

AFFIDAVIT OF KEVIN BIERL

I, the undersigned, under penalties of perjury, declare that I have prepared this Affidavit and to the best of my knowledge and belief it is true, correct and complete as follows:

I am the currently acting President of Pacific West Hotels and Resorts, Inc. , an Arizona corporation ("**Pacific West**") a hotel development company based in Scottsdale, Arizona. Our office address is 7502 East Pinnacle Peak Road, Suite B-118, Scottsdale, Arizona 85255.

1. Pacific West was established in 1993 for the purpose of the development and ownership of hotel and resort properties. The company's expansion since origin includes well-known national brands such as Hampton Inn & Suites by Hilton, Country Inn & Suites by Carlson, Super 8 Hotel by Cendant, AmericInn Hotel Suites by AmericInn International, Ramada Hotels by Cendant, and La Bellasera Hotel & Suites by Pacific West. These properties are located in regions of Iowa, California, Oklahoma, Colorado and Kansas. We are currently welcoming guests in 11 hotels with others under development.
2. I am the founder and owner of Pacific West. As founder of the company in 1993, I have led the company's overall development, investment, and strategic initiatives, in the development and acquisition of multiple hotels of various national brands of which are still owned today under subsidiary companies that include investor relationships. The hotel franchises currently associated with are: Hampton Inn & Suites by Hilton, Country Inn & Suites by Carlson, Super 8 Hotel by Wyndham, AmericInn Hotel Suites by AmericInn International, Ramada Hotels by Wyndham, La Bellasera & Estes Park Resort, by Pacific West and are located in regions of Iowa, California, Colorado, Oklahoma, and Kansas.
3. My association in the real estate development and construction business continues as a family tradition which began in 1973 as a sales associate and franchisee of Iowa Realty Co. based in Des Moines, Iowa. While continuing to operate and manage the residential and commercial real estate business, I became involved in the development of real estate and developed and constructed many premium and quality projects throughout the Midwest and Southwest regions of the U.S. from residential single family homes, condominiums, apartments, condominium and conversions, mini-storage facilities, office buildings, retail shopping centers, and the development of raw land.
4. I have been involved in many charitable fund raising campaigns, served on many advisory boards, and assisted several cities planning departments with the design and development of new master planned communities. My passion for the hotel industry earned many national franchise awards for outstanding developments and exceptional guest satisfaction.

5. On or around February 2010, Pacific West investigated the possibility of building a four story 103 unit hotel in Lawrence, Kansas on the vacant lot located on the south-east corner of Ninth & New Hampshire just north of the Art Center and that is the subject of the current appeal to the Lawrence City Commission from a decision by the Historic Resources Commission that the proposed hotel and apartment project (the **"Four Story Project"**).
6. During our investigation, we negotiated with current property owners, 9-10, L.C., for a purchase contract and placed the property under a contract to sell; subject, however, to our right to conduct due diligence with respect to the site.
7. During our investigation, we ordered a market study for the proposed Four Story Project. The market study concluded there would be reasonable demand for an extended stay type hotel project on the site.
8. After several meetings and discussions with City, and after obtaining cost estimates based on preliminary plans, I concluded that the Four Story Project was not feasible to build because the costs associated with the Four Story Project were too high.
9. After reaching the conclusion that the costs were too high, we canceled the purchase contract with the owner.

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In summary, based on my knowledge and experience with hotel development and my due diligence investigation of the property and history of the property, in my professional opinion, I do not believe a four story hotel project is financially feasible at this location.

FURTHER AFFIANT SAYS NOT

Kevin Bierl, Affiant

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

Sworn before me, the undersigned, on this 2nd day of APRIL, 2012, a Notary Public in and for the County and State aforesaid, by Kevin Bierl, President of Pacific West Hotels and Resorts, Inc., duly organized, incorporated and existing under and by virtue of the laws of Arizona, who is personally known to me to be such person, and who is personally known to me to be the same person who executed this Affidavit, and such person duly acknowledged the execution of the same to be his act executed under penalties of perjury.

IN WITNESS WHEREOF, I have hereunto set my name and affixed my official seal the day and year last above written.



Margie Mayr-Bierl
Notary Public in and for Said County and State

MARGIE MAYR-BIERL
(Type, print or stamp the Notary's name below his or her signature.)

My Commission Expires:

8-18-2015

Date: June 21, 2012
Project: 900 New Hampshire –
Project DV.011.003
No.:

AFFIDAVIT OF MICAH J. KIMBALL

I, the undersigned, under penalties of perjury, declare that I have prepared this Affidavit and to the best of my knowledge and belief it is true, correct and complete as follows:

1. I am the currently working as an architect for Treanor Architects, P.A., a Kansas professional corporation located at 110 McDonald Drive, Suite 192, Lawrence, Kansas 66044.
2. During my employment, I have been working on the design of the project located at Ninth & New Hampshire on the vacant lot just north of the Art Center. The proposed project is an 80-90 unit hotel with some retail space located on the ground floor and on the top floor.
3. The following summarizes the meetings we have held to date working through the process of obtaining approval for the Project:

Calendar of Public Meetings

- /Presentations/Discussions to date:
 - 09/06/2011 - Presented Proposed Project to ELNA (East Lawrence Neighborhood Association)
 - 09/09/2011 - Preliminary Meeting with Historic Resources Administrator and Planning Director
 - 10/27/2011 - HRC Presentation for project approval
 - 11/17/2011 - Presented and discussed Project updates and revisions with ELNA at the Lawrence Art Center
 - 12/06/2011 – Presented updated Project to City Commission asking for referral to ARC
 - 12/09/2011 – Discussed Project and revisions with planning Staff
 - 12/11/2011 – Presented and discussed Project updates and revisions with ELNA at the Percolator
 - 12/15/2011 – Presented Project to HRC asking for referral to ARC
 - 01/04/2012 - Discussed Project and revisions with city planning Staff
 - 01/05/2012 – Met with ARC members to discuss Massing and Height
 - 01/19/2012 – Met with ARC to discuss Downtown Design Guidelines and HRC review
 - 01/25/2012 - Discussed Project and revisions with city planning Staff

- 02/01/2012 - Presented and discussed Project updates and revisions with ELNA at Lawrence Public Library
- 02/02/2012 - Met with ARC to discuss Downtown Design Guidelines and HRC review
- 02/03/2012 – Preliminary Site Plan Review with City Departments
- 02/03/2012-Meet with Arts Center staff regarding project
- 02/16/2012 - Presented revised Project to HRC for approval
- 4-24-2012: City Commission- Presentation and request go back to the HRC
- 4-30-2012: HRC presentation- Reduced Height to 4 story Hotel only with 5th floor Restaurant on corner
- 6-26-2012: City Commission- HRC appeal

4. The following summarizes some of the major design and technical issues faced when undertaking the design of the project:

Design Issues:

- **Location:** One of the biggest design issues for this project is the projects location. The project is located in a commercially zoned district, as well as the confluence of several historical environs districts, all which carry different review requirements and create design issues. The site is located within the *environs* of two historical districts and two registered historical structures. The historical districts that this project is in the environs of are the Rhode Island Historic District, which is nationally registered, and Lawrence's Downtown Historic District. The project is also located within the environs of the Shalor Eldridge Residence and the Social Services League buildings which are both historic structures registered with the state. Although the review of a project that is in the environs rather than actually being located in a specific district grants a less stringent review process, the various number of environs of differing types for which this project is located creates significant design issues and hurdles to overcome. The state review and the national review processes have conflicting review requirements; therefore designing the project to meet the requirements of both simultaneously is difficult if not impossible. To complicate the design issues even further, the project is actually located not in the environs of, but within yet another district, that of the Downtown Conservation Overlay district which carries another review criteria including the Downtown Design Guidelines. Given that this project is located at the convergence of multiple environs and districts, no single design review can be applied or achieved without conflicts to another design review creating significant design issues to overcome.
- **Zoning:** The lot is zoned CD; Downtown Commercial District which allows for 90' of building height but is subject to Downtown Design Guideline review by the HRC. This has conflicting allowable heights and creates design issues regarding what height is allowable and is subjective to the HRC approval. We have designed the project to be well short of the 90' height limit and have made several design changes to reduce the overall height of the building and step the building's height and mass down to transition toward the North Rhode Island District to the east. The zoning also allows zero lot line

setbacks and as well as off street parking is not required to be provided. Although setbacks are not required, we have designed the project with varying setbacks along the alley where the building abuts, and provided 55 feet of set back at the courtyard for a reduction in density adjacent to the neighborhood. We have also designed the project to provide enough parking for one space per sleeping unit to alleviate traffic congestion on the adjacent streets. This is yet another amenity that is provided but not required by zoning which creates significant design issues.

- **Residential Environs versus Downtown Location:** There are many complex design issues with a project being located between a residential district and a downtown commercial district. We have designed the project on the east side to be compatible with the scale of the adjacent commercial buildings and neighborhood. At the same time the project is designed as a “downtown” project, with a commercial appeal on the west side and to match the zoning. This presents design issues of scale, massing, materials, window openings, etc. that must address two significantly differing building types, uses, and densities.
- **Transitional Height Design:** As noted in the previous paragraph, in order to relate to opposing districts and uses on either side (primarily East/West) we have designed the building to be transitional from the downtown corridor to the North Rhode Island Residential District. Downtown’s larger buildings and higher density is a stark contrast from the smaller scale lower density pattern of commercial and residential buildings to the east. This created several design issues with transitioning the building’s height to reflect both areas including not only the design of the project but also the significantly affected the building uses contained within. This also creates design issues with transitioning materials and building form to respect the adjacent development pattern language which honors all sides and context of the project. The transitional height presented a significant design issue of accommodating the required program and number of hotel rooms and/or apartments on the site. The hotel affiliation mandated a very specific unit count as well as required room sizes with very little variation. .
- **Downtown Design Guidelines:** The Downtown Design Guidelines (DDG) provide an outline for building design elements to which the project is measured against and reviewed by the HRC. This also created several design issues for the project. The DDG does not allow for residential uses at the street level, which places all residential units on the levels above the ground level. In order to keep the street level strictly commercial we had to add height to the building in order to achieve the required number residential units. The DDG also requests that larger buildings be divided into 25’ and 50’ bays which are in keeping with historical development and infill in the downtown area. Given that the site is 250’ in length along New Hampshire, and the proposed building is approximately 226’ respectively, the building had to be designed with bays that respect these patterns. We have designed the building to be more contemporary, but still incorporate the traditional bays, proportions, and patterning which has added complexity and expenses to the exterior of the project. This design issue was accomplished by the division of the building form into smaller bays through transitioning materials and undulating roof lines.

- **Neighbor and community concerns:** After several meetings with the neighbors and adjacent neighborhood association, there were several design issues which were discussed and addressed such as height, traffic loading on the alley and headlights in the rear windows of adjacent rental houses, courtyard level and access, and mechanical noise just to name a few . To accommodate the height we redesigned the project to have fewer units, redesigned the indoor pool to be an outdoor pool, redistributed units on the upper floors, and reduced the overall program and number of units to be provided. For the traffic concerns, we first removed traffic off the alley and contained it all on site, then later redesigned and relocated the hotel drop off to remove vehicular traffic from the site all together. The narrow alley width was a design issue we had to contend with so we redesigned the project to increase the alley width where possible. We redesigned the height of courtyard to be at grade to be more inviting and to promote connectivity to the neighborhood as well as allows the us to incorporate local art and events such as Final Fridays. To minimize mechanical noise, we have placed the mechanical units at the rooftop level and away from the neighboring properties.

Technical Issues:

- **Required Program and Performa:** The project has a specific program which must be met in order to be successful. This coupled with a constrained downtown site creates several technical issues to overcome in fitting the program on the site. Each use has its own code requirements, size restraints, and adjacency issues to be considered. The hotel affiliation has required amenities dictating lobby sizes and layout, unit sizes and arrangements, and required mix of unit types.
- **Residential Occupancy:** The building code as amended by the City of Lawrence requires that every residential sleeping unit from the third floor and below must have a window sized for emergency escape and rescue to serve as an escape route in case of a fire. This mandates that every sleeping room must have windows and are therefore not allowed to be located at the interior of the building. The most effective organization of the residential units is to place them on both sides of an internal corridor and the prescribed units sizes from the Hotel affiliation create a footprint that is narrower than the site and requires additional levels to meet the required program.
- **Traffic and Parking:** There are several technical issues which arise from the traffic and parking on this project. The hotel requires a drop off for all its guests. This was located in different places through several iterations, and finally landed on New Hampshire Street. By placing the drop off lane at this location, this eliminates hotel traffic onto the alley as well as eliminating a curb cut along New Hampshire street increasing pedestrian safety. The hotel also requires secured parking for its guests, which we have addressed with an underground parking garage. The garage presents a series of technical issues such as access, ventilation, removal of bedrock, shoring, egress, and the additional cost of structured parking. The retail and restaurant areas will require deliveries as well, which we are providing a loading dock to accommodate the daily service vehicles and minimize the large truck traffic during peak hours.

- **Mixed Use Occupancy:** The nature of every mixed use project has several technical issues such as Occupancy Separation, Fire separation between tenants, egress for each tenant, separated utility services, privacy, secured access to each use as well as shared amenities and cross access.
- **Life safety and fire department access:** Fire department access will be required to be maintained in and around the site in case of a fire. Also, the life safety of the inhabitants must be accommodated. This presents technical issues with addressing adequate access for the fire department with appropriate egress routes and shelter areas.
- **Lighting:** The lighting for the project is required to be provided for emergency egress routes as well as general lighting for security. All exterior lighting is required to provide a cut off level to not interfere with adjacent properties, and at the same time must light the public right of ways.
- **Alley:** The alley on the east side of the property is narrow at 16' and in disrepair. The alley also services several commercial uses on the east side. Maintaining access through the alley during construction will create additional technical issues to be resolved.
- **Mechanical Noise:** The larger mechanical units have been placed on the roof top and away from the neighboring lots to the east. The hotel mechanical units will also be specified to be the quietest units available to eliminate noise to the neighbors. This is also to provide guest satisfaction, considering the noise generated by the hotel mechanical units will be the same level on the outside of the wall as it is in on the inside of the sleeping units.
- **Utilities:** Utilities will need to be appropriately sized for the project and relocated as necessary. Electric service is currently served from overhead power lines located in the alley which will need to be either relocated or placed underground while maintaining service to the existing properties on the other side of the alley. Sanitary and Storm water drainage will have to be adequately sized and provided with potential upgrades to adjacent services. As well, the domestic water and a fire line for the fire protection of the building.
- **Trash:** Adequate Trash service must be provided for the separate tenants. This is required to be served from the alley as well as secured access for each building use. Technical issues such as size, quantity, and location arise during the planning of this.

900 NH Revisions to date:

1. Height:

- Reduced parapet height: Total Height reduced to 74' & 52'
- Reduced the building by 22' (2 stories) at the alley as a transition in order to relate in scale with the nearby residences and commercial structures to the east. This includes a 10' (1 story) additional reduction in height which was not originally planned for.
- Reduced number of income producing hotel rooms to reduce the building height.

- Stepping the building at the alley helps to relate in scale to the existing 2-3 story surroundings.
- Reduced Floor to Floor heights to keep the overall scale down compared to existing surrounding structures.
- Relocated north stair to enlarge building step down and transition zone.
- Explored numerous options of building layout to reduce building height.
- Revisions After 12.15.2011 HRC presentation
 - Reduced Apartment Unit count to 21 units from 34 units. This was an additional reduction from 36.
 - Added Restaurant use to the top floor to augment building program from loss of apartment units. This use was located at the hard corner of the intersection of 9th and New Hampshire to adhere to Downtown Design Guidelines (the corner buildings are more appropriate for higher structures.)
 - Removed all dwelling units from the top floor to reduce top floor program to only restaurant and outdoor deck. This allowed for a significant reduction to the top floor foot print and conditioned spaces requiring full enclosures.
 - Adjusted top floor pool to be exterior in order to reduce enclosed space and therefore roof height.
 - Relocated hotel rooms to ground floor, 2nd, 3rd, and partial 4th floor. Locating rooms on the ground floor allow for reduction of height.
 - Reduced height of transitional building bays adjacent to alley an additional two stories from previously reduced proposal.
 - Added a 5th floor balcony atop of 4th floor roof to break the roof line and reduce the building height at the center of New Hampshire façade (per the ARC recommendation).

2. Massing:

- Revised the Ninth Street and New Hampshire Street elevations to obtain verticality as design language.
- Revised massing into smaller bays to provide a rhythm that is more compatible with downtown streetscape, creating a smaller scale
- Adjusted building material patterning to further achieve verticality per staff recommendation.
- Recessed courtyard along alley to create open space, pulling massing away from neighborhood.
- Located highest portion of the building on the hard corner per Downtown Design Guidelines, roof line steps down along the rest of 9th and New Hampshire.
- Revisions After 12.15.2011 HRC presentation
 - Significantly revised building massing and bays to incorporate verticality as suggested by the HRC and Planning Staff.
 - Revised building bays to reduce scale and break up massing along with material changes.

- Revised top floor restaurant form and added storefront glazing to corners of the building to visually “lighten” the top of the building and reduce massing of heavy materials.
- Added balconies to apartment units to break up massing
- Revised roof line to provide an undulating roof line which breaks up the building massing into smaller components, per DDG and ARC recommendations
- Revised window types and patterns (per staff/ARC recommendation).
- Extruded building bays to break up the façade into bays that have depth rather than only a material change. Returned materials at balcony openings.
- Added curved hotel entry bay to accent the hotel entrance for increased way finding and added transitional elements from neighboring Lawrence Art Center, creating similar design language.
- Revised upper levels to add more glazing and visually lighten the top facades.

3. Materials:

- Alternate materials are being pursued such as metal panel or cement panel used as rain screen in lieu of proposed Ceramic Tile.
- Revised materials along alley to break up massing and provide transition to commercial materials to residential type materials as the building approaches the alley.
- Researching alternate window types as recommended by HRC staff.
- Revisions After 12.15.2011 HRC presentation
 - Revised 3 story building element along 9th Street to brick/masonry in lieu of siding per recommendation of ARC. Appearance of independent historic structures
 - Revised building bays to have consistent materials and textures, but still maintain a limited material palate to unify the design per ARC recommendation
 - Proposed glass railings to reduce appearance of massing

4. Signs:

- Replace building signage at top of Northwest building corner with compatible Blade signs per downtown guidelines.
- Lowered and reduced size of blade sign per staff recommendation.
- Revisions after 12.15.2011 HRC presentation
 - Reduced size of corner blade signage area

- Relocated Hotel signage to face New Hampshire Street
- Added Apartment entry signage to highlight multi-family entry point

5. Storefronts:

- Redesigned storefronts to meet traditional 3 part layering at pedestrian level as suggested by staff.
- Redesigned storefronts address pedestrian scale at hard corner and commercial uses on the ground floor.
- Revised steel canopies to fabric awnings to match typical downtown storefronts.
- Enlarged storefront glazing at apartments per staff recommendation.
- Revisions After 12.15.2011 HRC presentation
 - Enlarge Apartment entry for way finding per HRD and ARC recommendations
 - Revised Street level storefront proportions to meet Downtown Design Guidelines.
 - Added Storefronts along sidewalks to enhance pedestrian experience and scale

6. Parking:

- Providing approximately off street 120 spaces although not required by zoning. Most of these are below grade to serve the Hotel and Apartments.
- Revisions After 12.15.2011 HRC presentation
 - Revised parking along New Hampshire to incorporate hotel drop off lane
 - Revised on street parking to incorporate parallel parking to match development pattern along New Hampshire.
 - Reduce number of entry points to parking garage to a single point of access only requiring one curb cut off of 9th street near service alley

7. Mechanical Noise:

- Apartment: condensing units will be on the roof and are residential scale
- Hotel: Thru wall units are same noise level on each side of the wall
 - Highest technology for customer satisfaction
- Specifying the quietest units possible
- Revisions After 12.15.2011 HRC presentation
 - Reduced number of condensing units required for building
 - Placed rooftop Mechanical units behind screen walls to block visibility and sound transfer. Located roof top units in inconspicuous locations.

8. Alley and Traffic:

- Revised parking garage to keep project generated traffic on site and does not load onto the alley
- Eliminated additional traffic on alley by rerouting vehicles through the parking garage rather than through the alley

- Created one way traffic onto the site for the hotel drop off which will increase pedestrian safety around the site.
- Screened hotel drop off so vehicle lights are not shining in rear windows across the alley
- Loading dock to decrease truck traffic for market
- Reducing the building foot print to add two feet to the alley width
- Revised alley elevations to “soften” the alley facades with additional openings and plantings
- Enhanced courtyard landscaping and screening to serve as an event space that could be available to neighbors for events such as Final Fridays.
- Revisions After 12.15.2011 HRC presentation
 - Removed Hotel drop off from south side of the building and created a drop off lane along New Hampshire.
 - Removed ALL vehicular traffic from south side of building, replaced by outdoor dining and pocket park.
 - Revised parking entrance to a single point of access from 9th street.
 - Revised Loading dock location slightly to better serve ground floor retail spaces.
 - Enlarged Alley along Courtyard.
 - Located courtyard on grade with alley and provided pedestrian access (per ELNA request).

9. Structural Concerns:

- Offered to rebuild adjacent Social Services League rear structure.
- Offered to analyze adjacent structures before and after the project to observe any movement considered to be created by the construction of this project.
- Revisions After 12.15.2011 HRC presentation
 - Contacted 3rd part consultant to document existing structures and post construction

9. Additional considerations:

- Additional Landscaping
- Covered bicycle parking will be accommodated.
- Seeking LEED certification
- Public Meeting requested with developers present, held a series of meetings and presentations with Neighbors, ELNA, HRC, ARC, and City Commission
- Seeking viable Market tenant to have produce available
- Art Center program tenant to homeowner, Final Fridays exhibit space

SUMMARY

In summary, based on the above considerations, I believe that there is no feasible and prudent alternative to the proposed plan and that all possible planning has been undertaken to minimize the harm to the environs of the adjacent historical district and structures.

FURTHER AFFIANT SAYS NOT


Micah J. Kimball, Affiant

STATE OF KANSAS)
) ss
COUNTY OF DOUGLAS)

Sworn before me, the undersigned, on this 21st day of June, 2012, a Notary Public in and for the County and State aforesaid, by Micah J. Kimball, Architect with Treanor Architects, P.A. incorporated and existing under and by virtue of the laws of Kansas, who is personally known to me to be such person, and who is personally known to me to be the same person who executed this Affidavit, and such person duly acknowledged the execution of the same to be his act executed under penalties of perjury.

IN WITNESS WHEREOF, I have hereunto set my name and affixed my official seal the day and year last above written.




Notary Public in and for Said County and State

Erin I. Mayer
(Type, print or stamp the Notary's name below his or her signature.)

My Commission Expires:

08-04-2012

AFFIDAVIT OF CHARLES E. MACKEY

I, the undersigned, under penalties of perjury, declare that I have prepared this Affidavit and to the best of my knowledge and belief it is true, correct and complete as follows:

1. I am the currently acting President of Capital Management, Inc., a Kansas corporation ("**Capital Management**"), a hotel development company based in Overland Park, Kansas. Our office address is 6811 Shawnee Mission Parkway, Suite 210, Overland Park, Kansas 66202.
2. Capital Management was established in 1994 for the purpose of the development and ownership of hotel properties. Following their success in the food service sector, CMI was started by three business partners who wanted to move into the hospitality sector, Gene Camarena, William Shea and myself. We have since developed or purchased six hotels across the Midwest that are all Marriott brands. Capital Management operates each of these hotels. Each of Capital Management's properties are ranked in the top 20% of their respective brands, with some ranking even as high as 5%. Capital Management's hotels have been recognized by Marriott corporate for their outstanding performance.
3. Capital Management is in the process of developing and building a seventh hotel in Kansas City located at Briarcliff. The company's expansion since origin includes well-known national Marriott brand hotels such as Courtyard, Fairfield Inn, Springhill Suites and Towne Place Suites. These properties are located in Lawrence, Kansas (Springhill Suites), Kansas City, Missouri (Briarcliff- Courtyard), Evansville, Indiana (Fairfield Inn), Council Bluffs, Iowa (Springhill Suites), Las Cruces, New Mexico (Towne Place Suites and Fairfield Inn) and Overland Park (Towne Place Suites).
4. In my capacity as President, I have been very involved in Capital Management's development, financing, construction, and operation of new hotel projects, and very knowledgeable in the various operational and other restrictions imposed by the franchisor, Marriott.
5. As the operator and part owner of the Marriott Springhill Suites located in the Riverfront Mall, I am very familiar with the nature of the hotel business in Lawrence, Kansas, and particularly downtown Lawrence, Kansas.
6. Capital Management is currently involved in helping to develop the proposed project located at 900 New Hampshire and would operate the hotel upon completion. We anticipate the hotel will be operating as an extended stay hotel with a Marriott Towne Place flag. (the "**Project**").
7. The current plans call for an 80-90 unit hotel operation. Because of franchisor requirements, it is difficult if not impossible to franchise with a national hotel chain franchisor such as Marriott unless the Project is of a sufficient size. The proposed

My Commission Expires:

AFFIDAVIT OF MARTIN W. MOORE

I, the undersigned, under penalties of perjury, declare that I have prepared this Affidavit and to the best of my knowledge and belief it is true, correct and complete as follows:

1. I am the currently acting manager of 9-10, L.C., a Kansas limited liability company ("9-10") formed for the purpose of acting as the developer of record for several parcels of land located near and adjacent to Ninth & New Hampshire in downtown Lawrence, Kansas.
2. 9-10 is the current owner of the vacant lot located on the south-east corner of Ninth & New Hampshire just north of the Art Center and that is currently under contract and the subject of the appeal to the Lawrence City Commission from a decision by the Historic Resources Commission that the proposed hotel and apartment project (the "Project") encroaches upon, damages, or destroys the adjacent historic Rhode Island street neighborhood located to the east of the Project.
3. 9-10 acquired the property in 2000.
4. Prior to our acquisition of the proposed site, the property was vacant and partly being used as parking lot for Mercantile Bank (now US Bank).
5. On or around Year 2000, 9-10 established a TIF district for the parcels we owned. This was part of what was called the Downtown 2000 Plan.
6. Despite the incentives that were obtained from the City of Lawrence for the proposed parcel, the Property has never been sold.
7. The original development plan for this site was to develop it for two-story retail and commercial uses.
8. We have prepared numerous pro formas and other analysis for this proposed site. Based on this detailed analysis, based on market conditions over the past ten to eleven years, we determined that it was not financially feasible to develop for two story retail and commercial uses.
9. We have received expressions of interest from various interested parties to build projects on this site. Approximately two years ago, we were approached by a developer about potentially building a four story hotel on this site.
10. After investigating the site and market conditions, the hotel developer decided not to proceed with its development of the site. The hotel developer informed us that the project was not financially feasible in his estimation.

In summary, based on my knowledge and extensive experience with the property and history of the property, I do not believe that there is any reasonable or prudent alternative to the proposed Project.

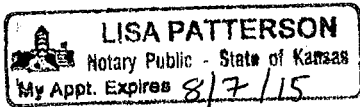
FURTHER AFFIANT SAYS NOT

Martin W. Moore
Martin W. Moore, Affiant

STATE OF KS)
COUNTY OF DE) ss

Sworn before me, the undersigned, on this 17 day of April, 2012, a Notary Public in and for the County and State aforesaid, by Martin W. Moore, Manager of 9-10, L.C., a limited liability company duly organized, incorporated and existing under and by virtue of the laws of Kansas, who is personally known to me to be such person, and who is personally known to me to be the same person who executed this Affidavit, and such person duly acknowledged the execution of the same to be his act executed under penalties of perjury.

IN WITNESS WHEREOF, I have hereunto set my name and affixed my official seal the day and year last above written.



Lisa Patterson
Notary Public in and for Said County and State

Lisa Patterson
(Type, print or stamp the Notary's name below his or her signature.)

My Commission Expires:

8/7/15

AFFIDAVIT OF MICHAEL L. TREANOR

I, the undersigned, under penalties of perjury, declare that I have prepared this Affidavit and to the best of my knowledge and belief it is true, correct and complete as follows:

1. I am the founder and currently Chairman of the Board for Treanor Architects, P.A., a Kansas professional corporation located at 110 McDonald Drive, Suite 192, Lawrence, Kansas 66044. I started Treanor Architects in 1981. It has now grown to over 70 professionals located in seven different offices. We are in the process of consolidating our Lawrence office from two offices to one office located downtown, which is under construction at 1040 Vermont.
2. For the past several years, I have been working on the development and design of the project located at Ninth & New Hampshire on the vacant lot just north of the Art Center (the "**900 New Hampshire Project**"). The proposed project is an 80-90 unit hotel/apartment building with some retail space located on the ground floor and a restaurant proposed on the top floor.
3. I have also worked on the development and design of the project located to the west that is known as the 901 New Hampshire building. Some of my experience related to the development of the 901 New Hampshire building is instructive with respect to the issues we now face concerning whether there is any reasonable and prudent alternative to the current proposed size and massing of the 900 New Hampshire Project.
4. On or around July 11, 2008, myself acting on behalf of an entity named Ninth & New Hampshire, LLC, executed a contract to purchase the 901 New Hampshire lot from the owner.
5. My firm produced several preliminary development plans ranging from 5-9 stories with retail on the first floor, offices on the second floor, and the balance residential units. With permission from the landowner, we delayed the project several times as we worked through these designs. After consulting with my development partner, Doug Compton, and looking at the economic and feasibility issues, we determined that the project was not financially feasible unless the project was at least seven stories. We pursued and received approval for a seven story project. The project was started on or around January 2011 and completed in December, 2011.
6. With respect to the 900 New Hampshire Project which is the subject of this appeal, I firmly believe based on the extensive discussions, revisions, and changes that we have made to the plans that all possible planning has been done to minimize the impact on the surrounding neighborhoods and to preserve the historic character of these neighborhoods. I also believe, based on my role as a developer of this project, that building a project that is smaller or has less square footage than what has been

proposed is not economically feasible and maybe more importantly is not in the best interests of downtown Lawrence and the community.

7. On this later point, I believe that the proposed 900 New Hampshire Project supports a number of desirable goals for downtown Lawrence and that based on the community wide impact that the project will deliver the HRC determination should be reversed by the City Commission. I would further note that the HRC Commission does not really consider these community wide issues in its analysis (instead focusing solely on the impact to the adjacent historical district), but that the City Commission is charged with undertaking this task under the rules as they now exist. Factors and considerations that I believe support the positive impact that the 900 New Hampshire Project have on the downtown and the larger community are as follows:
 - a. Lawrence currently does not have very many hotel rooms that are designed and dedicated for stays by long term guests. By locating long term visitors in our downtown area, we encourage spending of visitor dollars in downtown stores and restaurants.
 - b. The previous studies that have been commissioned by the City of Lawrence such as the Smart Code Calibration Report have all supported increasing density in downtown Lawrence as a means to preserve and enhance the downtown and to create more vibrancy. On page A7, the report notes that “Mixed-use development makes it possible for residents in a given area to live, conduct their business, enjoy public amenities and services as well as entertainment all in close proximity to one another and optimally with little or no reliance on the automobile.” In this case, we are trying to support these goals by providing a community grocery service to downtown Lawrence.
 - c. The 900 New Hampshire Project supports the goal of the current City policy as stated in the Downtown Lawrence Long Range Plan of promoting infill projects as a means of increasing density. We strongly believe that the more people who live, work, and play in the downtown, the stronger the downtown will be.
 - d. The land proposed for this Project has sat vacant for many years. The land is located in an existing TIF district known as the Downtown 2000 district. The original plans submitted as part of the Downtown 2000 plans called for a two story building to be built on this site. Even though the TIF district was established, providing a substantial incentive to any developer to build a project on this site, no development has ever occurred at this site. The 900 New Hampshire Project creates a significant tax base for the City of Lawrence and in our opinion represents the “highest and best” use for this site. Other proposals have suggested alternative uses for this site, but most of the alternative proposed uses either are not in my opinion economically feasible or propose to convert the property to community type use (funded by the taxpayers) that does not serve to increase the tax base for our community.

- e. Chapter Six of Horizon 2020, the City of Lawrence's long term planning guide recognizes the strong community interest the citizens of Lawrence have in their downtown. This section provides in part as follows:

The Downtown Commercial Center is the Regional Retail/Commercial/Office/Cultural Center for the community and is considered a destination driver that attracts and serves the area beyond that of the local community. The Downtown Commercial Center has an established development and architectural/urban design pattern. Unique among commercial centers in Lawrence, the Downtown Commercial Center combines a variety of land uses, including governmental, retail, office, public facilities, institutions, churches, and residential. Linear in design, the Downtown Commercial Center is focused along Massachusetts Street with New Hampshire and Vermont Streets serving as secondary activity areas. General building patterns are urban. **Mixed-use, multi-story buildings are the most common building form** and parking is provided on-street and through community parking lots and parking structures. Building designs and public improvements are focused on providing a pedestrian-oriented commercial experience. Massachusetts Street has a distinct streetscape with sawtooth parking and a focus on first floor (pedestrian oriented) retail use. Vermont and New Hampshire Streets provide the major vehicular movement patterns and provide access to the majority of the community parking areas. Alleyways, which provide service access, are one of the main character-defining elements that distinguish the Downtown Commercial Center from other commercial centers. To ensure there are a variety of commercial uses, the maximum footprint for an individual store is limited to approximately 25,000 gross square feet. One of the keys to the success of the Downtown Commercial Center is the ability to provide a wide range of leasable square footage that is both flexible and capable of being tailored to a specific use. Construction within the Downtown Commercial Center is regulated by a set of design guidelines administered through an Urban Conservation Overlay Zoning District.

Throughout the development of this Plan, the need to preserve, improve and enhance Downtown Lawrence has been shown to have broad community support. Goals and policies in the Plan are written to ensure Downtown Lawrence remains competitive and viable as a Regional Retail Commercial Center. Downtown Lawrence shall remain the Regional Retail/Commercial/Office/Cultural Center because it is: 1) a physical and cultural symbol of the strength of the community; 2) a gathering point for many civic and cultural functions; 3) the "historic core" of the community which establishes a vital continuity between the past and the present community; and 4) the site of major public and private investment. ***Emphasis supplied.***

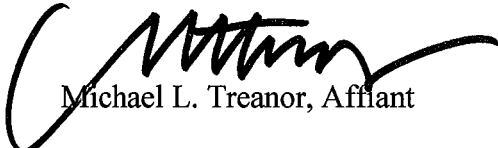
We believe that the Project greatly assists in the preservation and promotion of Downtown Lawrence as the central business district for the community.

8. The Comprehensive Downtown Plan (part of Horizon 2020) reiterates the specific functions of a downtown. These functions include provisions for a retail core, office space, entertainment services, peripheral residential development, cultural facilities (including performing arts, museums and libraries) community social needs (including club and organizational meeting facilities), government offices and facilities, health services, convention and *hotel facilities*. The Comprehensive Downtown Plan also states this area should provide, "the economic, physical and aesthetic environment around which the populace can develop an intense pride in the community, a focal point for identification and drawing together for common interests, a meeting place where people can communicate and relax -- the heart of the city". ***Emphasis supplied.*** In my opinion, you do not achieve the "focal point" goal unless you have projects such as the proposed Project that help to bring additional visitors and people to the downtown area.
9. Horizon 2020 recognizes the need to continue to expand the Downtown Corridor. The Plan, in part, states as follows: "For Downtown Lawrence to remain economically stable and vital there is a need to expand the boundaries beyond the current configuration illustrated in the adopted Comprehensive Downtown Plan."

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In summary, I believe that taking into consideration the important community-wide planning goals, that the 900 New Hampshire Project should be approved by the City Commission. I firmly believe the 900 New Hampshire Project will greatly enhance and strengthen the downtown and that appropriate planning measures have been undertaken to minimize the negative impact, if any, on the adjacent historic neighborhoods and historic structures.

FURTHER AFFIANT SAYS NOT


Michael L. Treanor, Affiant

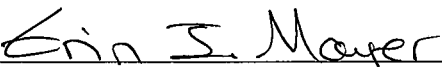
STATE OF KANSAS)
) ss
COUNTY OF DOUGLAS)

Sworn before me, the undersigned, on this 21st day of June, 2012, a Notary Public in and for the County and State aforesaid, by Michael L. Treanor, Chairman, Treanor Architects, P.A. incorporated and existing under and by virtue of the laws of Kansas, who is personally known to me to be such person, and who is personally known to me to be the same person who executed this Affidavit, and such person duly acknowledged the execution of the same to be his act executed under penalties of perjury.

IN WITNESS WHEREOF, I have hereunto set my name and affixed my official seal the day and year last above written.




Notary Public in and for Said County and State


(Type, print or stamp the Notary's name below his or her signature.)

My Commission Expires:

08-04-2012