	●	●	●	●	●	C	-	●	●	C	C	●	●
Recreation, Outdoor Type I # (low intensity recreational uses)	tennis, basketball & shuffle board courts, pools, golf courses, horse shoes, etc. in conjunction with a residential community	S	S	S	S	S	S	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Recreation, Outdoor Type II # (medium intensity recreation uses)	batting cages, dog parks, miniature golf, driving ranges, model airplanes airfields, riding academies, etc.	C	C	C	C	C	C	C	C	C	C	●	●	●	●	●	●	●	●	C	C	●	●	●	●	●	●	●

		Approval Levels ● = Allowed Use S = Allowed per Special Use Requirements under Chapter 18.225 S/C = If unable to meet Special Use Requirements, may apply for CUP. C = Conditional Use Permit (CUP) approved by Governing Body																										
# = See Definition in Chapter 18.55 Topeka Municipal Code		See Design Standards for "X" & "D" Districts																										
Use	Description	R-1/R-2/R-3 Single Family Dwelling	R-4 Manufactured Homes	M-1 Two Family Dwelling	M-1a Limited Multiple Family Dwelling	M-2 Multiple Family Dwelling	M-3 Multiple Family Dwelling	O&I-1 - Office And Institutional	O&I-2 - Office And Institutional	O&I-3 - Office And Institutional	C-1 Commercial	C-2 Commercial	C-3 Commercial	C-4 Commercial	C-5 Commercial	I-1 Light Industrial	I-2 Heavy Industrial	U-1 University	MS-1 Medical Service	X-1 Mixed Use	X-2 Mixed Use	X-3 Mixed Use	D-1 Downtown Mixed Use	D-2 Downtown Mixed Use	D-3 Downtown Mixed Use	RR-1 Residential Reserve	OS-1 Open Space	
Civic, Cultural and Recreational																												
Recreation, Outdoor Type III # (high intensity recreation uses)	go kart tracks, horse and auto race tracks, drag strips, amusement and motorized kiddie parks; and sport stadiums, complexes and arenas, <u>outdoor concert, music, performance, and theater venues,</u> etc.	C	-	-	-	-	-	-	-	-	-	-	-	C	-	C	C	C	-	-	●	C	●	C	●	●	C	C
Religious Assembly #	<u>.Refer to TMC 18.225</u>	S/C	S/C	S/C	S/C	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	C	C	●	C	●	●	S	-
RV Short-Term Campgrounds #	has at least 24 campsites	-	-	-	-	-	-	-	-	-	-	-	●	●	●	●	●	-	-	-	-	-	●	●	-	-	C	C
Schools #, Public or Private Educational Facility #	elementary school # and secondary school #	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	-
School, Business and Vocational School #	includes technical colleges and training academies	-	-	-	-	-	-	-	●	●	-	●	●	●	●	●	●	●	●	●	●	●	●	●	●	-	-	
Youth Camps	retreats for scouting, etc	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	C	

Density Dimensional Standards - RR, R, M Districts

Density and Dimensional Standards - All Other Districts										
Standards	Notes	Districts								
		RR1 Residential Reserve District	R1 Single Family Dwelling District	R2 Single Family Dwelling District	R3 Single Family Dwelling District	R4 Manufactured Home District	M1 Two Family Dwelling District	M1a Limited Multiple Family Dwelling District	M2 Multiple Family Dwelling District	M3 Multiple Family Dwelling District
Lot Standards										
Minimum Lot Area (sq. ft.)	New Lots [3,7,14]	20 acs	6,500	5,000	4,000	30,000	4,500	4,500	7,500	7,500
Maximum Building Coverage	% of lot area	10	45	50	50	50	50	50	60	60
Minimum Lot Width (ft.)	2-4 units per lot	300	60	40	40	40	50	50	50	50
Maximum Density	Dwelling units/acre	-	-	-	-	-	6	10	15	30
Principal Buildings										
Minimum Setbacks (ft.) [1][2]	Front [4]	30	30	25	4; 15	25	25	25	25	25
	Side [5][6]	7	7	5	0	5	5	5	5	5
	Rear	30	30	25	10	25	25	25	25	25
Maximum Height (ft.)		42	42	42	42	42	42	45	50	160
Minimum Number of Lots in District		-	-	-	-	10	-	-	-	-
Accessory Buildings (Detached)										
Minimum Setbacks (ft.) [1][2] [1 2][13]	Front [8]	30	30	25	15	25	25	25	25	25
	Side[5] [9]	3	3	3	3	3	3	3	3	3
	Rear	5	5	5	5	5	5	5	5	5
	From other buildings [10]	6	6	6	6	6	6	6	6	6
Maximum Accessory Building Coverage Ratio	% of principal building coverage	90	90	90	90	90	90	90	90	90
Maximum Height (ft.)	[1 1]	15-20	15-20	15-20	15-20	15-20	15-20	15-20	15-20	15-20
Minimum Garage Entry Setback (ft.)	front entry	20	20	20	20	20	20	20	20	20
Minimum Garage Entry Setback (ft.)	rear entry (from alley)	10	10	10	10	10	10	10	10	10
Minimum Garage Entry Setback (ft.)	side entry (from alley)	5	5	5	5	5	5	5	5	5
Maintenance Accessory Building	Maximum size (sq. ft.)	-	-	-	-	-	-	-	400	400
	Maximum #	-	-	-	-	-	-	-	1	1

Notes:

[1] If the recorded plat of subdivision provides greater setbacks, the provisions of the plat shall prevail.

[2] The side yard of a corner lot and rear yard of a double frontage lots shall conform to the minimum front yard requirements of its district.

[3] In "RR-1" District, the minimum lot size is 20 acres unless the lots meets minimum compliance with Subdivision Regulations.

Density Dimensional Standards - RR, R, M Districts

[4] in the "R-3" District - First number represents front setback when an attached garage is designed for side entry. Second number represents front setback when attached garage is designed for front entry.

[5] In "R-3" District - District allows 0' side yard setback on one side; 10' on other side with a minimum of 10' between principal buildings. Accessory buildings for a zero lot line dwelling shall not be located in the required 10-foot side yard.

[6] For single family attached dwellings in "M" Districts, a 0 ft. side yard setback is allowed along the lot line separating the two units; a 5 ft setback is required on the other lot line.

[7] In "M-1" and "M-1a" Districts, the minimum lot area of 4,500 sq. ft. is "per unit".

[8] Accessory structures shall not be located within a required front yard or beyond the front face of the principal structure, whichever is more restrictive. However, a minimum setback of 20 feet from all street rights-of-way shall be provided for roadside stands, garages and carports. If, in the judgment of the planning director, construction of a roadside stand, garage or carport is compatible with the neighborhood, in respect to availability of land for public sidewalks, right-of-way needs, and the location of structures within the block, then such construction may occur with revised minimum setback(s) as determined by the planning director.

[9] An unenclosed carport located less than 6 feet from the principal building may extend to within 3 feet of a side-yard ~~side~~ **side property line**.

[10] Setback from Principal Building. No portion of an accessory building, except for a carport, shall be located closer than six feet to the principal building or another accessory building on the same lot. However, an unenclosed breezeway may be extended between the principal structure and the accessory structure for the purpose of providing a covered walkway. In no event shall the construction of a covered walkway or a detached carport located next to another building be deemed to join the principal and accessory structures into one principal structure.

[11] Maximum Height. Accessory buildings and structures shall not exceed 15 feet when the principal building is one-story or 20 feet when the principal building is two-stories or more.

[12] Reverse Corner Lot. On a reversed corner lot in a residential district, and within 15 feet of any adjacent property to the rear in a residential district, no detached accessory building or portion thereof located in a required rear yard shall be closer to the side lot line abutting the street than a distance equal to the least depth which would be required under this division for the front yard on such adjacent property to the rear. Further, in the above instance, all such accessory buildings shall meet the minimum side yard requirements of such adjacent property which coincides with the side lot line or portion thereof of property in any residential district.

Density Dimensional Standards - OI, C Districts

Density and Dimensional Standards - All Other Districts									
		O&I1 Office & Institutional District	O&I2 Office & Institutional District	O&I3 Office & Institutional District	C1 Commercial District	C2 Commercial District	C3 Commercial District	C4 Commercial District	C5 Commercial District
Standards	Notes	Districts							
Lot Standards									
Minimum Lot Area (sq. ft.)		7,500	7,500	7,500	7,500	10,000	10,000	10,000	None
Maximum Building Coverage	% of lot area	40	50	60	40	50	60	60	100
Minimum Lot Width (ft.)		50	50	50	50	50	50	50	25
Principal Buildings									
Setbacks (ft.) [1,2,3]	Front	25	25	25	25	25	25	25	0
	Side	7	7	10	10	10	10	10	0
	Rear	25	25	25	25	25	25	25	0
Maximum Building Size (sq. ft.)	Ground floor area	7,500	20,000	-	10,000	50,000	-	-	-
Maximum Height (ft.) [5-6]		42	60	75	35	50	70	70	None
Accessory Buildings (Detached)									
Setbacks (ft.) [1,2]	Front [4]	25	25	25	25	25	25	25	0
	From other buildings	6	6	6	6	6	6	6	6
Minimum Garage Entry Setback (ft.)	rear entry (from alley)	10	10	10	10	10	10	10	10
Minimum Garage Entry Setback (ft.)	side entry (from alley)	5	5	5	5	5	5	5	5
Maximum Height (ft.) [6]		-	-	-	-	-	-	-	-
Maintenance Accessory Building	Maximum size (sq. ft.)	400	400	400	400	600	600	600	600

Notes:

[1] If the recorded plat of subdivision provides greater setbacks, the provisions of the plat shall prevail.

[2] The side yard of a corner lot and rear yard of a double frontage lots shall conform to the minimum front yard requirements of the district.

[3] During site plan review, side yard setbacks may be reduced to 0 feet where the buildings are attached along a common lot line.

[4] Accessory structures shall not be located within a required front yard or beyond the front face of the principal structure, whichever is more restrictive. However, a minimum setback of 20 feet from all street rights-of-way shall be provided for garages and carports. If, in the judgment of the planning director, construction of a garage or carport is compatible with the neighborhood, in respect to availability of land for public sidewalks, right-of-way needs, and the location of structures within the block, then such construction may occur with revised minimum setback(s) as determined by the planning director.

Density Dimensional Standards - OI, C Districts

~~[5] (i) In "C-5" District, no building hereafter erected or structurally altered shall exceed a height at the street line which is greater than the width of the street times a factor of three. An additional height of six feet may be added for each one foot the building or structure is set back from the front property line or street line. The street line shall mean the right-of-way line or property line at the front of the lot, lots or building site. On corner lots, and where the widths of the two intersecting streets are varied, the larger street width shall be used to determine the height of any building or structure.~~

~~(ii) Exception. Within the state zoning area, as defined by K.S.A. 75-3630, the height of structures and buildings shall be regulated in accordance with the following provisions: no building shall exceed a height at the street line of six stories or 75 feet, but above the height permitted at the street line three feet may be added to the height of the building for each one foot that the building or portion thereof is set back from all sides of the lot, except that the cubical contents of such building shall not exceed the cubical contents of a prism having a base equal to the area of the lot and a height equal to two times the width of the street; provided, however, that a tower with a base not to exceed 20 percent of lot area not to have any side greater than 60 feet nor to have any wall closer than 20 feet to any lot line, may be constructed without reference to the above limitations. Any applicable provisions of Chapter 18.225 TMC shall apply to buildings erected in this district.~~

~~[5] Height restrictions of Airport Overlay District may be more restrictive.~~

~~[6] Height shall not exceed the height of its principal structure.~~

Density Dimensional Standards - I, U, MS, D X Districts

Density and Dimensional Standards - All Other Districts											
Standards	Notes	I-1 Light Industrial District	I-2 Heavy Industrial District	U University District	MS-1 Medical Services District	XI Mixed Use District	X2 Mixed Use District	X3 Mixed Use District	D1 Downtown District * See #17	D2 Downtown District	D3 Downtown District
Lot Standards											
Minimum Lot Area (sq. ft.)	New lots	10,000	10,000	None	None	None	None	None	None	None	None
Maximum Density	Dwelling units/acre	—	—	—	15	12	12	29	—	—	—
Maximum Building Coverage	% of lot area	85	85	—	80	75	75	100	100	75	100
Minimum Lot Width (ft.)		50	50	—	50	50	50	25	25	50	50
Setbacks (ft.) [1,2,7,10]	Front [5]	0	0	—	25	0 - 15	0 - 25	0 - 10	0	0	0
	Side [4,7,10]	0	0	—	5;10	0 - 8	10	0	0	0	0
	Rear [4,10]	0	0	—	25	0 - 25	25	10	0	0	0
Maximum Height (ft.) [3,6,8, 16]		70	None	—	160	40	50	50	see #16	50	60
Accessory Buildings (Detached)											
Maximum Accessory Building Coverage Ratio	% of principal building coverage	—	—	—	90	90	90	90	—	—	—
Setbacks (ft.) [1,2]	Front [9,11]	—	—	—	25	0 - 15	0 - 25	0 - 10	—	—	—
	Side [10,14,15]	—	—	—	3	3	3	3	—	—	—
	Rear [10,14]	—	—	—	5	5	5	5	—	—	—
	From other buildings [12]	—	—	—	6	6	6	6	—	—	—
Minimum Garage Entry Setback (ft.)	front entry [9]	—	—	—	20	20	20	20	—	—	—
Minimum Garage Entry setback (ft.)	rear entry (from alley)	—	—	—	10	10	10	10	—	—	—
Minimum Garage Entry Setback (ft.)	side entry (from alley)	—	—	—	5	5	5	5	—	—	—
Maximum Height (ft.) [3,13]		—	—	—	15-20	15-20	15-20	15-20	—	—	—

Notes:

- [1] If the recorded plat of subdivision provides greater setbacks, the provisions of the plat shall prevail.
- [2] The side yard of a corner lot and rear yard of a double frontage lots shall conform to the minimum front yard requirements of the district.
- [3] Height restrictions of Airport Overlay District may be more restrictive.
- [4] "I" Districts: 10' rear or 7' side yard setback where that yard abuts any residential dwelling district.
- [5] "I" Districts: Where the frontage along one side of the street in that block abuts a residential district, then, the front yard requirements of the residential district shall apply.
- [6] "U" District : Minimum yard requirements and maximum height shall be in accordance with the approved Master Development Plan.
- [7] "MS-1" District: The side setbacks are 5' for buildings up to 50' in height and 10' for buildings taller than 50' in height.
- [8] "MS-1" District: Any other building or structure that is not a hospital shall not exceed a height of 100 feet; however, if located within 150 feet of the boundary of the district, it shall not exceed a height of 50 feet.
- [9] "X" Districts: Setbacks with a range are determined at the discretion of the Planning Director.

Density Dimensional Standards - I, U, MS, D X Districts

[10] "X-2" District: Side and rear yard setbacks may be reduced if not abutting residential uses, as determined at the discretion of the Planning Director.

[11] Accessory structures shall not be located within a required front yard or beyond the front face of the principal structure, whichever is more restrictive. However, a minimum setback of 20 feet from all street rights-of-way shall be provided for roadside stands, garages and carports. If, in the judgment of the planning director, construction of a roadside stand, garage or carport is compatible with the neighborhood, in respect to availability of land for public sidewalks, right-of-way needs, and the location of structures within the block, then such construction may occur with revised minimum setback(s) as determined by the planning director. If more restrictive than provided above, setbacks as set forth by plats of subdivision shall apply to any and all accessory structures.

[12] Setback from Principal Building. No portion of an accessory building, except for a carport, shall be located closer than six feet to the principal building or another accessory building on the same lot. However, an unenclosed breezeway may be extended between the principal structure and the accessory structure for the purpose of providing a covered walkway. In no event shall the construction of a covered walkway or a detached carport located next to another building be deemed to join the principal and accessory structures into one principal structure.

[13] Maximum Height. In the "MS-1", "X", and "D-2" districts accessory buildings and structures shall not exceed 15 feet when the principal building is one-story or 20 feet when the principal building is two-stories or more.

[14] The Accessory building (detached) side and rear setbacks only applies to residential uses in the "X" and "MS-1" Districts.

[15] An unenclosed carport located less than 6 feet from the principal building may extend to within 3 feet of a ~~side-yard~~ side property line

[16] (i) In "G-5" "D-1" District, no building hereafter erected or structurally altered shall exceed a height at the street line which is greater than the width of the street Right-of-Way times a factor of three. An additional height of six feet may be added for each one foot the building or structure is set back from the front property line or street line. The street line shall mean the right-of-way line or property line at the front of the lot, lots or building site. On corner lots, and where the widths of the two intersecting streets are varied, the larger street width shall be used to determine the height of any building or structure.

(ii) Exception. Within the state zoning area, as defined by K.S.A. 75-36320, the height of structures and buildings shall be regulated in accordance with the following provisions: no building shall exceed a height at the street line of six stories or 75 feet, but above the height permitted at the street line three feet may be added to the height of the building for each one foot that the building or portion thereof is set back from all sides of the lot, except that the cubical contents of such building shall not exceed the cubical contents of a prism having a base equal to the area of the lot and a height equal to two times the width of the street; provided, however, that a tower with a base not to exceed 20 percent of lot area not to have any side greater than 60 feet nor to have any wall closer than 20 feet to any lot line, may be constructed without reference to the above limitations. Any applicable provisions of Chapter 18.225 TMC shall apply to buildings erected in this district.

TMC 18.225 Specific Use Requirements changes affected by C-5 to D-1 Conversion

...

(o) Drive-up/Drive Through Facilities.

(1) In D and X Districts, the drive-up window, menu boards and all lanes needed for vehicle stacking shall be located to the rear or side of the principal building.

(2) In D and X Districts, the drive-up window facility shall be secondary and subordinate in size to the principal uses of the structure in which the drive-up facility is located.

(3) All lanes used for ingress, stacking, service, and egress shall be integrated safely and effectively with circulation and parking facilities.

(4) Ingress and egress shall be designed to minimize potential conflicts with vehicular, pedestrian, and bicycle traffic.

(5) The location and design of the drive-up facility shall minimize blank walls on street-facing exteriors of the building and disruption of existing or potential retail and other active ground floor uses.

(6) Approval of a traffic impact analysis by the city traffic engineer may be required.

(7) The principal use of the building must be permitted in the zoning district the drive through is requested.

(p) Dwelling Units on Main Floor. Dwelling units located on main floors shall meet the following requirements:

(1) The units must be subordinate in area or location to nonresidential uses on the main floor;
or

(2) The units shall be allowed in structures that were originally built for use as dwelling units, the structure has been used historically for dwelling units, or the dwelling units were converted from hospital, school, or hotel rooms.

...

(x) Micro-Alcohol Production in X-2 and X-3 and D Districts:

1) Micro-breweries are limited to 5,000 barrels per year.

- 2) Tap rooms and tasting rooms are permitted as an accessory use and should be located near the street front side of the building.
- 3) Any portion of the building that fronts a public street should have a store front facade and include windows and door openings along the street frontage.
- 4) The area of the building used for manufacturing, processing, brewing, fermenting, distilling, or storage should be above or below the ground floor or located to the rear of the building or otherwise subordinate in area and extent.

...

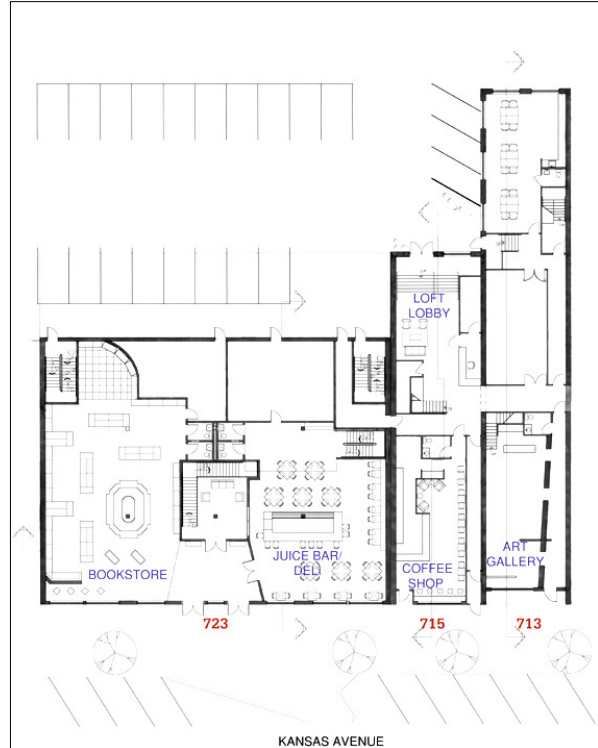
(dd) Retail Merchandise Outdoor Display. Items for sale that are displayed outside buildings, exclusive of very large items such as vehicles and construction materials, shall meet the following standards:

- (1) The display area shall not exceed 50 percent of the first floor area of the business.
- (2) Screening shall be provided between the merchandise being stored and residentially zoned properties when the merchandise is located in a side or rear yard next to residentially zoned properties. Merchandise shall not be stacked higher than the screening in this area.
- (3) The inventory of vehicles and equipment for sale, lease, or service shall not displace the minimum required number of off-street parking spaces.
- (4) In D and X Districts, retail merchandise outdoor display areas shall occur only during normal business hours. The outdoor display area shall not obstruct vehicular or pedestrian circulation and provide adequate pedestrian clearance.

DOWNTOWN TOPEKA URBAN DESIGN GUIDELINES

Purpose

Urban design is concerned with the appearance of Downtown Topeka, and the physical implications of design and planning decisions for the public realm of the City. Urban design is an effective means to coordinate how various public and private development proposals, including transportation and public infrastructure will affect the City physically. The focus of concern is on the public realm of Downtown: the public faces of buildings, public spaces, streets, sidewalks, parks and plazas that provide the outdoor public venues for many activities. The purpose of these guidelines is to provide the regulatory authority to ensure that new construction and renovation of existing structures is consistent with the established urban form of Downtown. These guidelines are to be used as criteria for the design of new public and private projects and to be utilized in the evaluation of new projects by the approving authorities. These guidelines seek to balance private property rights against the public interest of protecting the appearance and existing investments Downtown.



The design guidelines offer a vision for an approach to downtown design that can be beneficial both to developers and to the community. The concepts for downtown development encourage the highest level of design quality and creativity while emphasizing key downtown design concepts such as, but not limited to:

- Maintaining the street wall at the front property line;
- enhancing the design of street façades;
- ensuring pedestrian compatibility;
- designing public spaces at a pedestrian-scale;
- creating visual interest; and
- maintaining design integrity and compatibility with surrounding structures.

A mix of uses (including office, retail, housing, or other uses) within a given project is encouraged, whether it is a single building or a redevelopment district.

Applicability

These guidelines apply to the D-1 Zoning District with the exception of projects located within the South Kansas Avenue Commercial Historic District, which must follow the applicable design guidelines for that historic district rather than the D-1 guidelines. Within the boundaries of the D-1 Zoning District’s designated National Register Historic Districts, these guidelines are amended by separate design guidelines as adopted. Any project within the D-1 Zoning District requiring a building permit must comply with approved design guidelines.

The guidelines established herein are not intended to restrict creative solutions. The D-1 guidelines describe ways to achieve the stated purpose of the guidelines and offer flexibility in meeting the key concepts for good downtown design. Not all guidelines will or are intended to be met. The “should”, “recommended”, or “encouraged” statements offer flexibility and indicate that the city is open to design features that are equal to or better than those stated, so long as the intent is satisfied.

Compliance with the guidelines will be determined in conjunction with the review and approval of a development site plan, all in accordance with adopted City of Topeka Site Plan regulations. Submission of plans for all elevations of a proposed building is required.

Waiver/Exception

Relief from the application of certain design guidelines may be granted by the Planning Director if warranted by public safety, site constraints, and functionality considerations.

Definitions

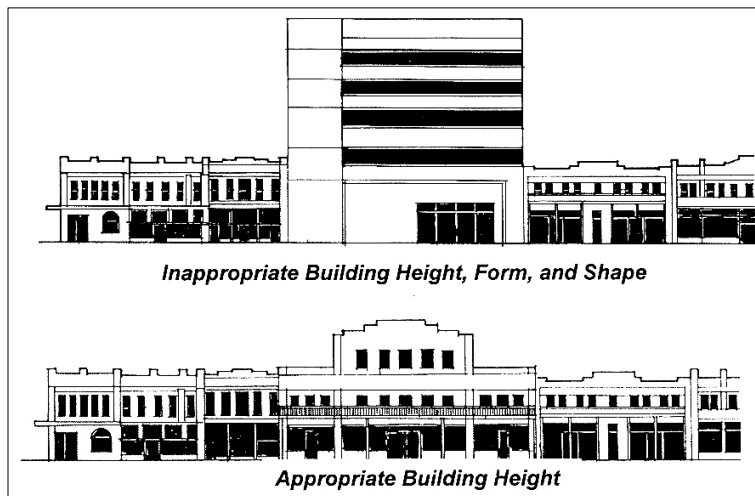
If in the course of administration of these guidelines, a question arises as to the meaning of any word, phrase, or section, the interpretation thereof shall be given by the Director of the Planning Department.

MIXED USE DEVELOPMENT

1. A mix of uses (including office, retail, housing, or other uses) within a given project is encouraged, whether it is a single building or a redevelopment district.

INFILL DEVELOPMENT

1. Exterior additions to existing buildings or adjacent infill construction should be compatible with the character of the site, and take into account the size, proportions, façade composition, rhythm and



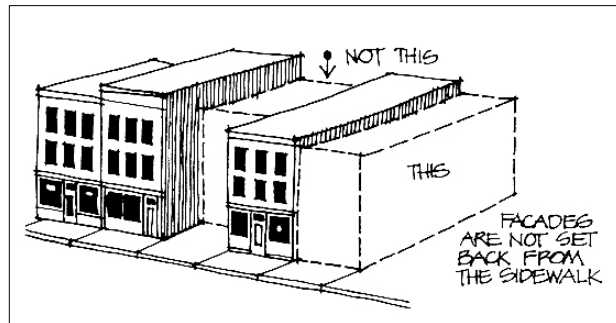
proportion of openings, materials, and colors of neighboring buildings. Techniques to help ensure compatibility with neighboring buildings include:

- Maintaining the street wall by locating the new building at the sidewalk;
- Ensuring the street level façade fits in contextually with neighboring properties;
- Differentiating the upper stories of the building from the street level façade by setting back the upper stories at the plane above the street level façade, and;
- Using different wall materials than the lower façade.

4.2. Design new on-site parking, loading docks or ramps should be designed to be unobtrusive and compatible with the primary use of the site. On-site parking should not be located along or adjacent to the street frontage. In those instances where parking is located along a street frontage, efforts to maintain the street wall will be imperative. Options include landscaping, low walls, etc.

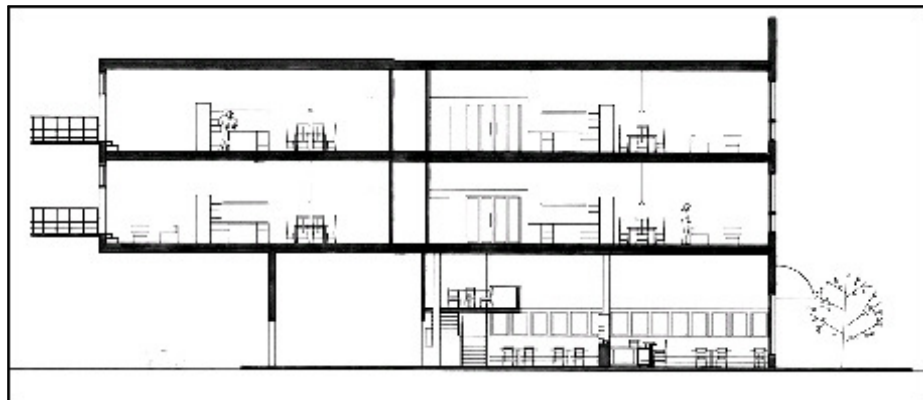
STREET ORIENTATION

1. Buildings should generally be built up to the edge of the sidewalk in a consistent plane with the other buildings on the street.
2. Other street-level setbacks, plazas and widened sidewalks from the building line should be strategically placed in accordance with an overall open space plan. The new open spaces should be located to relate to other land uses such as retail, entertainment and transit routes.



STREET LEVEL USESFORM

1. The ground floors-street frontage of buildings should contain public or semi-public uses such as commercial, retail or entertainment



uses with direct entry from the street. Non-public/semi-public uses are appropriate on the first floor if located to the rear of the street frontage use.

2. New buildings should express a principal alle public façade and entrance on the adjacent street, and entries from parking facilities should be considered as secondary.
3. Retail activities within buildings should be oriented towards the street and have direct access from sidewalks through storefront entries.
- ~~4.~~ Ground floor storefront restaurants are strongly encouraged to have French doors, operable storefront windows and sidewalk cafes to increase the strong connection between the interior of the structure and the exterior street environments.
- ~~4.5.~~ Upper floor balconies should not extend structural supports into the public right-of-way below.
- ~~5.6.~~ Sidewalk cafes should not impair pedestrian circulation nor store entrance access. There should be at least a 6-foot contiguous and unobstructed walkway for use by pedestrians.

BUILDINGS FACADES



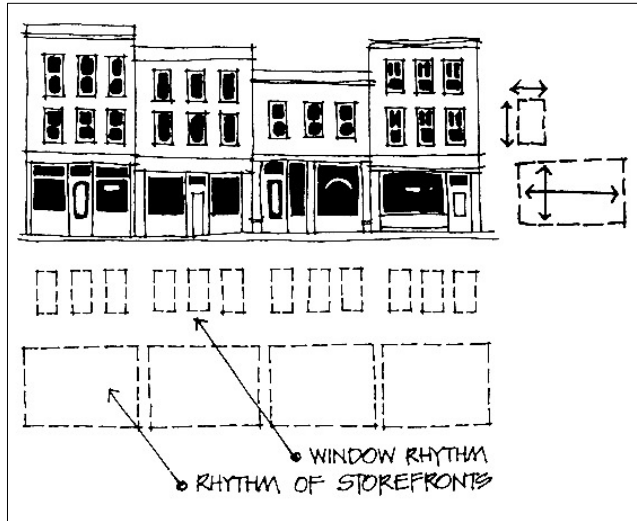
1. New buildings should be open and inviting in both their principal and secondary facades. Blank walls, or any wall with less than 30% glass, should not be placed along public streets, but may be placed along alleys and service lanes.
2. Entryways should be generously proportioned and visually transparent so as to encourage connections to the public realm.
3. Decorative and functional elements such as signage, awnings, and ornamentation should be used to create human scale elements on the street-level facades to further encourage openness.
- ~~4. Blank walls should not be placed along public streets, but may be placed along alleys and service lanes.~~
- ~~4.~~ Loading docks and garage entrances should not be located on the major pedestrian street side of new buildings.



5. New curb cuts that conflict with safe pedestrian travel and existing on-street parking are discouraged.

6. Retail storefronts are strongly encouraged along the ground floor of all new and renovated buildings ~~within the Downtown D-1 District.~~

These should be visually transparent to the interior with large areas of window display and should provide for direct entry from the sidewalk. The rhythm of windows and storefronts should be consistent.



- ~~7. Store display windows should be lit at night so as to contribute to ambient street lighting and a livelier street presence. Pull-down doors that cover the entire storefront are discouraged; visually open grates and grilles are preferred for security where needed.~~

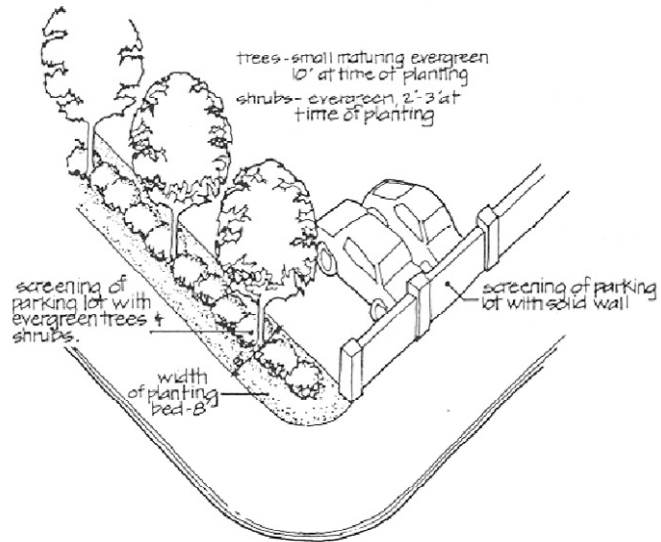
PARKING FACILITY DESIGN

1. Facades of parking facilities should be treated with high-quality materials and architectural finishes and given vertical articulation and emphasis. The façade should distinguish a base, middle and top by using different materials, or other methods and also respond to the context of surrounding buildings by using similar materials. The façade should be designed so as to visually screen cars at street level. Sloping interior floors should not be visible or expressed on the exterior face of the building.



2. Retail storefronts or other business uses should be placed at the street level along the principal street and are encouraged along all adjacent streets except service alleys.
3. Pedestrian entries should be clearly visible and architecturally expressed on the exterior of the garage. Expression of the vertical pedestrian circulation (stairs and elevators) on the exterior of the garage is encouraged.

4. Surface parking lots should provide a **minimum of 20 square feet of landscaping for each parking space** landscaping in compliance with Topeka's **landscape ordinance**. Required landscaping should take the form of planter strips, landscaped areas and perimeter landscaping.



5. The existing street setback should be maintained along the principal street frontage in developed areas and established in new districts or developments. Tools for accomplishing this can include walls, fences, row of trees, hedges or any combination of these elements. **The height and placement of such features should be balanced against CPTED principles.**

6. While it is important to provide adequate interior lighting for safety and comfort, it should be controlled to avoid spill out on the adjacent streets creating excessive glare.

ARCHITECTURE AND CONTEXT

1. The architectural design of new buildings and the rehabilitation of existing buildings should be sensitive to the existing built and natural environment within which they are constructed. The architecture of the existing downtown buildings, **particularly buildings built before 1940**, should provide examples of architectural themes, rhythm, materials and forms.



2. New construction ~~in the Downtown Districts are~~ is not required to implement any particular architectural style, but should be designed to be compatible with the scale, form and materials of surrounding structures, by applying these guidelines.

SIGNS

General

The following standards apply to on-premise signs. Off-premise signs shall be regulated by TMC 18.25, Article IV.

Wall Signs

Each establishment is permitted one or more wall signs at the pedestrian level on each building face occupied by said establishment. The accumulated area of wall signs on each building face shall be limited to 20 percent of the area of the exterior building elevation at the pedestrian level or 150 square feet, whichever is less.

Wall signage above the pedestrian level shall be limited to no more than 150 square feet on the exterior wall of the floor on which the signage is located. For buildings of over three floors or of a height of 40 feet or more, on any level above the third floor or above 40 feet from grade, one wall sign per building face is permitted no larger than 300 square feet and such wall sign shall be located above the third floor or above 40 feet, whichever is the least. For signage above the third floor, the Planning Director, or the Historic Landmarks Commission if the sign is located on a historic landmark or in a historic district, may approve signage of greater than 300 square feet to the extent the applicant demonstrates signage exceeding 300 square feet is necessary for visibility and legibility of the sign.

Awning and Marquee Signs

Awning and marquee signs are defined as signs incorporated in the awning material or attached flat to the face of an awning or marquee. A marquee is a roof-like projection or shelter, typically over the entrance to an entertainment venue, and typically containing an illuminated flat area for static or changeable sign copy. Signage attached such that the sign face is parallel with, or at an angle between 0 and less than 45 degrees of the building façade, shall be regulated in the same manner as wall signs. Signs attached in such a way as to be at a 45 degree or greater angle to the building façade shall be regulated in the same manner as projecting signs. For marquees electronic message centers (EMCs) may comprise 100 percent of the face of the marquee and 100 percent of the size allowed for marquee signs.

Window Signs

Window signs are defined as those signs on the inside of the window and visible from the outside of the window. Window signs are permitted provided all window signs in aggregate constitute no more than 50 percent of all windows on

the side of the building on which said window signs are located. Window signs do not require a sign permit.

Projecting Signs

Each establishment is permitted a maximum of one projecting sign, visible from any single angle, mounted to the exterior of the first or second floors. The area of the projecting signs shall be limited to 10 percent of the building face at the level on which the establishment is located or 75 square feet, whichever is less.

Ground Signs

Any parcel of land is allowed one monument sign per street frontage not to exceed two signs, to a height not to exceed 8 feet. For each sign the sign area shall not exceed .5 square feet per lineal foot of frontage on the street to which it is oriented or 50 square feet, whichever is less. A ground sign located on a base that is within 2 feet of the exterior building wall may be mounted on a pylon or similar support structure and the dimensional standards for projecting signs shall apply.

Roof Signs

Each building of a height of three floors or 40 feet or more is permitted one roof sign no larger than 300 square feet. The height of a roof sign, measured from the top of the highest parapet to the top of the sign, shall not exceed 25% of the height of the building or 30 feet, whichever is most restrictive. Roof signs shall comply with all applicable engineering and construction code requirements. The Planning Director, or the Historic Landmarks Commission if the sign is located on a historic landmark or in a historic district, may approve signage exceeding the above dimensional standards to the extent the applicant demonstrates signage exceeding the dimensional standards is necessary for visibility and legibility of the sign.

Electronic Message Centers (EMC)

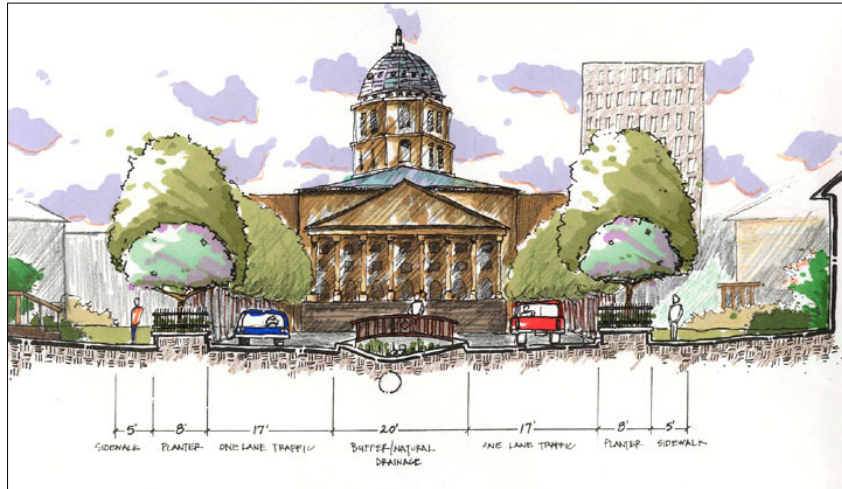
EMCs may be incorporated in whole or in part into any of the above sign types. One EMC sign is permitted per street frontage per establishment provided the size of the EMC is limited to 50 percent of the allowable sign area for the type of sign in which it is incorporated. EMCs that are part of a marquee are allowed 100 percent of the allowed sign area and may comprise 100 percent of the face of the marquee.

Illumination

Internal. Flood illumination. Direct (i.e. neon). Flashing, strobing, blinking, fluttering, chasing, and similar lighting features are prohibited unless they are determined by the Planning Director to contribute to or consistent with the historic character of the sign and building.

PUBLIC INFRASTRUCTURE IMPROVEMENTS

1. All new public infrastructure projects (roads, sidewalks, public buildings, and streetlights) should meet high standards of design quality and provide significant secondary benefits in the form of major public space improvements. These projects should be subject to the same standards of Downtown design that would be required of all other projects.



2. Public art projects are encouraged to be incorporated into every major public infrastructure project such as bridges, highways and roadways.



ART IN PUBLIC PLACES

- ~~1. New public spaces and infrastructure improvements are encouraged to have a significant component of public art so the project will have a visible presence.~~

PUBLIC SPACES

1. New public spaces should consist of renovated or enhanced streets, or strategically selected places that are directly linked to the street system. ~~Primary opportunities are adjacent to the Kansas Quincy, and at the intersections of 9th and Kansas Ave. and 8th and Van Buren St.~~

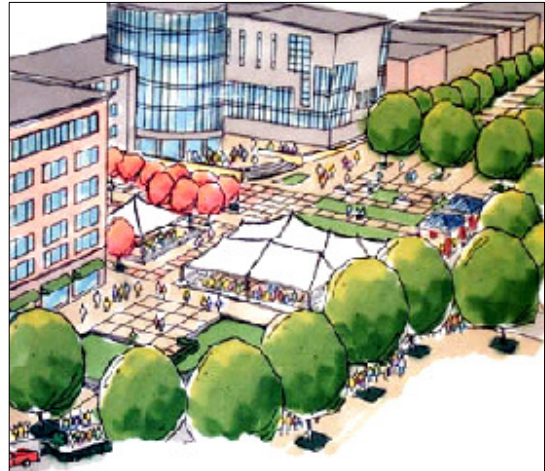


2. Generally, pedestrian ways should not be separated from streets and sidewalks, unless in riverfront parks. They should maintain direct access from the adjacent streets. They should be open along the adjacent sidewalk and allow for multiple points of entry. A passerby should be able to see directly into the space.

~~3. The development of new districts and projects should emphasize the continuation or conservation of traditional block and street patterns.~~

4.3. New public spaces should be developed with pedestrian amenities, such as as follows:

- Landscaping.
- 1 tree per 1000 square feet of open Open space. (3½” caliper at planting).
- A minimum of 25 linear feet of seating Seating for every 1000 square feet of open space.
- Public art.
- However, walls, fences and dense planting that visually secludes the interior space from the sidewalk should be avoided.



5.4. Generally, designs for new public spaces should not infringe upon the public sidewalk.

HISTORY AND IDENTITY

1. All projects are encouraged to express local history and identity through functional and ornamental design elements and works of public art.

2. New development projects or renovation of existing

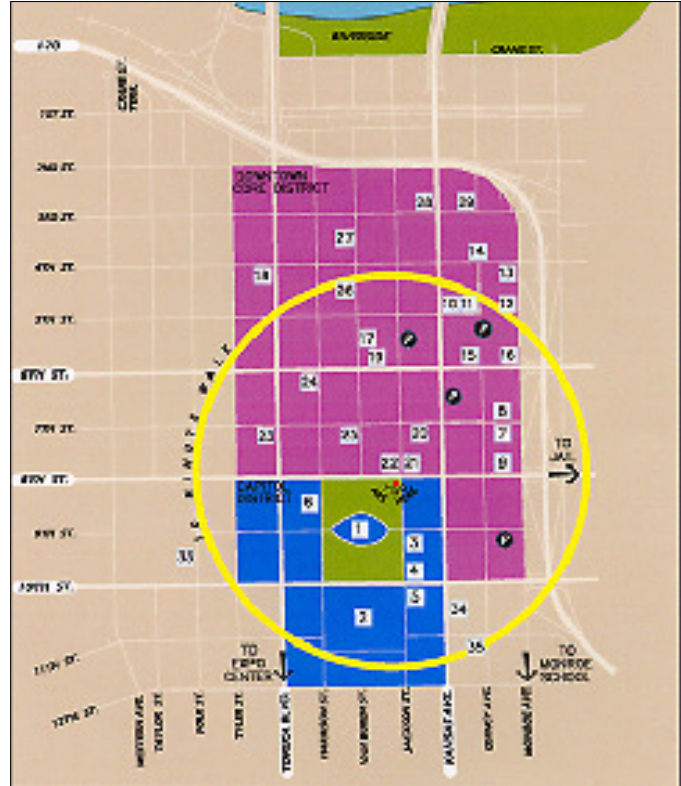


structures should be designed to preserve the historic resources that exist on the site and reinforce the historical context within which they are developed.

3. In the event that it is not possible to preserve the entirety of a historic building the retention of historic facades is encouraged.

STREET AND BLOCK ORGANIZATION

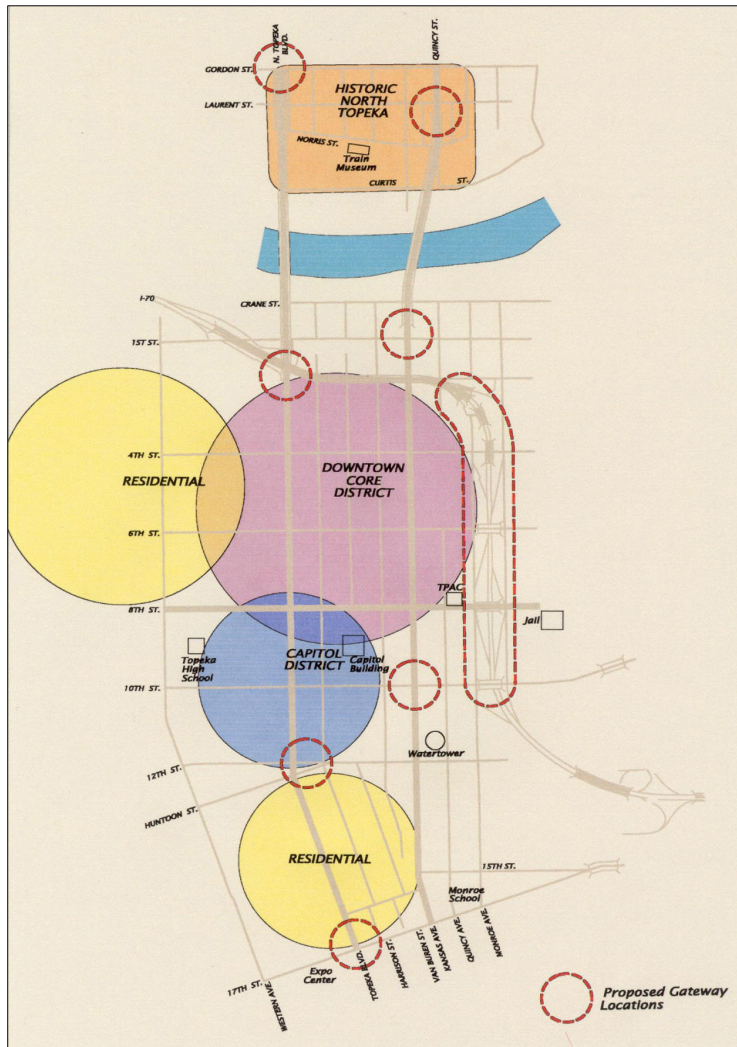
1. New buildings and development should respect the existing organization of the city and the street and block patterns that exist.
2. Superblock developments that join together one or more blocks are discouraged.
3. Where it is feasible, street grids should be extended, reestablished or newly created in areas of large-scale redevelopment.



4. New buildings or pedestrian bridges should not bridge across or block access to existing streets.

ENTRANCES AND VISTAS

1. Buildings and new development projects should be sensitively designed and sited so as to preserve the key vistas and gateways to downtown and views of the State Capitol.
2. New buildings should not block the view corridors defined by the city streets, either by bridging across streets or the use of pedestrian bridges.




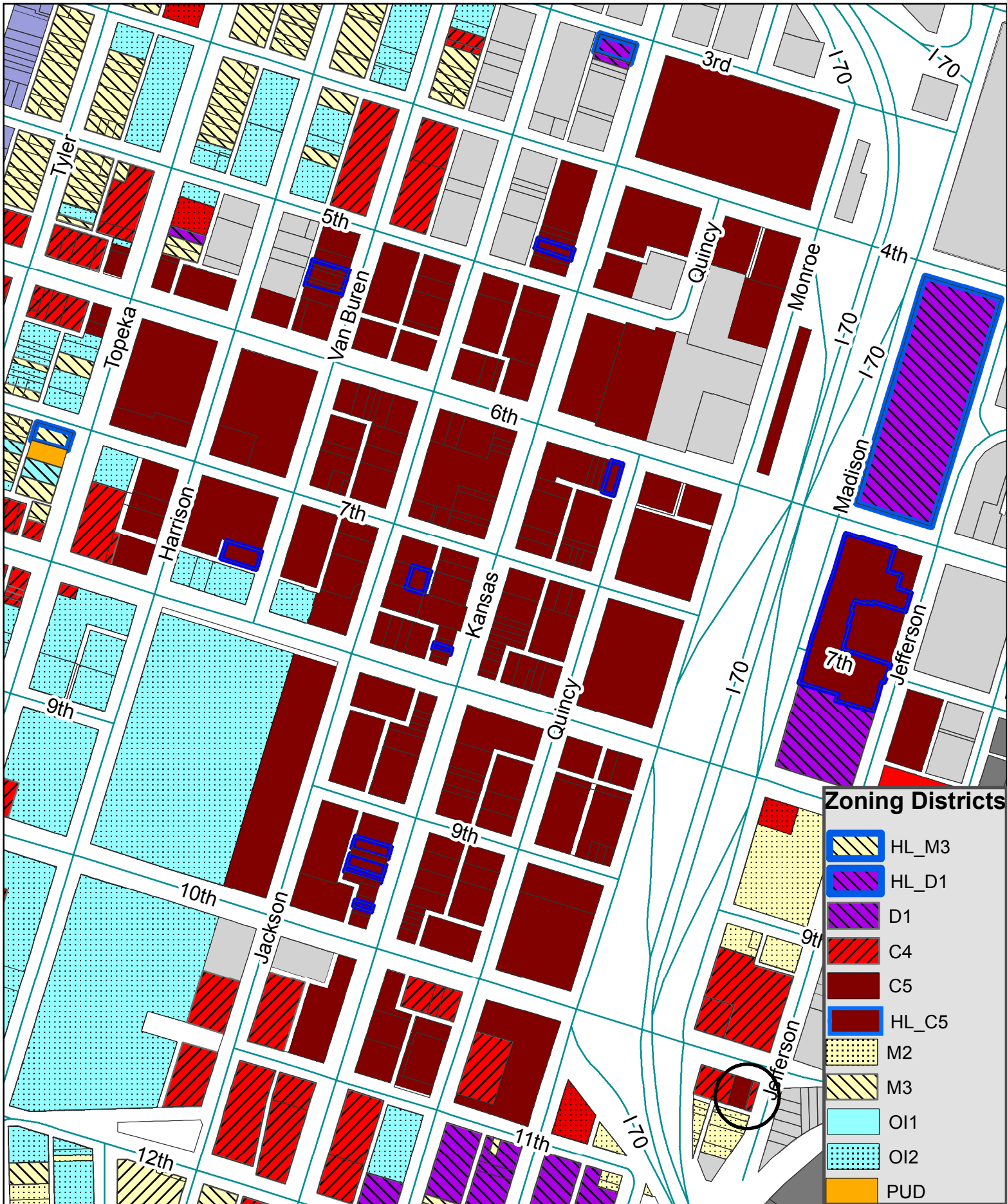
Illustrations:

- P.1 Dawn Wessels & Kim Korphage (top), Draft Lawrence, Kansas Downtown Design Guidelines (bottom)
- P. 2 *Keeping Up Appearances* Storefront Guidelines, National Trust for Historic Preservation (top), Kim Wassels (bottom)
- P. 3 Dave Devore (top), Planning staff (middle), *Keeping Up Appearances* Storefront Guidelines, National Trust for Historic Preservation (bottom)
- P. 4 Planning staff (top), *Design Review*, American Planning Assoc., PAS Report #454 (bottom)
- P. 5 Dawn Wessels & Kim Korphage (top), Charlotte Cox & Ryan Wilt (bottom).
- P. 6 Planning Staff (top, middle), Chris Handzel (bottom)
- P. 7 Bryce Wittenborn (top), Joe Loretta & Aaron Harnden (bottom)
- P. 8 Model and photograph by KSU Studio Students



Downtown Zoning Map ("C-5")

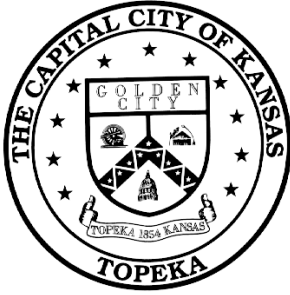
	S. KS. Ave Historic District
	"C-5" District



Downtown Zoning Map



Discussion Item #2
Zoning Code Amendments
(Topeka Municipal Code Title 18)



CITY OF TOPEKA

PLANNING DEPARTMENT
620 SE Madison Street, Unit 11
Topeka, Kansas 66607-1118
Tel.: (785) 368-3728

Bill Fiander, AICP, Director
Email: bfiander@topeka.org
Fax: 785-368-2535
www.topeka.org

MEMORANDUM

To: Topeka Planning Commission

From: Michael Hall, AICP, Current Planning Manager

Re: Zoning Code Amendments (Topeka Municipal Code Title 18)

Date: November 10, 2016

At the September and October meetings Planning staff presented for discussion in draft form several text amendments. Please review the attached third set of draft amendments for discussion at the November 21st meeting. Depending on the feedback from the Planning Commission staff anticipates presenting these and the previously discussed amendments for action by the Planning Commission in January 2017.

The following preliminary draft amendments are attached:

- **Exhibit 1 – Artisan Manufacturing (modified version of the draft presented at the October meeting)**
- **Exhibit 2 – Cargo Containers (modified version of the draft presented at the October meeting)**
- **Exhibit 3 - Fences**
- **Exhibit 4 – Applicability of Mixed Use Districts**
- **Exhibit 5 – Free Little Libraries**
- **Exhibit 6 – Condition of Signs**

Exhibit 1

Artisan Manufacturing (modified)

November 8, 2016

18.55.10 A” definitions.

* * *

“Artisan Manufacturing/Sales” means the small-scale production, sales, and assembly of finished products or component parts, by hand, or by the use of hand tools or light mechanical equipment, and may include design, fabrication, treatment, and packaging of finished products within an enclosed building where such production requires no outdoor operations or storage, and where the production, operation, and storage of materials related to the aforementioned activities occupy no more than 10,000 square feet of gross floor area. Typical artisan manufacturing trades include, but are not limited to food and bakery products; non-alcoholic beverages; printmaking; leather products; jewelry and clothing/apparel; light metal work; woodwork; furniture; and glass or ceramic production;. Artisan manufacturing differs from other forms of manufacturing as it is controlled in a manner such that it shall not cause noise, odor, or detectable vibration onto any neighboring property and offers retail sales of the product on site.

* * *

18.60.010

Add row for “Artisan Manufacturing/Sales #”. Allowed in C-3, C-4, X-2, X-3, D-1, D-2, I-1, and I-2 districts; conditional use permit required in X-1, D-3, C-2 and when the use occupies more than 10,000 square feet in non-industrial districts. Prohibited in all other districts.

Exhibit 2

Cargo Containers

October 5, 2016

18.55.030 “C” definitions.

“Cargo container” means any portable, weather-resistant receptacle, container or other structure that is designed or used for the storage or shipment of household goods, commodities, building materials, furniture, or merchandise. A cargo container is synonymous with “shipping container”, may be rented for temporary or long term, and is typically delivered and removed from the property via truck.

* * *

Chapter 18.210

ACCESSORY USES

18.210.010 Accessory uses.

Accessory uses, buildings and land customarily associated with, and clearly incidental to, a permitted use, special use requirement or conditional use permit shall be permitted provided they are:

- (a) Located on the same lot or parcel as a principal use and commonly associated with a principal building or use.
- (b) Subordinate in area, extent and purpose to the principal building. The cumulative footprint of all accessory buildings shall not exceed 90 percent of the principal building’s footprint.
- (c) Operated and maintained under the same ownership and are contributory to the comfort, convenience or necessity of the occupants, business or industry in the principal building or use served.
- (d) Time of Construction. No accessory building shall be constructed or established more than 120 days prior to the time of completion of the construction or establishment of the principal building or use to which it is an accessory. (Ord. 19921 § 136, 9-23-14.)

18.210.020 Permitted uses.

The accessory uses, buildings and other structures permitted in each zone may include the following:

- (a) In the RR-1 district:

* * *

(18) Temporary construction buildings for on-site construction purposes, including cargo containers, for a period not to exceed the duration of the construction project.

(19) Cargo containers as regulated by TMC 18.210.050.

(b) In the R-1, R-2, R-3, R-4, M-1 and M-1a districts: in addition to the accessory uses included in subsections (a)(6) through (a)(18) of this section, the following shall be permitted:

(1) Storage buildings and garages for the storage of wood, lumber, lawn or gardening equipment and other materials and equipment, exclusively for the personal use of the residents of the premises, but not including storage for commercial purposes. Truck bodies and cargo containers are not allowed as accessory uses. However, cargo containers may be used on a temporary basis ~~for up to 30 days within a calendar year~~ as regulated by TMC 18.210.050.

(2)(i) No farming equipment or farming machinery shall be parked or stored on a lot or tract of land unless within an enclosed lawful structure, or screened from view from any abutting property or street. No truck, excluding a pickup truck, trailer, boat, bus, tractor, or similar vehicle, machinery, or equipment with a curb weight (unloaded vehicle weight) or manufacturer's gross vehicle weight rating exceeding six tons shall be parked or stored any place on a lot or tract of land within an R, M-1 or M-1a district.

(ii) No commercial vehicles or commercial equipment, machinery or materials of any kind shall be stored any place on a lot or tract of land, except if such vehicles, equipment, machinery or materials are in temporary usage to actively accomplish permitted temporary activities on the premises such as construction, repair, moving, and other similar activities. In such case they shall be removed from the lot or tract of land within 48 hours of completion of said activity.

(3) Off-street parking as regulated by Chapter [18.240](#) TMC.

(4) A child's playhouse.

(c) In the M-2 and M-3 districts: in addition to the accessory uses included in subsection (b) of this section, the following shall be permitted:

(1) A maintenance storage building incidental to a permitted use, provided no such structure shall exceed 160 square feet in gross floor area, and shall be in keeping with the principal structure.

(2) A facility for leasing, managing and/or maintenance of a multiple-family dwelling or planned unit development, provided such facility is of such size and scale which is in keeping with, and is accessory in nature to, said multiple-family dwelling or planned unit development, all as determined by the planning director.

(d) In the O&I-1, O&I-2 and O&I-3 districts:

(1) For residential uses, the accessory uses included in subsection (c) of this section shall be permitted.

(2) Off-street parking as regulated by Chapter [18.240](#) TMC.

(3) A storage building incidental to a permitted use, provided no such structure shall exceed 400 square feet in gross floor area, and shall be in keeping with the principal structure.

- (4) Employee restaurants and cafeterias, when located in a principal structure.
- (5) Signs as regulated by Chapter [18.20](#) TMC.
- (6) Fences as regulated by TMC [18.210.040](#).
- (7) Flagpoles and statuary.
- (8) Private garages and carports.

(e) In the C-1, C-2, C-3, C-4 and C-5 districts: in addition to the accessory uses included in subsection (d) of this section, the following shall be permitted:

- (1) Restaurants, drugstores, gift shops, clubs, lounges, newsstands, and travel agencies when located in a permitted hotel or motel.
- (2) One independent, freestanding commercial structure of 400 square feet or less in the C-1 district and 600 square feet in the other districts shall be permitted on a zoning lot. Such accessory structure shall not be required to provide off-street parking, but shall be located as to not interfere with or reduce the amount of required parking for the principal use. The location of such accessory structure shall be reviewed and approved by the planning director at the time of building permit application, provided such location does not conflict or interfere with site access and interior vehicular circulation.

* * *

18.210.050 Cargo Containers.

(a) Cargo containers as an accessory use, not to exceed 200 square feet in area, may be used on a temporary basis in any zoning district for up to 30 days within a calendar year.

(b) Cargo containers as an accessory use for a period of time exceeding that which is permitted in TMC 18.210.050 are permitted in I-1 and I-2 districts. Cargo containers are also permitted for institutional multiple family residential uses in the R, M, and O&I districts and for all uses in the C, U, MS, X, and D districts in accordance with the following standards.

- (1) No more than one cargo container shall be permitted.

(2) The aggregate area of cargo containers shall not exceed the height of the principal structure, and shall not exceed 400 square feet in area or 90 percent of the gross floor area of the principal structure(s), whichever is less.

(3) Cargo containers shall not displace or interfere with required parking and circulation.

(4) Cargo containers shall not be used as a base, platform, or location for business identification signs.

(5) Cargo containers shall not be located in any required front or side yard setback.

(6) Cargo containers, either by placement or screening with fencing, landscaping, or other structures, shall not be readily visible from public street rights-of-way or the front of buildings on adjacent property. Alternatively, if visible from street rights-of-way or from the front of buildings on adjacent properties, the cargo container shall have an exterior color that blends with the color of the building to which it is accessory.

Exhibit 3

Fences

November 10, 2016

18.210.020 Permitted uses.

The accessory uses, buildings and other structures permitted in each zone may include the following:

(a) In the RR-1 district:

* * *

(7) Fences as regulated by TMC [18.210.040](#).

* * *

(b) In the R-1, R-2, R-3, R-4, M-1 and M-1a districts: in addition to the accessory uses included in subsections (a)(6) through (a)(18) of this section, the following shall be permitted:

* * *

(c) In the M-2 and M-3 districts: in addition to the accessory uses included in subsection (b) of this section, the following shall be permitted:

* * *

(d) In the O&I-1, O&I-2 and O&I-3 districts:

* * *

(6) Fences as regulated by TMC [18.210.040](#).

* * *

(e) In the C-1, C-2, C-3, C-4 and C-5 districts: in addition to the accessory uses included in subsection (d) of this section, the following shall be permitted:

* * *

(f) In the I-1 and I-2 districts, the following shall be permitted:

(1) Fences as regulated by TMC [18.210.040](#).

* * *

(g) In the U-1 district: the accessory uses included in subsection (c) of this section.

(h) In the MS-1 district: the accessory uses included in subsection (d) of this section.

(i) In the X-1, X-2 and X-3 districts: the accessory uses included in subsections (b), (c), (d), (e) and (f) of this section shall be in compliance with any applicable performance standards of the X mixed use districts. (Ord. 19921 § 137, 9-23-14.)

Cross References: Planning department, TMC [2.25.210](#).

* * *

18.210.040 Fences.

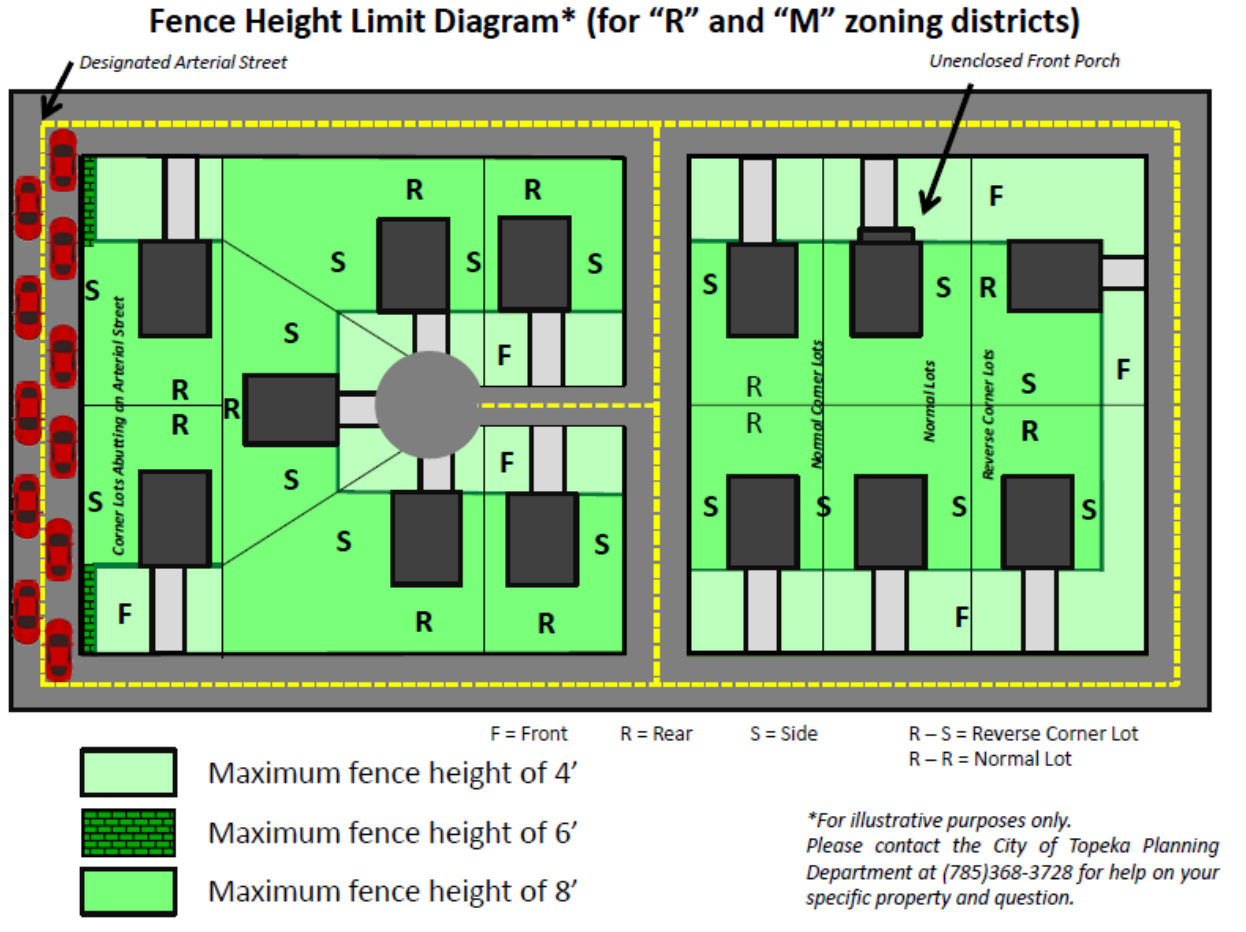
(a) Location and Height. Fences and hedges shall be subject to the following location and height requirements:

(1) Except as provided in subsection (c) of this section, no portion of a fence shall exceed eight feet in height.

(2) Fences and hedges shall be located so no part thereof extends into public right-of-way nor is located closer than one foot from a public sidewalk.

(3) In R and M districts, fences beyond the front face of the principal structure shall not exceed four feet in height. On corner lots, but not including reversed corner lots, fences beyond the front face of the principal structure where the fence is located along an arterial street that runs perpendicular to the corner lots' established rear yard shall not exceed six feet in height. On reversed corner lots, fence heights shall be limited to four feet within all required front yards. On double frontage lots, fence heights shall be limited to four feet

where such lots abut the established minimum front yard of any adjoining lot. The following diagram illustrates the setback requirements applicable by this paragraph.



(b) Hazards. Notwithstanding subsection (a) of this section, no fence shall be constructed:

- (1) Upon determination by the city engineer that the proposed fence constitutes a traffic hazard;
- (2) The location of the fence creates a site obstruction, such as within a site distance triangle, as prohibited by Chapter [12.20](#) TMC, Public Traffic Hazards; or
- (3) In such a manner or design as to be hazardous or dangerous to persons or animals.

(c) Design, Materials, and Placement:

(1) Fences in all districts shall be constructed of normally used fencing materials such as chain link, wood slats, masonry, iron, vinyl, or other materials typically supplied by vendors of fencing materials. The finished side of the fence shall face the adjacent property or street. Fences shall not be constructed of salvaged metal, salvaged wood, or other material not typically supplied by vendors as fencing materials.

(2) In O&I, C-1, C-2, U, MS, and D districts fences around parking and storage lots, constructed within the building setback along street rights-of-way, not including alleys, shall be constructed of high quality materials such as decorative block, brick, stone, decorative precast concrete, or ornamental metal. The Planning Director may approve placement in the setback from street rights-of-way for fences constructed of black vinyl, chain link, or other normally used materials upon the approval of a landscape plan including a landscape screen or buffer between the fence and street with a minimum setback of 4 feet from public street right-of-way.

(3) Fences in X districts shall comply with TMC 18.185.070.

(c) The following shall constitute exceptions to the requirements of subsection (a)(1) of this section:

(1) Fences located in or upon parks and/or recreational facilities; provided, however, this exception shall not apply to recreational facilities which are accessory to a single-family dwelling.

(2) Fences located in or upon public use facilities or public utility facilities, such as electrical substations or pumping stations, shall be limited to eight feet in height unless the planning director determines that additional height, not to exceed ~~nineteen~~ nineteen feet, is necessary for public health and safety. (Ord. 19547 § 1, 4-12-11.)

(3) In "I" districts, fences in side and rear yards are limited to ten feet in height.

Cross References: City engineer, TMC [2.25.180](#); planning department, TMC [2.25.210](#).

Exhibit 4

Purpose and Applicability of Mixed Use Districts

November 10, 2016

Chapter 18.185 X MIXED USE DISTRICTS

* * *

18.185.010 Purpose and regulations.

(a) Purpose. The mixed use districts ~~are unique to~~ may be located in traditional neighborhood settings, and to a limited extent in areas envisioned for mixed use development by the comprehensive plan, and are provided to encourage a compatible mixed use environment, ~~utilizing the historic character of the area.~~ The X mixed use districts also serve to implement neighborhood and other specific land use plans of the Topeka comprehensive plan.

(b) Regulations. The regulations set forth in this chapter or set forth elsewhere in this division are the district regulations for the X mixed use districts. (Ord. 17746 § 1, 11-13-01; Ord. 17502 § 1, 5-22-00. Code 1995 § 48-23a.00.)

18.185.020 Mixed use district classifications.

There are three classifications of mixed use districts as follows:

(a) X-1 Mixed Use District. This district facilitates a compatible mixed use activity center within a traditional residential neighborhood and in those areas envisioned for mixed use by the comprehensive plan. The district includes a balance of compatible residential, office, civic, and neighborhood commercial retail/service uses of low to moderate intensity that complement and support dense neighborhood residential areas and pedestrian usage with quality urban design.

(b) X-2 Mixed Use District. This district facilitates a mixed use area that transitions from a higher intensity industrial use area to lower intensity neighborhood-scale residential areas and includes a balance of compatible residential, office, commercial service, and light industrial uses.

(c) X-3 Mixed Use District. This district facilitates a destination-oriented mixed use district in the area known as the North Crossings area of North Topeka that serves as the northern entertainment/cultural anchor of downtown. The objectives of the district include:

- (1) Improving the area as a 24-hour destination for urban, cultural, entertainment, community, and residential experiences; and
- (2) Retention and attraction of businesses, workplaces and residences through adaptive reuse and rehabilitation of existing buildings as a preference; and
- (3) Redeveloping vacant and under-utilized properties through appropriately scaled in-fill development; and
- (4) High quality development and urban design standards that maintain a sense of history, human scale, and pedestrian-orientation. (Ord. 17746 § 2, 11-13-01; Ord. 17502 § 2, 5-22-00. Code 1995 § 48-23a.01.)

18.185.030 Applicability of mixed use districts.

(a) The X districts shall only be permitted on an area-wide basis as designated by a specific land use policy set forth in the comprehensive metropolitan plan for that area. The X district shall be identified as an area that merits special design considerations, involving a variety of property owners and uses within a developed urban environment. The X district shall be sufficiently cohesive and substantial to achieve a common objective as identified in the comprehensive plan.

Exhibit 5

Free Little Libraries

November 10, 2016

18.55.060 “F” definitions.

“Fabrication” means that part of manufacturing which relates to stamping, cutting or otherwise shaping processed materials into objects and may include the assembly of standard component parts, but does not include extracting, refining, or other initial processing of basic raw materials.

* * *

“Free little libraries” are structures for the storage of books or other print media made available to the general public for no remuneration, and which may be located on private property in a structure or receptacle of a limited size and volume.

“Frontage” means any lot line abutting a public street right-of-way. (Ord. 19370 § 103, 3-23-10. Code 1995 Appx. C, Art. XXXV.)

Chapter 18.210 ACCESSORY USES

Sections:

- [18.210.010](#) Accessory uses.
- [18.210.020](#) Permitted uses.
- [18.210.030](#) *Repealed.*
- [18.210.035](#) Home occupations.
- [18.210.040](#) Fences.

18.210.010 Accessory uses.

Accessory uses, buildings and land customarily associated with, and clearly incidental to, a permitted use, special use requirement or conditional use permit shall be permitted provided they are:

(a) Located on the same lot or parcel as a principal use and commonly associated with a principal building or use.

(b) Subordinate in area, extent and purpose to the principal building. The cumulative footprint of all accessory buildings shall not exceed 90 percent of the principal building's footprint.

(c) Operated and maintained under the same ownership and are contributory to the comfort, convenience or necessity of the occupants, business or industry in the principal building or use served.

(d) Time of Construction. No accessory building shall be constructed or established more than 120 days prior to the time of completion of the construction or establishment of the principal building or use to which it is an accessory. (Ord. 19921 § 136, 9-23-14.)

18.210.020 Permitted uses.

The accessory uses, buildings and other structures permitted in each zone may include the following:

(a) In the RR-1 district:

(1) Open or enclosed storage of farm materials and equipment.

(2) Farm buildings, including barns, stables, sheds, toolrooms, shops, tanks, bins and silos.

(3) Fuel storage tanks and dispensing equipment for fuels used solely for farming operations. No wholesale/retail sales of such fuels shall be allowed as an accessory use.

(4) Wholesale and retail sales of agricultural products grown or raised upon the premises.

(5) Roadside stands for the sale of produce grown on the premises; provided, that such a stand shall not contain more than 600 square feet of floor area, the stand is located no closer than 20 feet from the right-of-way, and access to the stand is from an entrance to the farm or residence.

(6) Private, noncommercial antenna and supporting structure when used for amateur radio service; citizens band radio; a telecommunication device that receives only a radio frequency signal; a sole-source emitter with more than one kilowatt average output; and satellite receiving devices, provided they shall not be located in the area between the street and principal building nor within the required side yard.

- (7) Fences as regulated by TMC [18.210.040](#).
- (8) Gazebos, enclosed patios and similar buildings for passive recreational use.
- (9) Home occupations as regulated by TMC [18.210.035](#).
- (10) Private garages and carports.
- (11) Private greenhouses or conservatories.
- (12) Private recreational uses and facilities including but not limited to swimming pools and tennis courts, if the use of such facilities is restricted to occupants of the principal use and guests for whom no admission or membership fees are charged.
- (13) Private or public utility transmission, distribution and/or collection systems; and not, however, including substations and distribution substations, pump stations, reservoirs, towers, transmission equipment buildings and similar facilitating structures.
- (14) Residential accessory storage buildings for the storage of wood, lumber, lawn or gardening equipment and other materials and equipment, exclusively for the personal use of the residents of the premises, but not including a storage building for commercial purposes.
- (15) Signs as regulated by Chapter [18.20](#) TMC.
- (16) Statuary, arbors, trellises, flagpoles, and barbecue stoves.
- (17) Structures for the shelter of household pets except kennels.
- (18) Temporary construction buildings for on-site construction purposes for a period not to exceed the duration of the construction project.
- (19) Free little libraries associated with residential uses are limited to a height of 6 feet, a width of 2 feet, and volume of 6 cubic feet, and to a height of 6 feet, width of 4 feet, and volume of 10 cubic feet when associated with non-residential uses.

(b) In the R-1, R-2, R-3, R-4, M-1 and M-1a districts: in addition to the accessory uses included in subsections (a)(6) through (a)(~~18~~19) of this section, the following shall be permitted:

Exhibit 6

Condition of Signs

November 10, 2016

18.10.100 Maintenance and removal.

(a) All signs ~~must~~ shall be maintained in good condition ~~and the owner thereof shall repair any signs~~ when ordered to do so by the public works director, planning director or their designees. (b) A sign with missing or visibly damaged face panels, exposed internal lights and related internal hardware, visible deteriorating paint and rust, or structural damage that may be hazardous to the public is not in good condition and shall ~~If any sign is not maintained in good condition so as to meet the approval of the public works director, planning director or their designees, then the public works director, planning director or their designees may order such sign to be~~ repaired or removed within a reasonable time as determined by the planning director. (Ord. 17906 § 2, 10-15-02; Code 1981 § 39-68. Code 1995 § 118-10.)