

ORDINANCE NO. 8762

SPECIAL USE PERMIT NO. SUP-5-5-12

**AN ORDINANCE OF THE CITY OF LAWRENCE, KANSAS,
GRANTING A SPECIAL USE PERMIT FOR A SCRAP AND
SALVAGE OPERATION ON CERTAIN REAL PROPERTY,
COMMONLY KNOWN AS 1545 NORTH THIRD STREET,
LAWRENCE, DOUGLAS COUNTY, KANSAS,.**

WHEREAS, pursuant to City of Lawrence, Kan., Code § 20-403 (Jan. 1, 2011), as amended, a Scrap and Salvage Operation is, upon the grant of a Special Use Permit, a permitted use in districts zoned IG-FP (General Industrial-Floodplain Overlay);

WHEREAS, the owner of record of the subject real property, commonly known as 1545 North Third Street, Lawrence, Douglas County, Kansas, the legal description of which is set forth at Section 2, *infra*, proposes to use the subject real property, which is currently zoned IG-FP, for a Scrap and Salvage Operation;

WHEREAS, the owner of record of the subject real property has filed a proper application for a Special Use Permit, No. SUP-5-5-12, to use the subject real property for a Scrap and Salvage Operation;

WHEREAS, the Lawrence-Douglas County Metropolitan Planning Staff reviewed that application in light of all relevant factors and prepared a report recommending that the application for a Special Use Permit, No. SUP-5-5-12, be approved;

WHEREAS, on June 25, 2012, after giving due and lawful notice, the Lawrence-Douglas County Metropolitan Planning Commission conducted a public hearing on Special Use Permit, No. SUP-5-5-12;

WHEREAS, at its June 25, 2012, public hearing, the Lawrence-Douglas County Metropolitan Planning Commission considered the report and recommendation of City staff, weighed the evidence adduced at the public hearing, and voted to recommend to the City Commission that it grant the application for a Special Use Permit, No. SUP-5-5-12, permitting the applicant to use the subject property for a Scrap and Salvage Operation; and

WHEREAS, at its July 10, 2012, public meeting, the Governing Body addressed the application for a Special Use Permit, No. SUP-5-5-12, received comments from the public, and considered the recommendation of the Lawrence-Douglas County Metropolitan Planning Commission.

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

SECTION 1. The above-stated recitals are incorporated herein by reference and shall be as effective as if repeated verbatim.

SECTION 2. In accordance with City of Lawrence, Kan., Code § 20-1306 (Jan. 1, 2011), as amended, the governing body of the City of Lawrence, Kansas, hereby grants to the applicant Special Use Permit, No. SUP-5-5-12, for the following legally described real property, situated in the City of Lawrence, Douglas County, Kansas, to-wit:

A TRACT OF LAND IN THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 12 SOUTH, RANGE 20 EAST OF THE SIXTH PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE 132.00 FEET WEST OF THE NORTHEAST CORNER OF SAID QUARTER SECTION, (SAID POINT BEING ON THE WEST RIGHT-OF-WAY LINE OF U.S. HIGHWAYS 59 AND 40); THENCE SOUTH 02°14'24" EAST, ALONG SAID WEST RIGHT-OF-WAY LINE, 496.69 FEET; THENCE NORTH 87°45'36" EAST, ALONG SAID WEST RIGHT-OF-WAY LINE, 72.00 FEET; THENCE SOUTH 02°14'24" EAST, ALONG SAID WEST RIGHT-OF-WAY LINE, 192.00 FEET; THENCE NORTH 87°45'36" EAST, ALONG SAID WEST RIGHT-OF-WAY LINE, 5.00 FEET; THENCE SOUTH 02°14'24" EAST, ALONG SAID WEST RIGHT-OF-WAY LINE, 636.32 FEET; THENCE SOUTH 87°47'15" WEST, 474.48 FEET TO THE EAST RIGHT-OF-WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE NORTH 01°19'46" EAST, ALONG SAID EAST RIGHT-OF-WAY LINE, 1331.40 FEET TO THE NORTH LINE OF SAID QUARTER SECTION; THENCE NORTH 88°29'40" EAST, ALONG SAID NORTH LINE, 314.62 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 12.290 ACRES, MORE OR LESS, ALL IN DOUGLAS COUNTY, KANSAS.

permitting the subject real property to have that special permitted use set forth in Section 3, *infra*, subject to the conditions established in Section 4, *infra*.

SECTION 3. The City hereafter permits the subject real property, as granted in Section 2, *supra*, in accordance with Special Use Permit, No. SUP-5-5-12, to have the following special permitted use: Scrap and Salvage Operation.

SECTION 4. The Special Use Permit granted in Section 2, *supra*, and the permitted use set forth in Section 3, *supra*, in addition to being subject to the general conditions established in Chapter 20 of the Code of the City of Lawrence, Kansas, 2011 Edition, as amended, is also subject to the following special conditions:

- (a) The owner/applicant shall submit to the Lawrence-Douglas County Planning Office a copy of a letter from the Kansas Department of Health and Environment (KDHE) confirming that the project complies with all KDHE requirements.
- (b) The owner/applicant shall submit to the Lawrence-Douglas County Planning Office a copy of a permit issued by the United States Army Corps of Engineers.
- (c) The owner/applicant shall execute a Site Plan Performance Agreement.
- (d) Prior to the release of the Site Plan for issuance of a building permit, the owner/applicant shall submit and receive approval of a stormwater pollution prevention plan (SWP3) in accordance with City of Lawrence, Kan., Code § 9-903(B) (Jan. 1, 2011).

- (e)** Prior to the release of the Site Plan for issuance of a building permit, the owner/applicant shall receive approval of a local Floodplain Development Permit in accordance with City of Lawrence, Kan., Code § 20-1308(a) (Jan. 1, 2011).
- (f)** The owner/applicant shall submit to the Lawrence-Douglas County Planning Office and receive approval of a plan detailing the use and arrangement of activity and storage for the exterior storage area in accordance with Floodplain Development Regulations.
- (g)** To meet the approval of the City's Stormwater Engineer, the owner/applicant shall submit a revised Site Plan that includes the following notes and changes
 - (i)** The Site Plan shall include the following notes:
 - (A)** "A large portion of the subject property is located within the one percent annual chance (100-year) floodplain in accordance to the Federal Emergency Management Agency, Flood Insurance Rate Map, Map Numbers 2004C0088D & 2004C0176D, Effective Date: August 5, 2010. The base flood elevation (BFE) = 823."
 - (B)** "Construction activity, including soil disturbance or removal of vegetation shall not commence until an approved SWP3 has been obtained."
 - (C)** "The 'detention area' and the connecting drainage swale will be maintained to provide 540 cubic yards (0.33 acre-feet) of additional floodplain volume within the site boundary." [This is an alteration of a note appearing on the Site Plan, changing "retention" to "detention"].
 - (D)** "This site falls under guidelines set forth by the Kansas Department of Health and Environment, refer to KDHE Project No. C4-023-71903 & EUCA No. 07-EUC-0001 for reference."
 - (E)** A note that indicates that borrow soil for fill shall comply with KDHE BER Policy #BER-RS-048.
 - (ii)** The Site Plan shall show the flow line elevations of the 36" CMP under the gravel road on the north side of the property.
 - (iii)** The Site Plan shall show: **(A)** the existing curb inlet locations on the west side of North Third Street; **(B)** the elevations of the top of the curb inlets as well as outfall elevations; and **(C)** the corresponding cross road pipes extending to the east under North Third Street, including material type and diameter.

- (h)** The owner/applicant shall submit a revised Site Plan that includes the following:

 - (i)** A note showing that the owner/applicant has requested a waiver from the requirement to construct sidewalks (refer to preliminary plat discussion), but that if sidewalks are required that the drawing will be amended to show the sidewalks.
 - (ii)** Provision of fencing details as approved by Planning Staff that are consistent with Industrial Design Guidelines.
 - (iii)** The Site Plan shall show building entrances.
 - (iv)** The revision of off-street parking summary in accordance with the Planning Staff report and the provision of one (1) additional parking space.
 - (v)** Provision of a note that states that chain-link fencing is prohibited along Highway 40/59, except for that portion north of the north driveway and that future replacement of the fence north of the north driveway shall be consistent with approved gateway treatment of the site.
 - (vi)** Provision of a note that state: "All mechanical equipment shall be screened in accordance with Section 20-1006 of the Land Development Code."
 - (vii)** Labels on the Site Plan that show open space, including a general note that states that turf areas will be open space.
- (i)** The owner/applicant shall submit a revised landscape plan to include the following notes and changes:

 - (i)** Showing eight (8) street trees along the north property line at a ratio of one (1) tree per forty (40) feet.
 - (ii)** A note that states: "Existing trees used for screening or other required landscape standards lost or removed for any reason shall be replanted consistent with the size and species requirements of the landscape plan."
 - (iii)** Updating the interior landscape summary to reflect the increase in off-street parking standards for the use.
 - (iv)** Updating the street tree summary to include the 314.62 feet of frontage along the north property line [8 street trees].
 - (v)** Revising the plan schedule to show minimum tree size of 4" caliper and minimum container size of shrubs as 5 gallon 18 -24".

- (vi) A note that specifies the planning materials to be used for all turf areas.

SECTION 5. Failure of the applicant, owner, or any successor or assign to abide by the requirements of Chapter 20 of the Code of the City of Lawrence, Kansas, 2011 Edition, as amended, or the special condition established in Section 4, *supra*, shall be cause for the City to revoke Special Use Permit, No. SUP-5-5-12, in accordance with City of Lawrence, Kan., Code § 20-1605 (Jan. 1, 2011), as amended.

SECTION 6. If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

SECTION 7: After adoption and publication as provided by law, this ordinance shall be in full force and effect, commencing August 9, 2012.

ADOPTED by the Governing Body of the City of Lawrence, Kansas, this ____ day of July, 2012.

APPROVED:

Robert J. Schumm
Mayor

ATTEST:

Jonathan M. Douglass
City Clerk

APPROVED AS TO FORM AND LEGALITY:

Toni R. Wheeler
City Attorney

NOTICE TO PUBLISHER

Publish one time and return one Proof of Publication to the City Clerk and one to the City Attorney.