



LAWRENCE BOARD OF ZONING APPEALS

AGENDA FOR **JULY 5, 2018**

1<sup>ST</sup> FLOOR OF CITY HALL, 6 E. 6<sup>TH</sup> STREET, CITY COMMISSION MEETING ROOM  
**6:30 PM**

**UPDATED:**

**7/5/18 @ 10:30am**

**Added Communications to Item 4 – 444 Locust St**

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**TAKE A ROLL CALL TO DETERMINE IF THERE IS A QUORUM OF MEMBERS PRESENT**

**ITEM NO. 1      COMMUNICATIONS**

- A. Acknowledge communications to the come before the Board.
- B. Disclosure of ex-parte communications and/or abstentions for specific agenda items.
- C. Announce any agenda items that will be deferred.

**ITEM NO. 2      MINUTES**

Consider approval of the minutes from the June 7, 2018 meeting of the Board.

**BEGIN PUBLIC HEARING:**

**ITEM NO. 3      VARIANCE FROM THE EXTERIOR SIDE YARD BUILDING SETBACK FOR A RESIDENTIAL STRUCTURE; 1625 HASKELL AVENUE**

**B-18-00272:** A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2018 edition. The request is for a variance from the 25 foot exterior side setback standard required by Section 20-601(a) of the City Code for the RM12 (Multi-Dwelling Residential) District. The applicant is seeking a variance from this code standard reducing the exterior side setback to a minimum of 15 feet to allow for the construction of a detached dwelling. The property is located at 1625 Haskell Avenue. Submitted by Wagner Contracting, LLC, on behalf of the Estate of Virginia R. Copp, property owner of record.

**ITEM NO. 4      MINIMUM OFF-STREET PARKING VARIANCE; 444/446 LOCUST STREET**

**B-18-00278:** A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2018 edition. The request is for a variance from Article 9, "Parking, Loading and Access," requiring a minimum number of off-street parking spaces to be provided from a required 64 spaces to 8 spaces. The property is located at 444/446 Locust Street.

Submitted by Paul Warner with Paul Werner Architects, on behalf of Tiburcio J Reyes Sr, property owner of record.

**ITEM NO. 5      MISCELLANEOUS**

- A.      Consider any other business to come before the Board.

**ITEM NO. 3**      **VARIANCE FROM THE EXTERIOR SIDE YARD BUILDING SETBACK FOR A RESIDENTIAL STRUCTURE; 1625 HASKELL AVENUE (LOT 1, BLOCK 2, HOMEWOOD GARDENS SUBURBAN ADDITION, A SUBDIVISION IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS) [LRM]**

**B-18-00272:** A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2018 edition. The request is for a variance from the 25 foot exterior side setback standard required by Section 20-601(a) of the City Code for the RM12 (Multi-Dwelling Residential) District. The applicant is seeking a variance from this code standard reducing the exterior side setback to a minimum of 15 feet from the northern property line along Ward Street. The property is located at 1625 Haskell Avenue. Submitted by Eric Wagner, Wagner Contracting LLC, for the estate of Virginia Copp, property owner of record.

**B. REASON FOR REQUEST**

Applicant's Request – *"Request to use lot 1 as single family residence with variance of the side yard setback along Ward Street from 25' to 15' allowing a 30' x 120' building envelope. Since predominate zoning is RS7 the RM12 current zoning will not be applicable and won't require an application to rezone".*

**0C. ZONING AND LAND USE**

Current Zoning & Land Use:	RM12 (Multi-Dwelling Residential-12 dwelling units per acre) District; <i>Vacant</i> .
Surrounding Zoning and Land Use:	RS7 (Single-Dwelling Residential) District to the west and south; <i>Detached Dwelling Residential</i> use.
	RM12 (Multi-Dwelling Residential – 12 dwelling units per acre) District to the north and east; <i>Multi-Dwelling Residential</i> use.

**D. ZONING ORDINANCE REQUIREMENTS**

Section 20-601(a), "DENSITY AND DIMENSIONAL STANDARDS; OCCUPANCY LIMITS, Residential Districts," provides the minimum building setbacks for each residential district. The code required minimum building setbacks in the RM12 (Multi-Dwelling Residential) District and what is being requested by the applicant follow:

North setback (Exterior side setback) – 25 feet required; 15 feet proposed

The applicant is requesting a variance from the required exterior side setbacks so they construct a detached dwelling on the subject property. The construction of a detached dwelling in an RM or RMO district normally requires a special use permit. Section 20-508 of the Land Development Code permits a detached dwelling in an RM or RMO district without a special use permit if it is located on its own platted lot and if the majority of the properties on the block face are constructed as detached dwellings. The

property is a platted lot of record in the Homewood Garden Suburban Addition Subdivision. The properties to the south and west of the site are zoned RS7. The adjacent properties along Ward Street and Haskell Avenue are detached dwellings. Therefore, a Special Use Permit is not required to construct a detached dwelling in this instance.



**Figure 1: Subject Property outlined in Teal. Subject Property is located within the RM12 District but adjacent to RS7 District.**

## **E. SPECIFIC ANALYSIS**

Section 20-1309(g)(1) in the Development Code lists the five requisite conditions that have to be met for a variance to be approved.

**1. The variance request arises from such conditions which are unique to the property in question and not ordinarily found in the same zone or district; and are not created by an action or actions of the property owner or applicant.**

Applicant response: *"Currently lot is zoned RM12 – all surrounding lots are RS7. Due to nature of the lot being at the corner with the side yard and front yard requiring 25' setbacks the 50' lot would have a 20' building enveloped significantly reducing possibility of building a single family home."*

The subject property was originally platted and recorded in 1930 as Lot 1, Block 2, part of the Homewood Gardens Suburban Addition. The 1927 Lawrence Zoning Code, adopted with [Ordinance No. 2227](#), notes a separate side setback requirement for buildings on corner lots, where interior lots have been platted or sold fronting the side street. In such cases, buildings on corner lots may not project more than ten feet in front of the line established for buildings by the front yard requirements for the interior lots on

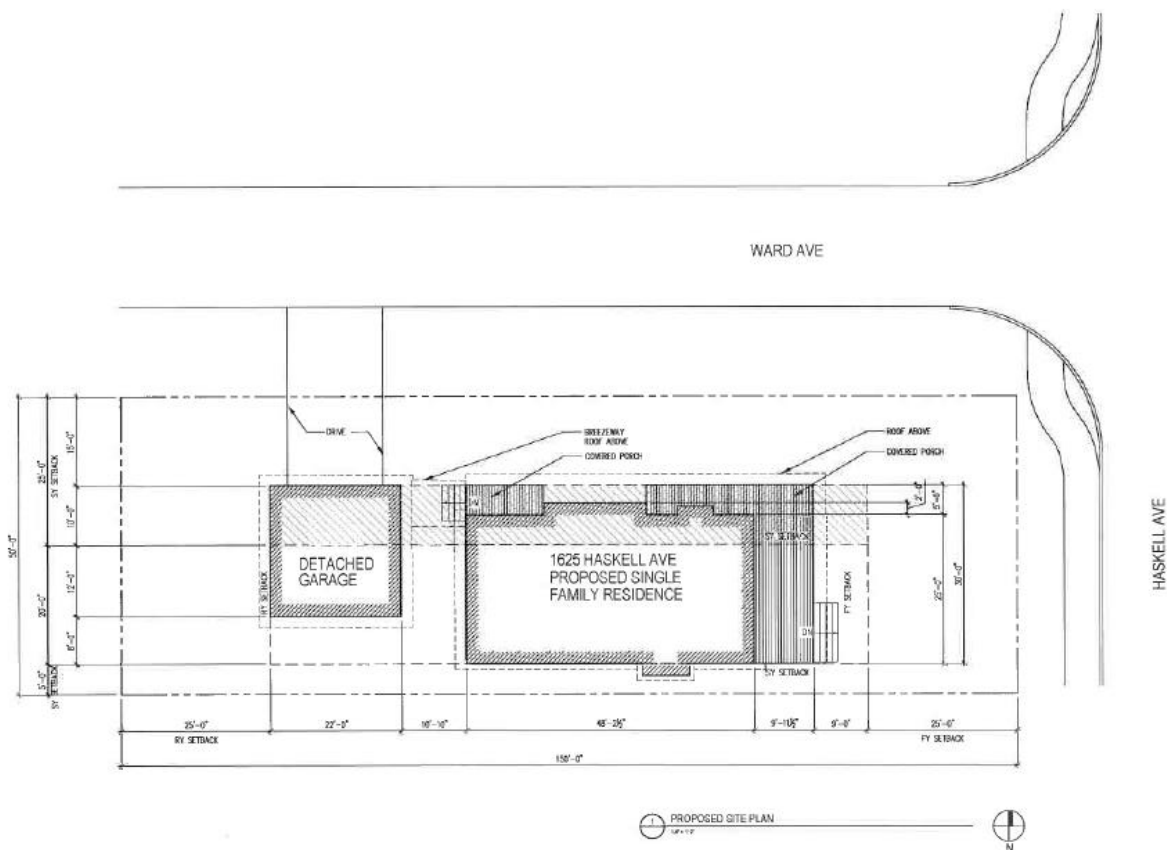
the side street. The 1927 Code noted the side setback regulation shall not be interpreted in a way that reduces the buildable width of a corner lot to less than 28 feet.

The platted lot behind the subject property fronted the side street (Ward Street) and required a front yard of at least 25 percent of the depth of lot, but not to exceed 25 feet. The exterior side setback for the subject property, under the regulations of the 1927 Code, was 15 feet.

The 1927 Code required interior side yards of not more than 10% of the lot's width. Side yards could not be smaller than three feet or larger than five feet. 1625 Haskell was subject to the side yard requirements of District A: First Dwelling House District. Ordinance No. 2227 required 5 foot side yards as it is 50 feet in width.

Under the 1927 code the building envelope on site would have been 30 feet in width facing Haskell Avenue. The side setback requirements remained the same under the 1949 Zoning Code.

The 1966 Zoning Code was adopted with [Ordinance No. 3500](#) and 1625 Haskell was converted to the RS-2 District. The 1966 Zoning Code maintained required exterior side setbacks that were differentiated based on the orientation of the lot that the subject lot abutted. The subject property backs up to an abutting side yard resulting in a required 25 foot exterior side setback. The current Land Development Code, adopted in 2006, maintains the required 25 foot exterior side setback for the RM12 District as stated in Section 20-601(a).



**Figure 2: Applicant's Drawing of Proposed Detached Dwelling Location**

This is a platted lot that came into existence prior to the adoption of the Land Development Code. While setbacks were required under the 1927 Zoning Code, the current interior and exterior side setback distinctions were not contemplated at the time the lot was recorded.

**2. That the granting of the variance will not adversely affect the rights of adjacent property owners or residents.**

*Applicant response: "The variance and construction of a SF house conforms to the surrounding neighborhood."*

In staff's opinion, the requested variance would not adversely affect the rights of adjacent property owners or residents. Notice was provided to property owners within 400 feet of the subject property informing them of the application filed by the property owner. As of the time this report was written, staff has received one phone call regarding the proposed variance. A neighbor to the south inquired about the proposed variance as well as current setback requirements.

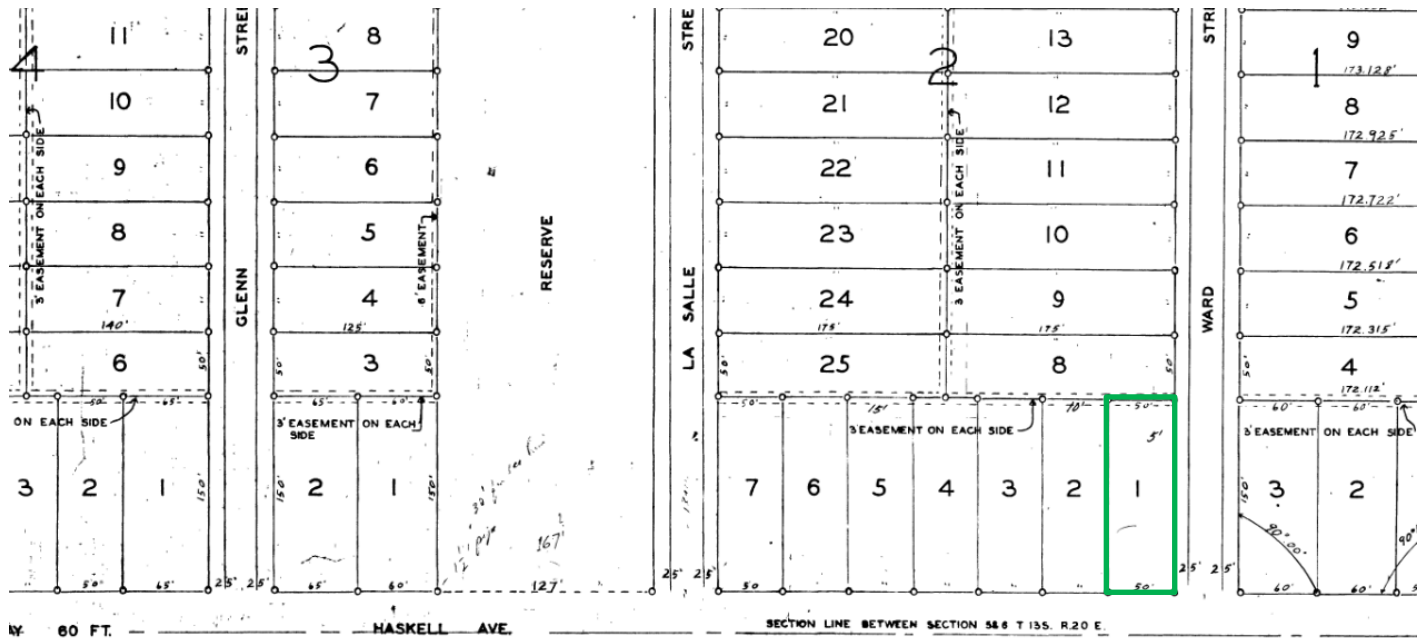
**3. That the strict application of the provisions of this chapter for which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.**

*Applicant response: "A 20' building envelope is not normal for a RS7 or RM12 lot width making design of a house very unfeasible. Strictly enforcing the prescribed exterior side yard setback requirements would create an undue hardship on the property owner, resulting in the 20' building envelope."*

In staff's opinion, strict adherence to the code required building setbacks may constitute an unnecessary hardship. Since the parcel exists at 50 feet wide, the totality of the 5 foot interior side setback and 25 foot exterior side setback would reduce the total buildable width of this lot to a maximum of 20 feet wide. This particular lot would have allowed a 30 foot building envelope at the time of its platting until the adoption of the 1966 Zoning Code. Prior to the adoption of the 1966 Zoning Code, the structure would not have been subject to currently required exterior side setback. Requiring the structure to comply with the modern setbacks would create a situation where a majority of the lot is encumbered by the setback requirements.

Under the current Land Development Code setback requirements, 60 percent of the lot is encumbered by side setbacks. The request for variance reduces the required exterior side setback from 25 feet to 15 feet. This mirrors the required side setback for corner lots as stated in the 1927 and 1949 Zoning Codes. Nearby platted lots vary in width from 50 feet (subject property) to 65 feet. Any new structure built on the subject property must comply with the current Code's setback requirements, but this lot is narrower than other nearby platted lots. The subject property's platted width and subsequent side setback requirements could constitute an unnecessary hardship. If the proposed detached dwelling fronted Ward Street instead of Haskell Avenue it would be unable to satisfy required front and rear setbacks.





**Figure 3: A portion of the original Homewood Gardens Suburban Addition subdivision. Subject property is Lot 1, Block 2. Note: Subject lot is 50 feet while other platted lots are 60 to 65 feet in width.**

**4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.**

Applicant response: *"Since the existing neighborhood is RS7 a single family house doesn't change or adversely affect the neighbors. The home would be designed to allow visibility at the corner of Haskell and Ward – pushing west to allow good visibility at the intersection."*

In staff's opinion, granting the requested variance will not create an adverse effect upon the public health, safety, morals, order, convenience, prosperity or general welfare. The request in question is contained within the parcel owned by the applicant. This structure would not create any spill-over noxious effects to the surrounding area. The applicant has situated the proposed structure such that it will be placed 34 feet from the street right-of-way along Haskell Avenue. This is nine feet past the required 25 foot front yard setback. This will help to maintain clear sight lines for drivers and pedestrians near the intersection of Haskell Avenue and Ward Avenue.

**5. That granting the variance desired will not be opposed to the general spirit and intent of this chapter.**

Applicant response: *"The lot at 1625 Haskell was originally platted in the 1930's, prior to the adoption of the modern Development Code. 25-foot exterior side yard setbacks were adopted for all corner lots in the mid-1960's. However, the setback requirement was created without regard to specific lot conditions, i.e., a 50-foot wide corner lot in a single-family residence neighborhood that would result in a 20-foot wide structure. As the intent of the Development Code is to promote property development in a manner that is responsible and protects public safety and welfare, granting a variance to reduce the exterior side*

*yard setback to 15' would not oppose the general spirit and intent of the Development Code and would allow for the design and construction of a single-family residence on an otherwise undevelopable lot that is comparably scaled and respectful to the existing urban fabric. "*

In staff's opinion, granting the setback variance would not be opposed to the general spirit and intent of the Land Development Code. Granting the requested variance is consistent with the previous findings of the Board, and also consistent with the spirit of Land Development Code. Granting of these requested variance would permit the construction of the detached dwelling, while ensuring that the needs and protections of the public interest are maintained.

**Conclusions:**

Staff's analysis of this variance application finds the request meets all five conditions set forth in Section 20-1309(g)(1) of the Land Development Code that the Board must find existing to grant a variance.

**Recommendation:**

Staff recommends approval of the exterior side setback variance based upon the findings in the staff report concluding that the request meets the five conditions outlined in Section 20-1309(g)(1). Staff recommends the Board grant the variance to reduce the required exterior side yard setbacks from 25 feet to 15 feet for 1625 Haskell Avenue, legally known as Lot 1, Block 2, Homewood Gardens Suburban Addition, a Subdivision in the City of Lawrence, Douglas County, Kansas.





City of Lawrence  
Douglas County  
PLANNING & DEVELOPMENT SERVICES

Lawrence Douglas County  
Metropolitan Planning Office  
6 East 6<sup>th</sup> Street, P.O. Box 708, Lawrence, KS 66044  
(785) 832-3150 Fax (785) 832-3160  
<http://www.lawrenceks.org/pds/>

**APPLICATION FOR  
VARIANCE FROM UNNECESSARY HARDSHIP**

RECEIVED

JUN 04 2018

City County Planning Office  
Lawrence, Kansas

**OWNER INFORMATION**

Name(s) Estate of Virginia Lopp  
Contact Dennis Lopp  
Address 1625 Haskell Ave  
City Lawrence State KS ZIP 66044  
Phone (\_\_\_\_) \_\_\_\_\_ Fax (\_\_\_\_) \_\_\_\_\_  
E-mail \_\_\_\_\_ Mobile/Pager (\_\_\_\_) \_\_\_\_\_

**APPLICANT/AGENT INFORMATION**

Contact Eric Wagner  
Company Wagner Contracting LLC  
Address 1872 E 950 Road  
City Lawrence State KS ZIP 66050  
Phone (785) 423-0644 Fax (\_\_\_\_) \_\_\_\_\_  
E-mail eric@wagnercontracting-llc.com Mobile/Pager (\_\_\_\_) \_\_\_\_\_  
Pre-Application Meeting Date \_\_\_\_\_ Planner \_\_\_\_\_

**PROPERTY INFORMATION**

Present Zoning District RM-12 Present Land Use Vacant  
Proposed Land Use RS-7 residential single family  
Legal Description (may be attached) \_\_\_\_\_  
Address of Property 1625 Haskell  
Total Site Area 7,500 sq'  
Number and Description of Existing Improvements or Structures zero

B-18-00272



City of Lawrence  
Douglas County  
PLANNING & DEVELOPMENT SERVICES

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<http://www.lawrenceks.org/pds/>

**Description of variance requested:**

Request to use lot 1 as single family residence with variance of the side yard set back along ward street from 25' to 15' allowing a 30' x 120' building envelope.

Since predominant zoning is RS7 the RM12 current zoning will not be applicable and will require an application to rezone.



### UNNECESSARY HARDSHIP CRITERIA

The Board of Zoning Appeals may approve a zoning variance if it finds that all of the following criteria have been met. The Development Code places the burden on the applicant to show that an application complies with such criteria. Please respond to each criterion to the best of your knowledge. (Attach additional sheets if needed.)

- 1. That the variance request arises from such conditions which are unique to the property in question and not ordinarily found in the same zoning or district and are not created by action(s) of the property owner or applicant:**

Currently lot is zoned RM12 - all surrounding lots are R5-7. Due to nature of the lot being at the corner with the sideyard and front yard requiring 25' setbacks the 50' wide lot would have a 20' wide building envelope significantly reducing possibility of building a single family home.

- 2. That granting the variance would not adversely affect the rights of adjacent property owners or residents:**

The variance and construction of a SF home conforming to the surrounding neighborhood



3. That strict application of the provisions of this chapter for which the variance is requested would constitute unnecessary hardship upon the property owner represented in the application:

A 20' building envelope is not normal for a R57 or  
RM 12 lot width making design & construction of  
a house very unfeasible.

Strictly enforcing the prescriptive exterior side yard  
setback requirements would create an undue hardship on  
the property owner, resulting in the 20' building envelope.

4. That the variance desired would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare:

Since the existing neighborhood is R57 a single family  
home doesn't change or adversely affect the neighbors.

The home would be designed to allow visibility at the  
corner of Haskell and 1<sup>st</sup> - putting west to allow  
good visibility at the intersection.



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Douglas County

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**5. That granting the variance desired would not be opposed to the general spirit and intent of the Development Code:**

The lot at 1625 Haskell was originally platted in the 1930's, prior to the adoption of the modern Development Code. 25-foot exterior side yard setbacks were adopted for all corner lots in the mid-1960's. However, the setback requirement was created without regard to specific lot conditions, ie., a 50-foot wide corner lot in a single-family residence neighborhood that would result in a 20-foot wide structure. As the intent of the Development Code is to promote property development in a manner that is responsible and protects public safety and welfare, granting a variance to reduce the exterior side yard setback to 15' would not oppose the general spirit and intent of the Development Code and would allow for the design and construction of a single-family residence on an otherwise undevelopable lot that is comparably scaled and respectful to the existing urban fabric.

**SIGNATURE**

I/We, the undersigned am/are the (owner(s)), (duly authorized agent), (Circle One) of the aforementioned property. By execution of my/our signature, I/we do hereby officially apply for variances as indicated above.

Signature(s): [Signature] Date 6-7-2018

\_\_\_\_\_  
Date \_\_\_\_\_

\_\_\_\_\_  
Date \_\_\_\_\_

**STAFF USE ONLY**

Application No. \_\_\_\_\_

Date Received \_\_\_\_\_

BZA Date \_\_\_\_\_

Fee \$ \_\_\_\_\_

Date Fee Paid \_\_\_\_\_

PROJECT:  
1625 HASKELL AVENUE  
LAWRENCE, KS 66044

CLIENT:  
ERIC WAGNER  
WAGNER CONTRACTING, LLC  
778 N. 2ND STREET  
LAWRENCE, KS 66044

ISSUE: IDA REQUEST  
2015.05.23

PRELIMINARY -  
NOT FOR  
CONSTRUCTION

DATE: 05/18/2018

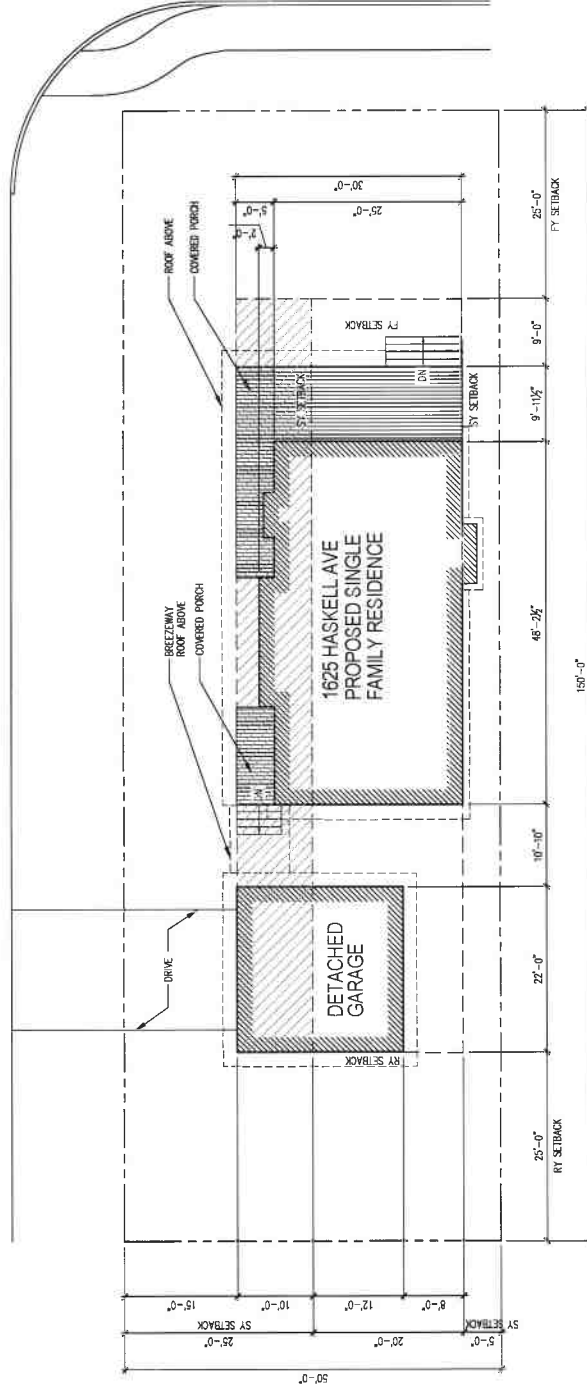
SHEET TITLE:  
SITE PLAN

SHEET:

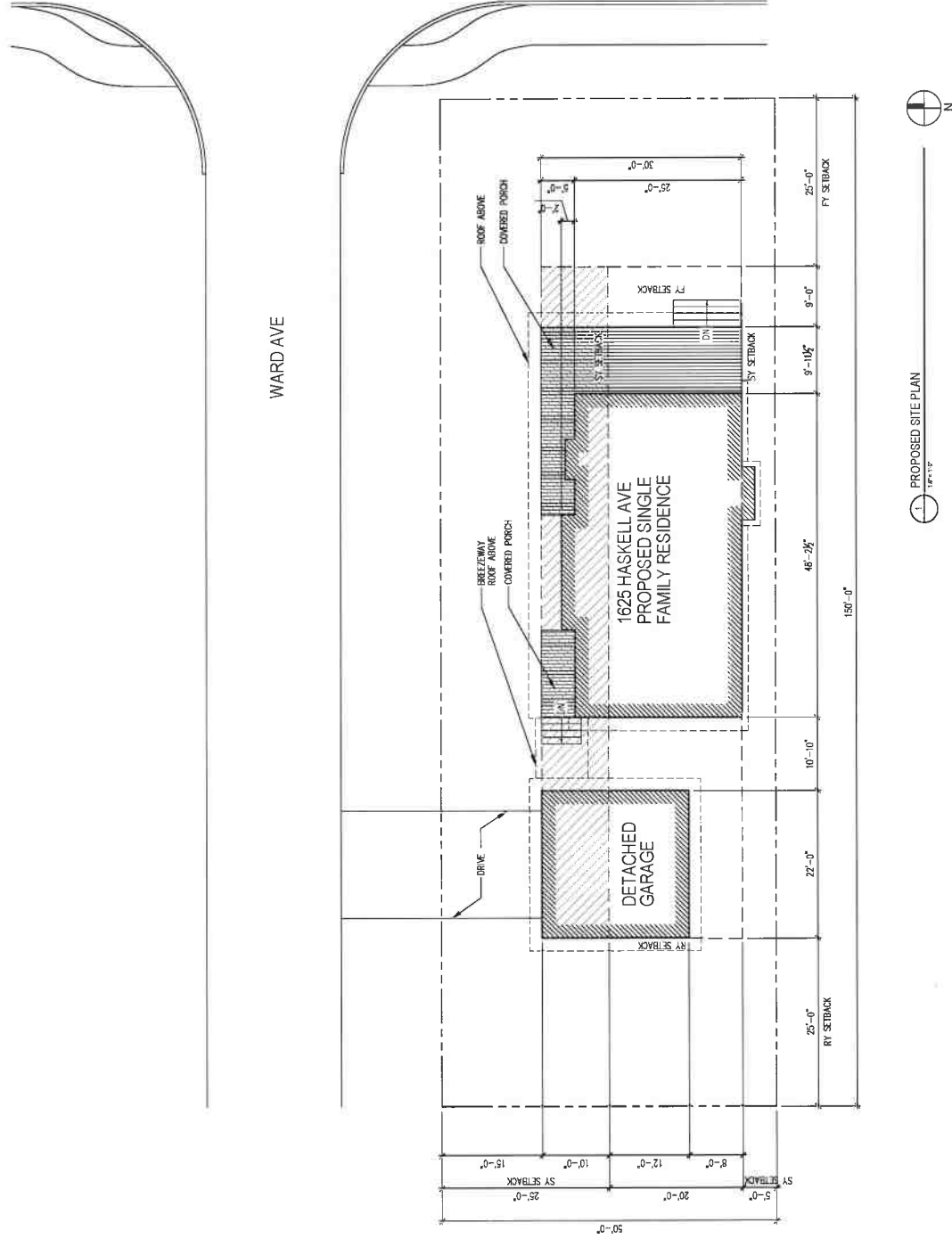
A1.0



WARD AVE



PROPOSED SITE PLAN  
1/8" = 1'-0"

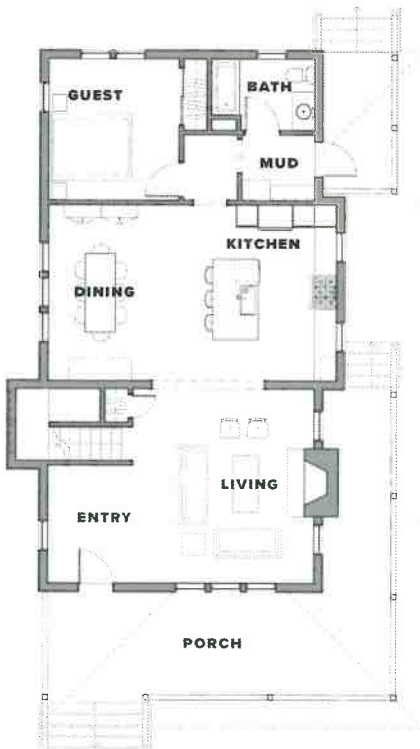




**1223 ALMIRA AVENUE**

**Lawrence, KS 66044**

**WAGNER**  
CONTRACTING, LLC



CONCEPT DESIGNS SHOWN ARE NOT REQUIRED FOR USE BY OWNER



# City of Lawrence Douglas County

PLANNING & DEVELOPMENT SERVICES

## Lawrence Douglas County Metropolitan Planning Office

6 East 6<sup>th</sup> Street, P.O. Box 708, Lawrence, KS 66044

(785) 832-3150 Fax (785) 832-3160

<http://www.lawrenceks.org/pds/>

### OWNER AUTHORIZATION

Estate of Virginia R. Copp-Deceased

I/WE Dennis C. Copp hereby referred to as the "Undersigned", being of lawful age, do hereby on this 24<sup>th</sup> day of May, 2018, make the following statements to wit:

1. I/We the Undersigned, on the date first above written, am/are the lawful owner(s) in fee simple absolute of the following described real property:

See "Exhibit A, Legal Description" attached hereto and incorporated herein by reference.

2. I/We the undersigned, have previously authorized and hereby authorize Eric Wagner (Herein referred to as "Applicant"), to act on my/our behalf for the purpose of making application with the Planning Office of Lawrence/Douglas County, Kansas, regarding 1625 Haskell Block 2 Lot 1 (common address), the subject property, or portion thereof. Such authorization includes, but is not limited to, all acts or things whatsoever necessarily required of Applicant in the application process.

3. It is understood that in the event the Undersigned is a corporation or partnership then the individual whose signature appears below for and on behalf of the corporation or partnership has in fact the authority to so bind the corporation or partnership to the terms and statements contained within this instrument.

IN WITNESS THEREOF, I, the Undersigned, have set my hand and seal below.

x Dennis C Copp  
Owner

Owner

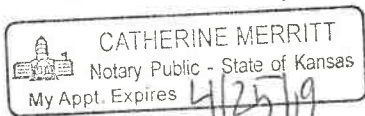
STATE OF KANSAS  
COUNTY OF DOUGLAS

The foregoing instrument was acknowledged before me on this 24<sup>th</sup> day of May, 2018,

by Dennis Copp

My Commission Expires: 4/25/2019

Catherine Merritt  
Notary Public



# DOUGLAS COUNTY

## KANSAS

### Property Search Results: Real Property

**Please Note:** This information is assumed current as of: 5/21/2018. For more current information, please call the Appraiser's Office: (785) 832-5133.

#### Property Information

[Map this Property](#)

**Year:** 2017

**Pin Number:** 023-103-06-0-10-18-001.01-0

**Plate/Record Id:** U10750

**Owner 1:** COPP VIRGINIA R

**Owner 2:** (no record)

**In-Care-Of:** (no record)

**Property Address:** 1625 HASKELL AVE, LAWRENCE, KANSAS

**Mailing Address:** 1625 HASKELL AVE LAWRENCE, KS, 66044-4330

**Delinquent Tax:** No

**Tax Unit:** 041

**School:** USD 497

**Sec-Twp-Rng:** (no record)

**Book:**

**Page:**

#### Value Information

Class	Appraised			Assessed		
	Land	Improvements	Total*	Land	Improvements	Total
V	\$24,620	\$0	\$24,620	\$2,954	\$0	\$2,954

\*Market or Ag use

#### Tax Information

Tax	Special Tax	Total Tax	Taxes Paid	Mill Levy
\$403.94	\$0.00	\$403.94	\$403.94	136.7470

#### Tax Payment Information

Year	Payment Date	Payment Type	Payment Amount	Print Receipt
2017	12/04/2017	PAYMENT	\$403.94	<a href="#">Print Receipt</a>

**Please Note:** The Accuracy of Payment Information is not Guaranteed. If you have questions regarding payment information, contact the Treasurer's office at (785) 832-5178.

#### Property Description

HOMEWOOD GARDENS BLK 2 LT 1 150 X 50

#### Legal Description

HOMEWOOD GARDENS BLK 2 LT 1



### PROPERTY OWNERSHIP LIST CERTIFICATION

As required by Article 13, Section 20-1301(q) of the Development Code, the applicant is responsible for providing certified Ownership information (including names and mailing addresses) of all real property owners within a defined radius from the subject property. The Planning Department is required by the Development Code to use the submitted Ownership list to mail notice of the public hearing to surrounding property owners regarding this Application.

#### Ownership Information

The applicant is responsible for providing certified Ownership information. Current Ownership information shall be obtained from the Douglas County Clerk. Ownership information will be considered current if it is **no more than 30 days old** at the time an application is submitted to the Planning Department.

#### Radius of Notification

The Ownership list shall include the record Owner of the subject property and all Owners of property located within 400 feet of the subject property. If the subject property is adjacent to the City limits the area of notification shall be extended to at least 1,000 feet into the unincorporated area.

A map of the "Radius of Notification" can be obtained **at the Applicant's request** at the Planning Office. The map indicates ownership of each property and can be used to check the accuracy and completeness of the Ownership List. The map will be supplied **at the Applicant's expense. Allow 10 business days** to receive the map.

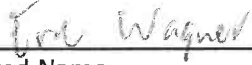
### THE FOLLOWING IS TO BE COMPLETED AND SUBMITTED BY THE APPLICANT.

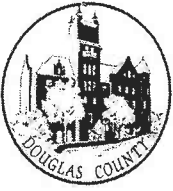
I certify that I have read and understood the above information and that the submitted Ownership list:

1. was a) obtained from and b) certified by the Douglas County Clerk,
2. is current (**no more than 30 days old**), and
3. includes all property owners within the required notification radius of the subject property.

  
\_\_\_\_\_  
Signature

5-25-2016  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Printed Name



**JAMIE SHEW**  
**DOUGLAS COUNTY CLERK**  
1100 Massachusetts  
Lawrence, KS 66044

**Marni Penrod**-Chief Deputy Clerk  
**Heather Dill**-Deputy Clerk Elections

May 23, 2018

A CERTIFIED PROPERTY OWNERSHIP LIST WITHIN 400 FT OF 1625 HASKELL AVE  
(U10750). 05/23/2018. REQUESTED BY ERIC WAGNER.

JOHN R. NICHOLS  
DOUGLAS COUNTY CLERK'S OFFICE  
1100 MASSACHUSETTS ST  
LAWRENCE, KS 66044

785-832-5147

[jnichols@douglascountyks.org](mailto:jnichols@douglascountyks.org)

Douglas County Real Estate Division  
County Clerk's Office. I do hereby certify  
the Property Ownership listed hereto, to be  
true and accurate.



POL WITHIN 400 FT OF 1625 HASKELL AVE  
(U10750).



JOINDER	SYSCALAGRES	OWNER1	OWNER2	OWNER3	ADDRESS	CITY	STATE	ZIP	PLACE	PID	QUICKREFID	SITUS
103-05-0-20-04-002-00-0	4.71131751	FRANZ DAVID W	SPENCER IPANETTE		1500 HASKELL AVE	LAWRENCE	KS	66044	U1073165	023-103-05-0-20-04-002-00-0	R20921	1500 HASKELL AVE
103-05-0-20-04-004-00-0	1.78910692	BOYS & GIRLS CLUB OF LAWRENCE			PO BOX 748	LAWRENCE	KS	66044	U1073165A	023-103-05-0-20-04-004-00-0	R20923	1520 HASKELL AVE
103-06-0-10-01-002-05-0	0.18148477	WEBB LINDESEY M			948 ANNA TAPPAN WAY	LAWRENCE	KS	66044	U1073338	023-103-06-0-10-01-002-05-0	R309673	948 ANNA TAPPAN WAY
103-06-0-10-01-002-04-0	0.13336753	PATZEL JOSEPH K			940 ANNA TAPPAN WAY	LAWRENCE	KS	66044	U107338	023-103-06-0-10-01-002-04-0	R309672	944 ANNA TAPPAN WAY
103-06-0-10-01-002-03-0	0.13336932	BERG AMY M			940 ANNA TAPPAN WAY	LAWRENCE	KS	66044	U10733C	023-103-06-0-10-01-002-03-0	R309671	944 ANNA TAPPAN WAY
103-06-0-10-01-002-02-0	0.13334583	BAILEY BRIAN A			936 ANNA TAPPAN WAY	LAWRENCE	KS	66044	U10733D	023-103-06-0-10-01-002-02-0	R309670	936 ANNA TAPPAN WAY
103-06-0-10-01-002-01-0	0.13334608	LOCKE TREVOR L			932 ANNA TAPPAN WAY	LAWRENCE	KS	66044	U10733E	023-103-06-0-10-01-002-01-0	R309669	932 ANNA TAPPAN WAY
103-06-0-10-01-002-00-0	0.13337324	CHAVEZ CHRISTOPHER A	BERRY CATHLYN M		928 ANNA TAPPAN WAY	LAWRENCE	KS	66044	U10733	023-103-06-0-10-01-002-00-0	R21536	928 ANNA TAPPAN WAY
103-06-0-10-01-001-63-0	0.12763186	KHUBLEY CORY T			947 ANNA TAPPAN WAY	LAWRENCE	KS	66044	U10732-033A	023-103-06-0-10-01-001-63-0	R21535	947 ANNA TAPPAN WAY
103-06-0-10-01-001-62-0	0.19070703	WALDEN JOSEPH L	WALDEN AMBER M		935 ANNA TAPPAN WAY	LAWRENCE	KS	66044	U10732-033B	023-103-06-0-10-01-001-62-0	R21534	935 ANNA TAPPAN WAY
103-06-0-10-01-001-61-0	0.15827421	FRY BRENT W			935 ANNA TAPPAN WAY	LAWRENCE	KS	66044	U10732-033C	023-103-06-0-10-01-001-61-0	R21533	935 ANNA TAPPAN WAY
103-06-0-10-01-001-60-0	0.13388455	HEFFRACH TIMOTHY V			931 ANNA TAPPAN WAY	LAWRENCE	KS	66044	U10732-033D	023-103-06-0-10-01-001-60-0	R21532	931 ANNA TAPPAN WAY
103-06-0-10-01-001-59-0	0.14080734	RULING BOBBIE L	SEIBERS ADAM M		927 ANNA TAPPAN WAY	LAWRENCE	KS	66044	U10732-033E	023-103-06-0-10-01-001-59-0	R21531	927 ANNA TAPPAN WAY
103-06-0-10-01-001-58-0	0.14265934	GREGORY ROBERT M	ROLL-GREGORY ASHLEE G		923 ANNA TAPPAN WAY	LAWRENCE	KS	66044	U10732-033F	023-103-06-0-10-01-001-58-0	R21530	923 ANNA TAPPAN WAY
103-06-0-10-01-001-57-0	0.1598688	KETHEDAGE TONI L			919 ANNA TAPPAN WAY	LAWRENCE	KS	66044	U10732-033G	023-103-06-0-10-01-001-57-0	R21529	919 ANNA TAPPAN WAY
103-06-0-10-01-001-56-0	0.13589698	LOCKE HADIAN K			915 ANNA TAPPAN WAY	LAWRENCE	KS	66044	U10732-033H	023-103-06-0-10-01-001-56-0	R21528	915 ANNA TAPPAN WAY
103-06-0-10-01-001-55-0	0.14934851	FOYE FRANCIS J	BALDWIN CITY		1654 N 400 RD	BALDWIN CITY	KS	66006	U10732-033I	023-103-06-0-10-01-001-55-0	R21527	911 ANNA TAPPAN WAY
103-06-0-10-01-001-54-0	0.11840251	SHEPHARD HAROLD C			519 ELM ST	LAWRENCE	KS	66044	U10732-033J	023-103-06-0-10-01-001-54-0	R21526	907 ANNA TAPPAN WAY
103-05-0-20-04-005-00-0	15.08322737	CITY OF LAWRENCE	C/O LAWRENCE-DOUGLAS COUNTY HOUSING AUTHORITY		PO BOX 563	LAWRENCE	KS	66044	U107316A	023-103-05-0-20-04-005-00-0	R20924	1600 HASKELL AVE
103-06-0-10-01-004-02-0	0.17807088	KNEP JASON			930 WARD ST	LAWRENCE	KS	66044	U107316A	023-103-06-0-10-01-004-02-0	R21539	1545 HASKELL AVE
103-06-0-10-01-004-01-0	0.1974195	BRADLEY DEBRA S	BRADLEY JEFFREY D		922 WARD AVE	LAWRENCE	KS	66044	U107316A	023-103-06-0-10-01-004-01-0	R21538	930 WARD ST
103-06-0-10-01-004-00-0	0.19758668	SOMMER LOREN J			914 WARD AVE	LAWRENCE	KS	66044	U107316A	023-103-06-0-10-01-004-00-0	R21543	914 WARD ST
103-06-0-10-01-003-00-0	0.19788956	FLORES SEAN M	FLORES ALTHEA		908 WARD AVE	LAWRENCE	KS	66044	U107316A	023-103-06-0-10-01-003-00-0	R21544	908 WARD ST
103-06-0-10-01-002-00-0	0.19489794	KLEINMANN MATTHEW	SHASTRY SANGEETA		908 WARD AVE	LAWRENCE	KS	66044	U107316A	023-103-06-0-10-01-002-00-0	R21545	908 WARD ST
103-06-0-10-01-008-01-0	0.19868358	HELMES MICHAEL	HELMES LAURA		338 HEADWATERS DR	LAWRENCE	KS	66044	U107316A	023-103-06-0-10-01-008-01-0	R21546	944 WARD ST
103-06-0-10-01-004-03-0	0.08824548	AARE INC			942 WARD ST	LAWRENCE	KS	66044	U107316A	023-103-06-0-10-01-004-03-0	R21540	944 WARD ST
103-06-0-10-01-004-05-0	0.09615439	ORZANO CHRISTIAN A			3098 1050 RD	LAWRENCE	KS	66044	U107316A	023-103-06-0-10-01-004-05-0	R21540	944 WARD ST
103-06-0-10-01-004-06-0	0.08291987	WARD DUSTIN			433 E SHIPTON RD	LAWRENCE	KS	66044	U107316A	023-103-06-0-10-01-004-06-0	R21541	936 WARD ST
103-06-0-10-01-004-04-0	0.09580354	WARD CHUCK	WARD JULI		112 N 1066 RD	LAWRENCE	KS	66044	U107316A	023-103-06-0-10-01-004-04-0	R21541	936 WARD ST
103-06-0-10-18-001-01-0	0.17217874	COPP VIRGINIA R			2209 VERMONT ST	LAWRENCE	KS	66046	U107380	023-103-06-0-10-18-001-01-0	R21824	1625 HASKELL AVE
103-06-0-10-18-003-01-0	0.20087251	BOHMANN GLENN E TRUSTEE			1721 MAIN ST	LAWRENCE	KS	66047	U107380	023-103-06-0-10-18-003-01-0	R21825	929 WARD ST
103-06-0-10-18-003-00-0	0.20087296	OLDHAM RYAN D	OLDHAM ANGELA L		921 WARD ST	LAWRENCE	KS	66049	U107380	023-103-06-0-10-18-003-00-0	R301989	921 WARD ST
103-06-0-10-18-003-00-0	0.20087438	ABDELMAN KARIM K	ABDULJABBAR MAGDA		921 WARD ST	LAWRENCE	KS	66049	U107380	023-103-06-0-10-18-003-00-0	R301826	921 WARD ST
103-06-0-10-18-003-02-0	0.20087315	COMADOLL KARI	COMADOLL JAMES		9 OAK RD	LAWRENCE	KS	66044	U107380	023-103-06-0-10-18-003-02-0	R305534	917 WARD ST
103-06-0-10-18-004-00-0	0.40174706	BEMICK JACKIE			915 WARD ST	LAWRENCE	KS	66044	U107316A	023-103-06-0-10-18-004-00-0	R21827	917 WARD ST
103-06-0-10-18-004-00-0	0.63476093	MORGAN ROBERT L	MORGAN DEBRA G		907 WARD ST	LAWRENCE	KS	66044	U107316A	023-103-06-0-10-18-004-00-0	R21828	907 WARD ST
103-06-0-10-18-001-00-0	0.14435007	COPP DAVID E	WALKER MARLA J		1625 HASKELL AVE	LAWRENCE	KS	66044	U107316A	023-103-06-0-10-18-001-00-0	R21833	1625 HASKELL AVE
103-06-0-10-18-001-00-0	0.14435444	MCCALLUM JEFFREY A			13220 WOODSON RD	OVERLAND PARK	KS	66209	U10733A	023-103-06-0-10-18-001-00-0	R21836	1629 HASKELL AVE
103-06-0-10-18-008-02-0	0.20087316	HOLCOMB GABRIELLE			936 LA SALLE ST	LAWRENCE	KS	66044	U10733A	023-103-06-0-10-18-008-02-0	R21833	936 LA SALLE ST
103-06-0-10-18-008-01-0	0.20087297	HECK KATHLEEN R	HECK KATHLEEN R		932 LA SALLE ST	LAWRENCE	KS	66044	U10733A	023-103-06-0-10-18-008-01-0	R21832	932 LA SALLE ST
103-06-0-10-18-007-01-0	0.40174647	HECK MARLIN T			918 LA SALLE ST	LAWRENCE	KS	66044	U10733A	023-103-06-0-10-18-007-01-0	R21831	918 LA SALLE ST
103-06-0-10-18-006-02-0	0.20087304	TENANTS TO HOMEOWNERS INC	C/O EDISON MALAKAI		912 LA SALLE ST	LAWRENCE	KS	66044	U10733A	023-103-06-0-10-18-006-02-0	R335368	912 LA SALLE ST
103-06-0-10-18-011-00-0	0.17217652	SMITH W SHAWN			2518 RIDGE CT STE 103	LAWRENCE	KS	66046	U10733A	023-103-06-0-10-18-011-00-0	R21835	1637 HASKELL AVE
103-06-0-10-18-010-00-0	0.17217648	SKYVIEW PROPERTIES LLC	SMITH LISA G		558 E 1750 RD	BALDWIN CITY	KS	66006	U10735	023-103-06-0-10-18-010-00-0	R341866	910 LA SALLE ST
103-06-0-10-15-001-00-0	0.74663693	FRONTRUNNER HOLDINGS LLC	C/O TOWNSLEY TRACY		1641 HASKELL AVE	LAWRENCE	KS	66044	U10735	023-103-06-0-10-15-001-00-0	R21834	1641 HASKELL AVE
103-06-0-10-15-001-01-0	0.21366199	TORNEDEN CALEB R			1400 E 25TH TER	LAWRENCE	KS	66049	U10735	023-103-06-0-10-15-001-01-0	R21798	1705 HASKELL AVE
103-06-0-10-15-001-02-0	0.21308114	NEHRING THOMAS E	TORNEDEN AMBER L		931 LA SALLE ST	LAWRENCE	KS	66044	U10735-02	023-103-06-0-10-15-001-02-0	R21799	937 LA SALLE ST
103-06-0-10-15-001-03-0	0.21308121	KENNEDY KATHERINE G	NEHRING TINA L		927 LA SALLE ST	LAWRENCE	KS	66044	U10735-02	023-103-06-0-10-15-001-03-0	R21800	931 LA SALLE ST
103-06-0-10-15-001-04-0	0.21308241	FISHER SHERYL			921 LA SALLE ST	LAWRENCE	KS	66044	U10735-04	023-103-06-0-10-15-001-04-0	R21801	927 LA SALLE ST
103-06-0-10-18-007-00-0	0.20087667	TENANTS TO HOMEOWNERS INC	C/O ROGERS SHANE		914 LA SALLE ST	LAWRENCE	KS	66044	U10735A	023-103-06-0-10-18-007-00-0	R21802	921 LA SALLE ST
103-06-0-10-18-006-01-0	0.13301812	TENANTS TO HOMEOWNERS INC	C/O LINNEAR ISAH		902 LA SALLE ST	LAWRENCE	KS	66044	U10735A	023-103-06-0-10-18-006-01-0	R21800	914 LA SALLE ST
103-06-0-10-18-006-00-0	0.200872	TENANTS TO HOMEOWNERS INC	C/O LINNEAR ISAH		2518 RIDGE CT STE 103	LAWRENCE	KS	66046	U10736A	023-103-06-0-10-18-006-00-0	R340354	902 LA SALLE ST



**ITEM NO. 4      PARKING VARIANCE FOR A COMMERCIAL STRUCTURE; 444/446 LOCUST STREET [JSC]**

**B-18-00278:** A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2018 edition. The request is for a variance from Article 9, "Parking, Loading and Access," requiring a minimum number of off-street parking spaces to be provided from a required 64 spaces to 8 spaces. The property is located at 444/446 Locust Street. Submitted by Paul Werner with Paul Werner Architects, on behalf of Tiburcio J Reyes Sr., property owner of record.

**B.      REASON FOR REQUEST**

*Applicant's Request – "We are requesting a parking variance for a new tenant to take over space in the building located at 444 Locust. The same person owns both 444 Locust and 446 Locust. The buildings at 444 and 446 Locust are attached, even though they have separate addresses. 446 Locust houses the El Matador restaurant. 444 Locust houses the kitchen for El Matador and the remainder of the building has been used for event space/receptions/banquets. Our clients have signed a lease with the owner to take over the banquet space, as well as the existing patio area to the west. In this space, they are wanting to open a drinking establishment. They plan to serve food from the El Matador restaurant. The owner of the buildings currently has a liquor license that covers 444 and 446 Locust. The new tenants applied for their own liquor license for the space, and were told by Planning Staff that a site plan and a parking variance are required. Since this building has always been a commercial use, as far back as we can find, and there is nowhere for the new business to add/provide the required parking, we are requesting a variance from approximately 84 spaces to 8 spaces.*

*Please Note: This represents zero increase in what we believe to be the existing occupancy of the space. The variance will just allow a new operator of the space."*

*Staff Note: At the time the application was submitted, there was an error in the applied parking calculation based on the proposed and current use of the structure. The applicant provided a revised parking calculation to reflect both uses, revising the required parking from the applicant noted amount of 84 spaces to the 64 spaces noted by the report. Based on the information provided by the applicant, the required parking amount is 64 spaces.*

This proposed project would allow for a portion of the western half of the existing building to become a separate new Bar or Lounge Use. The reason for this variance request is that the creation of new Bar or Lounge use/space must provide the code required off-street parking associated with that use. The applicant has chosen to seek a variance for both uses in one application as the two addresses are joined as one building and function as a single structure. This proposed project is required to provide 64 vehicular parking spaces for both uses.

**C.      ZONING AND LAND USE**

Current Zoning & Land Use:                      CS (Commercial Strip District) District; Restaurant, Quality

**Surrounding Zoning and Land Use:**

CS (Commercial Strip District) District to the east; offices and commercial structures.

RS5 (RS5, Single-Dwelling Residential District – 5,000 square feet.) to the south; detached dwelling residential structures.

IG (General Industrial) District to the west and north; Restaurant, Quality and Union Pacific railroad yard.



**Figure 1: Zoning District Map**

## D. ZONING ORDINANCE REQUIREMENTS

Section 20-902, "Off-Street Parking Schedule A," sets the minimum number of required parking spaces based on the uses occupying the building. Based on the proposed uses for the project, 64 spaces are required to be provided. The applicant proposes to provide 8 space.

Use Category	Requirement	Amount	Parking Total
<b>Restaurant, Quality</b>			
Patrons	1 per 100 square feet of customer service area	12 People	12
Employees	Employees on Largest Shift	4 Employees	4
<b>Bar or Lounge</b>			
Patrons	1 per 3 persons based on maximum occupancy	113 People	38
Employees	Employees on Largest Shift	9 Employees	9
<b>Total</b>			<b>64</b>

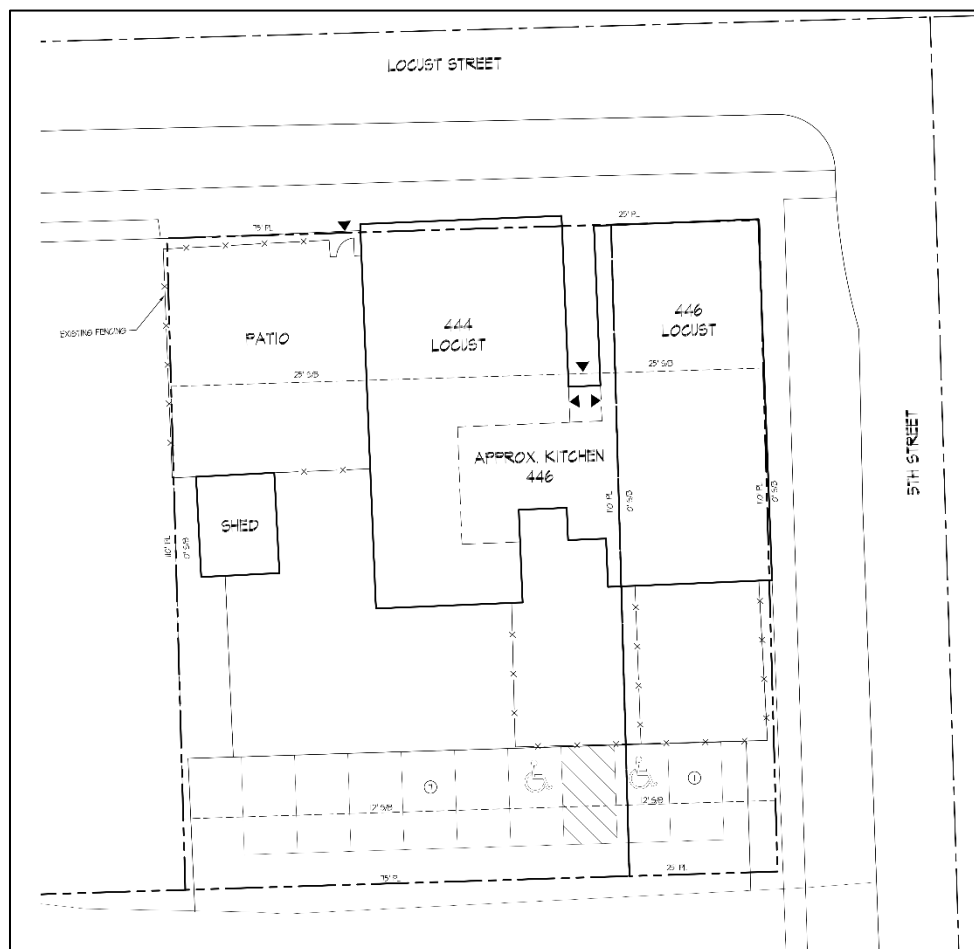


Figure 2: Concept Plan (Submitted by Applicant)

## E. SPECIFIC ANALYSIS

Section 20-1309(g)(1) in the Land Development Code lists the five requisite conditions that must be met for a variance to be approved.

**1. The variance request arises from such conditions which are unique to the property in question and not ordinarily found in the same zone or district; and are not created by an action or actions of the property owner or applicant.**

Applicant response: *"The building was constructed long before the property owner or new tenants took possession. We have a picture that is included with this application that shows the building being used as a hotel in the late 1800/early 1900s. This block of North Lawrence was constructed with many commercial storefronts, much like Massachusetts Street. To our knowledge, there has never been a parking lot designated for this building that would be able to accommodate the required parking which the City of Lawrence would require today if this were new construction."*

This variance originates from the applicant seeking to establish a new commercial use (Bar or Lounge) within 444 Locust Street. This portion of the property is currently used as part of the existing Quality Restaurant use (El Matador Café). The provided concept plan shows the proposed Bar or Lounge use would occupy most of the space in 444 Locust Street, except the area dedicated to the kitchen supporting the Quality Restaurant use to remain at 446 Locust Street.



Figure 3: Proposed Use Diagram (Approximate area calculation via GIS)



El Matador Café (Eating & Drinking Establishments: Restaurant, Quality) was in existence prior to the adoption of the Land Development Code. This particular variance request is due to the proposed creation of a new and separate business entity within the existing building, taking over a portion of 444 Locust Street that is currently used as part of the restaurant.

The Bar or Lounge use is permitted within the CS District, but any new establishment must comply with the parking and loading standards of Article 9 (Section 20-901(b)(1)). The Land Development Code requires that when the use or occupancy of property changes, additional off-street parking and loading facilities must be provided to serve the new use or occupancy only when the number of parking or loading spaces required for the new use or occupancy exceeds the number of spaces required for the use that most recently occupied the building. The change in use from a Quality Restaurant (1 per 100 square feet of customer service area plus 1 per employee based on the largest shift) to a Bar or Lounge use (1 per 3 persons based on maximum occupancy plus 1 per employee based on the largest shift) yields an increase in the required parking intensity and demand. Per this request, the high intensity of the Bar or Lounge use must come into compliance with the associated parking requirement. The creation of a new Bar or Lounge use also requires the approval of a site plan prior to the issuance of building permits.



The variance request is to reduce the parking from the 64 required parking spaces to 8 parking spaces, which would be provided on-site by an existing parking tray accessed from the current alley. This variance request is not due to a condition that is unique to the property in question and not ordinarily

found in the same zone or district as other properties in the CS district in this vicinity have limited on-site parking capacity. The request for a variance singularly derives from the applicant's desire to create a new separate bar use in a portion of the current restaurant space. Section 20-909 allows users to share off-street parking facilities in situations where a mix of uses creates staggered peak periods of parking demand and to locate off-street parking facilities on a different site than the uses served by the parking. Code requires that all shared or off-site off-street parking spaces shall be located no further than 600 feet from the main entrance of the buildings or uses they are intended to serve, measured along the shortest legal, practical walking route. Code also requires the same or a more intensive zoning classification than that required for the most intensive of the uses served by the shared or off-site parking area.

One distinctive factor of this property is the inability for the parking to expand within the current site or within the general area. The proposed change in use would not modify or expand the existing building footprint and also does not expand the land controlled by this development. Staff believes that the combination of the site's location, its inability to expand or reasonably modify to accommodate an additional 48 parking spaces, and the reuse of the existing structure for a use in accordance with those permitted within the Land Development Code may constitute a unique condition. However, intensifying the use and increasing the parking demand is an action being undertaken by the property's owner, directly creating the need to request this variance.

**2. That the granting of the variance will not adversely affect the rights of adjacent property owners or residents.**

*Applicant response: "The adjacent properties are also zoned and used as commercial use. Because of this, we do not feel that the customers parking along the street will adversely affect the rights of the adjacent property owners. This building has been used as a restaurant for many years, so the neighborhood is used to customers parking along the street. We are not expanding the building footprint, we are merely changing the liquor license for a portion of 444 Locust to a new business entity. While a drinking establishment may be a different use than a restaurant in the City's Code, the occupancy of the space is remaining the same."*

In staff's opinion, the requested variance would not adversely affect the rights of adjacent property owners or residents. Notice was provided to property owners within 400 foot of the subject property informing them of the application filed by the property owner. As of the time this report was written, staff has not been contacted by any property owner expressing concerns or objections to the applicant's request.

As the applicant noted, the proposal does not modify or expand the existing building footprint. However, it should be noted that the parking requirement for a restaurant use versus a bar use are not identical. A Bar or Lounge use requires parking to be provided at a ratio 1 per 3 persons based on maximum occupancy, plus 1 per employee based on the largest shift. A Quality Restaurant is required to provide parking at 1 per 100 square feet of customer service area, plus 1 per employee based on the largest shift. This is an intensification of the parking as determined in Section 20-1305(a)(2) of the Land Development Code.

As with many of the establishments along Locust Street, a majority of the parking for the current commercial uses is on-street, both along N. 5<sup>th</sup> Street and also Locust Street. While not a right, the convenience of surrounding property owners, residents, and tenants may be affected if patrons do drive



and have to park along the adjacent residential and other streets. Given the parking limitations in this area, and the proposed intensity increase of the Eating & Drinking Establishments: Bar or Lounge use, staff believes that the increased parking demand may create a burden on the surrounding area creating parking issues for both residential and commercial properties within the vicinity. This section of Locust Street is zoned commercial, the southerly adjacent properties are zoned residential and are detached dwellings. Also, further east and west of this commercial area, a majority of the uses are also detached dwelling residential structures even though they are zoned IG (General Industrial) District. Most of Locust Street is residential in use, although the base zoning district is not residential.

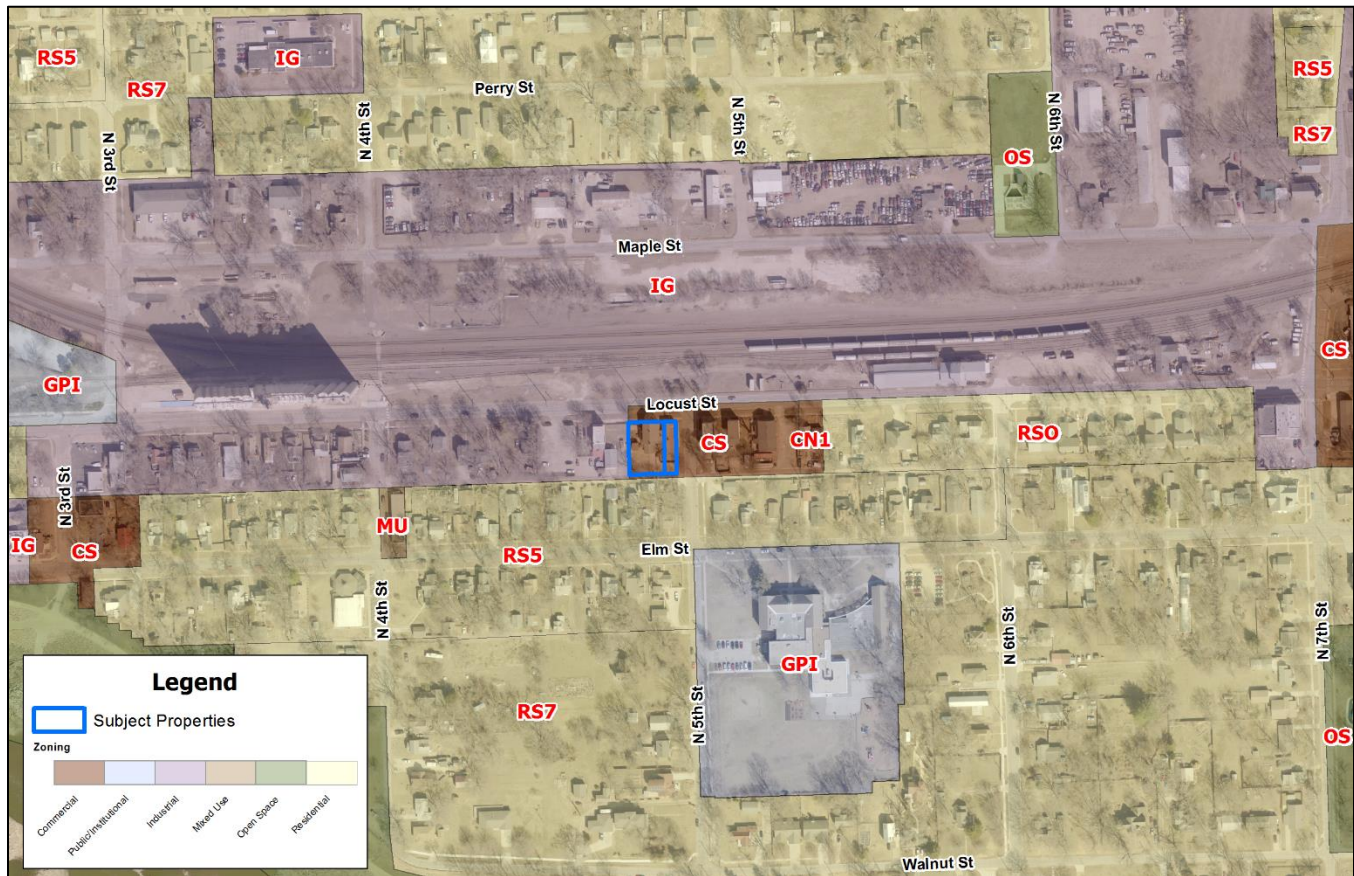


Figure 5: Area Zoning Overview

**3. That the strict application of the provisions of this chapter for which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.**

Applicant response: *"If the owners were required to provide the number of parking spaces the city requires, the building would remain as it is today, unless they were able to tear down adjacent buildings and provide parking lots; which is not a realistic option. The owner of the property and the El Matador is an older gentleman and doesn't have a desire to use the banquet space in 444 Locust. Because of this, he thought he could rent out the space to someone that would be able to use it and maintain it so that it does not deteriorate like many older buildings have. We feel that someone should be able to use the space for a commercial use, which it has been used for since it was built, and not be penalized that the*



*City Standards have changed over the many years since the building was constructed.*

*El Matador has been in business for approximately 60 years. As Lawrence expands and more and more restaurants open, it makes it difficult for smaller, family-run businesses to compete. This addition of a new tenant in the 444 side will allow the owner to be able to bring in some additional revenue with rent, and by selling food to more customers than the 446 side of the restaurant can seat."*

A strict application of the parking requirements in this case would not constitute an unnecessary hardship. The application of the off-street parking schedules is equally and uniformly applied to properties as they change uses, develop, or redevelop throughout Lawrence. Both the current Quality Restaurant use and the proposed Bar or Lounge use are permitted uses within the CS Zoning District. The zoning district allows for a variety of land uses to be located within the same structure, specifically encouraging commercial uses, which the proposed configuration of the structure would meet. The Land Development Code does require parking to be provided to accommodate the associated uses according to the off-street parking schedules outlined within Article 9. While the size of the building is not being modified with this application, the change in use from a restaurant to a bar is required to comply with the off-street parking schedule as enumerated in Article 9.

An unnecessary hardship must be due to an exceptional condition or application of the Land Development Code that is specific to the property, not due to the general zoning district requirements, or the broader context of the area/neighborhood. Such irregular characteristics might arise, for example, from the size or shape of the lot, topography, or water features on a site. Merely demonstrating some hardship is insufficient to satisfy the Land Development Code's unnecessary hardship definition. The owner's request to expand the use may be impacted by the request to provide parking, and may be a hardship for that particular site, but it does not rise to a level of being an unnecessary hardship. The requirement for providing parking is consistently applied throughout all zoning districts and does constrain the use of the property to those uses able to be accommodated by on-site parking. The Land Development Code does provide options for potentially seeking shared and off-site parking, subject to meeting the conditions and requirements of that section. It should also be noted that as defined for the intent and purpose of the Land Development Code, unnecessary hardship is defined noting that, "mere financial loss or the loss of a potential financial advantage does not constitute unnecessary hardship." (Section 20-1701) Under this definition, financial considerations are not singularly adequate grounds to constitute an unnecessary hardship.

**4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.**

Applicant response: *"We do not feel that the variance will affect the general welfare of the public. We are continuing to use the space in a manner in which it has been used in the past; there is not a significant change in use, just change in tenant."*

In staff's opinion, granting the requested variance may create an adverse effect upon the public health, safety, morals, order, convenience, prosperity or general welfare. It could be argued that approval of these variances will help improve these factors by helping place an underutilized building back into a productive commercial use. However, a 56 space request is a significant reduction and could impact on-street parking throughout the surrounding area. The existing parking indicated on the site plan would accommodate the parking demand for the employees of both uses, but it would not provide any parking

for customers to this property. Without on-site parking for both the employees and the bar patrons, the parking load would be principally shifted to being provided via on-street parking throughout the surrounding neighborhood.

While the majority of the required parking associated with this variance request would be to support the Bar or Lounge use, a small portion would provide parking for the existing Quality Restaurant. While it is possible that the parking load for both uses would not occur at identical times for their peak demands, it is reasonable to expect some possible overlap to occur. This would see a high amount of on-street parking within the area in those particular instances. Both the Bar or Lounge use and Quality Restaurant use create some of the highest demand for parking. Staff believes this site can only support the lower intensity of these two uses.

**5. That granting the variance desired will not be opposed to the general spirit and intent of this chapter.**

*Applicant response: "We feel that the City's intent is to not punish property owners that are maintaining/using older structures that do not have to ability to strictly follow the codes the City has adopted over the many years since these structures were built. We should be encouraging property owners to continue to use these buildings, as opposed to letting them deteriorate. The only real change for this building is the operator; not the number of parking spaces that would be required under today's code. Since there is no expansion of the building, it would seem this would be in the general spirit of the Development Code."*

In staff's opinion, the degree of the variance requested would be opposed to the general spirit and intent of the Land Development Code. The location of this site is conducive to foot traffic from the adjacent neighborhood and the reasonably close transit connections; however, staff believes most of the site's customers will not originate within walking distance. Staff believes it is reasonable to assume that most visitors will drive to this property. This proposed project would intensify the use of this property; thereby, intensifying the parking demand associated with the proposed use. This may exacerbate any parking deficit within this area. A reduction of this magnitude would further constrain on-street parking throughout both this area and the greater neighborhood.

The Land Development Code's intent is to ensure that the off-street parking, loading, and access demands of various land uses will be met without adversely affecting surrounding areas by providing parking accommodations for both employees and patrons, and to help create and maintain a safe and efficient transportation network. (Section 20-901(a))

To this end, the Land Development Code provides shared and off-site off-street parking provisions in Section 20-909 by allowing users to share off-street parking facilities in situations where a mix of uses creates staggered peak periods of parking demand and to locate off-street parking facilities on a different site than the uses served by the parking. Code requires that all shared or off-site off-street parking spaces shall be located no further than 600 feet from the main entrance of the buildings or uses they are intended to serve, measured along the shortest legal, practical walking route. Code also requires the same or a more intensive zoning classification than that required for the most intensive of the uses served by the shared or off-site parking area. Because of this property's current zoning and the surrounding zoning, this option is limited in its possible application requirement.

The Land Development Code recognizes the fact that different approaches may be appropriate in different settings, allowing flexibility to address vehicle parking, loading, and access demand. However, it also sets a requisite that when the use or occupancy of property changes, additional off-street parking and loading facilities must be provided to serve the new use or occupancy only when the number of parking or loading spaces required for the new use or occupancy exceeds the number of spaces required for the use that most recently occupied the building.

**Conclusions:**

Staff's analysis of this variance application finds the request does not meet all five conditions set forth in Section 20-1309(g)(1) of the Land Development Code that the Board must find existing to grant a variance.

**Recommendation:**

Staff recommends denial of the parking variance based upon the findings in the staff report concluding that the request does not meet the five conditions outlined in Section 20-1309(g)(1).



City of Lawrence  
Douglas County  
PLANNING & DEVELOPMENT SERVICES

Lawrence Douglas County  
Metropolitan Planning Office  
6 East 6<sup>th</sup> Street, P.O. Box 708, Lawrence, KS 66044  
(785) 832-3150 Fax (785) 832-3160  
<http://www.lawrenceks.org/pds/>

## APPLICATION FOR VARIANCE FROM UNNECESSARY HARDSHIP

### OWNER INFORMATION

Name(s) Tiburcio J Reyes Sr  
Contact Jennifer Myers  
Address 446 Locust  
City Lawrence State Kansas ZIP 66044  
Phone (\_\_\_\_) \_\_\_\_\_ Fax (\_\_\_\_) \_\_\_\_\_  
E-mail kawvalleygroup@gmail.com Mobile/Pager (\_\_\_\_) \_\_\_\_\_

### APPLICANT/AGENT INFORMATION

Contact Paul Werner  
Company Paul Werner Architects  
Address 123 W 8th Street, Suite B2  
City Lawrence State Kansas ZIP 66044  
Phone (785) 832-0804 Fax (785) 832-0890  
E-mail paulw@paulwernerarchitects.com Mobile/Pager (785) 979-2243  
Pre-Application Meeting Date June 6, 2018 Planner Jeff Crick

### PROPERTY INFORMATION

Present Zoning District CS Present Land Use Restaurant/Banquet Facility  
Proposed Land Use Restaurant/Drinking Establishment  
Legal Description (*may be attached*) North Lawrence Locust Street, Lots 207, 209, 211 (N06648, 49, 50 Combined 1988) & Lot 213  
Address of Property 444 Locust / 446 Locust  
Total Site Area Approximately 0.25 Acres  
Number and Description of Existing Improvements or Structures Two buildings that are attached, a shed, and a patio area



**Description of variance requested:**

We are requesting a parking variance for a new tenant to take over space in the building located at 444 Locust.

The same person owns both 444 Locust and 446 Locust. The buildings at 444 and 446 Locust are attached, even though they have separate addresses. 446 Locust houses the El Matador restaurant. 444 Locust houses the kitchen for El Matador and the remainder of the building has been used for event **space/receptions/banquets**. Our clients have signed a lease with the owner to take over the banquet space, as well as the existing patio area to the west. In this space, they are wanting to open a drinking establishment. They plan to serve food from the El Matador restaurant. The owner of the buildings currently has a liquor license that covers 444 and 446 Locust. The new tenants applied for their own liquor license for the space, and were told by Planning Staff that a site plan and a parking variance are required. Since this building has always been a commercial use, as far back as we can find, and there is nowhere for the new business to add/provide the required parking, we are requesting a variance from approximately 84 spaces to 8 spaces.

Please Note: This represents zero increase in what we believe to be the existing occupancy of the space.

The variance will just allow a new operator of the space.



### UNNECESSARY HARDSHIP CRITERIA

The Board of Zoning Appeals may approve a zoning variance if it finds that all of the following criteria have been met. The Development Code places the burden on the applicant to show that an application complies with such criteria. Please respond to each criterion to the best of your knowledge. (Attach additional sheets if needed.)

**1. That the variance request arises from such conditions which are unique to the property in question and not ordinarily found in the same zoning or district and are not created by action(s) of the property owner or applicant:**

The building was constructed long before the property owner or new tenants took possession. We have a picture that is included with this application that shows the building being used as a hotel in the late 1800/early 1900s.

This block of North Lawrence was constructed with many commercial storefronts, much like Massachusetts Street.

To our knowledge, there has never been a parking lot designated for this building that would be able to accomodate the required parking which the City of Lawrence would require today if this were new construction.

**2. That granting the variance would not adversely affect the rights of adjacent property owners or residents:**

The adjacent properties are also zoned and used as commercial use. Because of this, we do not feel that the customers parking along the street will adversely affect the rights of the adjacent property owners. This building has been used as a restaurant for many years, so the neighborhood is used to customers parking along the street.

We are not expanding the building footprint, we are merely changing the liquor license for a portion of 444 Locust to a new business entity. While a drinking establishment may be a different use than a restaurant in the City's Code, the occupancy of the space is remaining the same.



**3. That strict application of the provisions of this chapter for which the variance is requested would constitute unnecessary hardship upon the property owner represented in the application:**

If the owners were required to provide the number of parking spaces the city requires, the building would remain as it is today, unless they were able to tear down adjacent buildings and provide parking lots; which is not a realistic option.

The owner of the property and the El Matador is an older gentleman and doesn't have a desire to use the banquet space in 444 Locust. Because of this, he thought he could rent out the space to someone that would be able to use it and maintain it so that it does not deteriorate like many older buildings have. We feel that someone should be able to use the space for a commercial use, which it has been used for since it was built, and not be penalized that the City Standards have changed over the many years since the building was constructed.

El Matador has been in business for approximately 60 years. As Lawrence expands and more and more restaurants open, it makes it difficult for smaller, family-run businesses to compete. This addition of a new tenant in the 444 side will allow the owner to be able to bring in some additional revenue with rent, and by selling food to more customers than the 446 side of the restaurant can seat.

**4. That the variance desired would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare:**

We do not feel that the variance will affect the general welfare of the public. We are continuing to use the space in a manner in which it has been used in the past; there is not a significant change in use, just change in tenant.





**City of Lawrence  
Douglas County**  
PLANNING & DEVELOPMENT SERVICES

**Lawrence Douglas County  
Metropolitan Planning Office**

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(785) 832-3150 Fax (785) 832-3160  
<http://www.lawrenceks.org/pds/>

**5. That granting the variance desired would not be opposed to the general spirit and intent of the Development Code:**

We feel that the City's intent is to not punish property owners that are maintaining/using older structures that do not have to ability to strictly follow the codes the City has adopted over the many years since these structures were built. We should be encouraging property owners to continue to use these buildings, as opposed to letting them deteriorate. The only real change for this building is the operator; not the number of parking spaces that would be required under today's code. Since there is no expansion of the building, it would seem this would be in the

general spirit of the Development Code.

**SIGNATURE**

I/We, the undersigned am/are the **(owner(s))**, **(duly authorized agent)**, **(Circle One)** of the **aforementioned** property. By execution of my/our signature, I/we do hereby officially apply for variances as indicated above.

Signature(s):  Date 6-8-2018

\_\_\_\_\_  
Date \_\_\_\_\_

\_\_\_\_\_  
Date \_\_\_\_\_

**STAFF USE ONLY**

Application No. \_\_\_\_\_

Date Received \_\_\_\_\_

BZA Date \_\_\_\_\_

Fee \$ \_\_\_\_\_

Date Fee Paid \_\_\_\_\_



**Lawrence Douglas County  
Metropolitan Planning Office**

6 East 6<sup>th</sup> Street, P.O. Box 708, Lawrence, KS 66044  
(785) 832-3150 Fax (785) 832-3160  
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**OWNER AUTHORIZATION**

I, **Tiburcio J Reyes Sr.**, hereby referred to as the "Undersigned", being of lawful age, do hereby on this 7 day of June 2018, make the following statements to wit:

1. I the Undersigned, on the date first above written, am the lawful owner in fee simple absolute of the following described real property:

**NORTH LAWRENCE LOCUST STREET, LOTS 207, 209 & 211 (N06648, 49 & 50 COMBINED 1988), LAWRENCE, DOUGLAS COUNTY, KANSAS**

2. I the undersigned, have previously authorized and hereby authorize **Paul Werner Architects** (Herein referred to as "Applicant"), to act on my behalf for the purpose of making application with the Planning Office of **Lawrence/Douglas County, Kansas**, regarding **444 Locust Street, Lawrence, Kansas** (common address), the subject property, or portion thereof. Such authorization includes, but is not limited to, all acts or things whatsoever necessarily required of Applicant in the application process.
3. It is understood that in the event the Undersigned is a corporation or partnership then the individual whose signature appears below for and on behalf of the corporation or partnership has in fact the authority to so bind the corporation or partnership to the terms and statements contained within this instrument.

IN WITNESS THEREOF, I, the Undersigned, have set my hand and seal below.

Tiburcio J Reyes Sr.  
Owner

\_\_\_\_\_  
Owner

STATE OF Kansas  
COUNTY OF Douglas

The foregoing instrument was acknowledged before me on this 7 day of June, 2018,

by Tiburcio J Reyes Sr.

My Commission Expires:

Tiffany Asher  
Notary Public





City of Lawrence  
Douglas County

PLANNING & DEVELOPMENT SERVICES

Lawrence Douglas County  
Metropolitan Planning Office

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<http://www.lawrenceks.org/pds/>

**PROPERTY OWNERSHIP LIST CERTIFICATION**

As required by Article 13, Section 20-1301(q) of the Development Code, the applicant is responsible for providing certified Ownership information (including names and mailing addresses) of all real property owners within a defined radius from the subject property. The Planning Department is required by the Development Code to use the submitted Ownership list to mail notice of the public hearing to surrounding property owners regarding this Application.

**Ownership Information**

The applicant is responsible for providing certified Ownership information. Current Ownership information shall be obtained from the Douglas County Clerk. Ownership information will be considered current if it is **no more than 30 days old** at the time an application is submitted to the Planning Department.

**Radius of Notification**

The Ownership list shall include the record Owner of the subject property and all Owners of property located within 400 feet of the subject property. If the subject property is adjacent to the City limits the area of notification shall be extended to at least 1,000 feet into the unincorporated area.

A map of the "Radius of Notification" can be obtained **at the Applicant's request** at the Planning Office. The map indicates ownership of each property and can be used to check the accuracy and completeness of the Ownership List. The map will be supplied **at the Applicant's expense. Allow 10 business days** to receive the map.

**THE FOLLOWING IS TO BE COMPLETED AND SUBMITTED BY THE APPLICANT.**

I certify that I have read and understood the above information and that the submitted Ownership list:

1. was a) obtained from and b) certified by the Douglas County Clerk,
2. is current (**no more than 30 days old**), and
3. **includes all property** owners within the required notification radius of the subject property.

Signature

Date

Printed Name



**JAMIE SHEW**  
**DOUGLAS COUNTY CLERK**  
1100 Massachusetts  
Lawrence, KS 66044

**Marni Penrod**-Chief Deputy Clerk  
**Heather Dill**-Deputy Clerk Elections

June 8, 2018

A CERTIFIED PROPERTY OWNERSHIP LIST WITHIN 400 FT OF 444 LOCUST ST  
(N06648A). 06/08/2018. REQUESTED BY TIFFANY ASHER OF PAUL WERNER  
ARCHITECTS.

JOHN R. NICHOLS  
DOUGLAS COUNTY CLERK'S OFFICE  
1100 MASSACHUSETTS ST  
LAWRENCE, KS 66044

785-832-5147

[jnichols@douglascountyks.org](mailto:jnichols@douglascountyks.org)

Douglas County Real Estate Division  
County Clerk's Office. I do hereby certify  
the Property Ownership listed hereto, to be  
true and accurate.

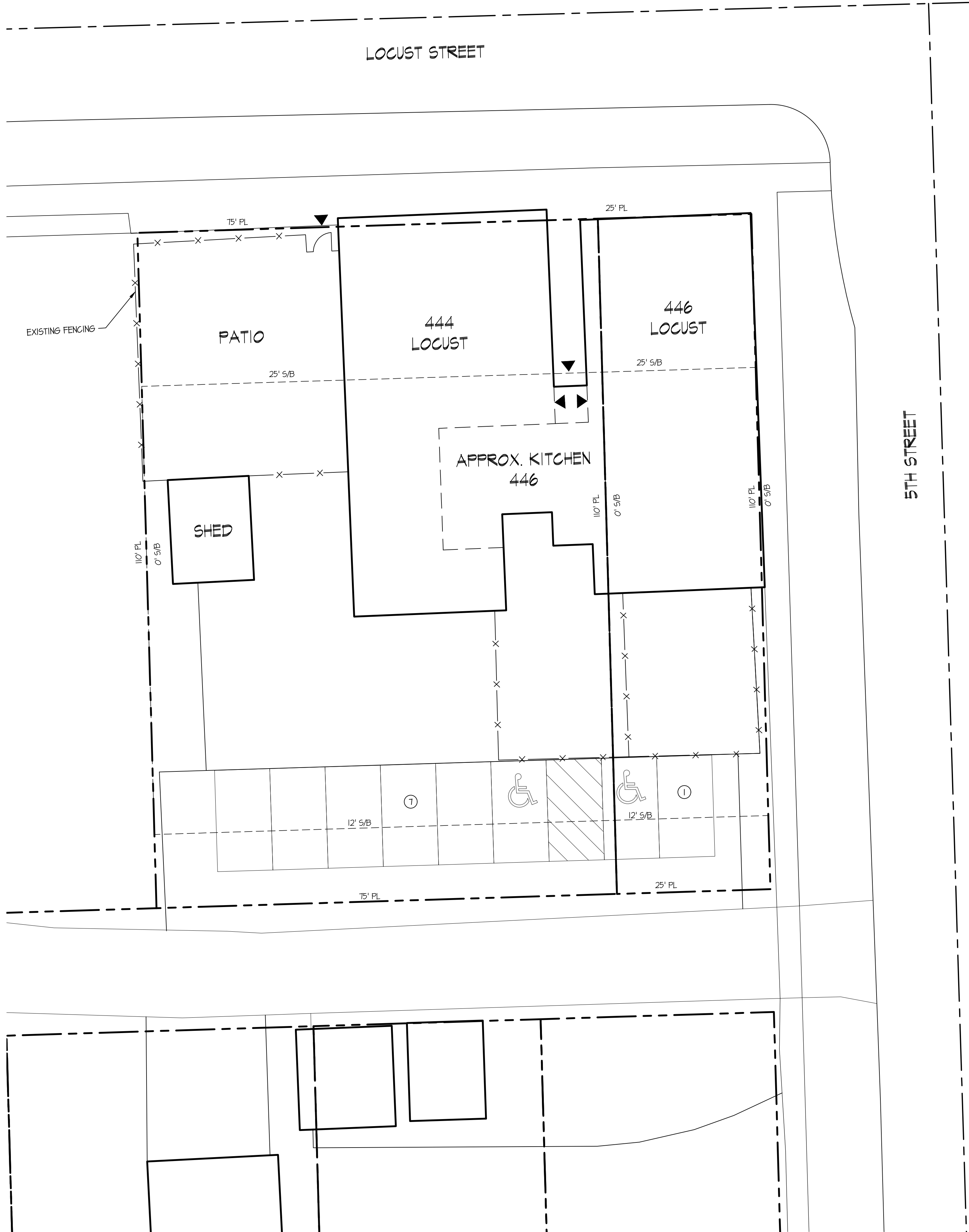
POL WITHIN 400 FT OF 444 LOCUST ST  
(N06648A).



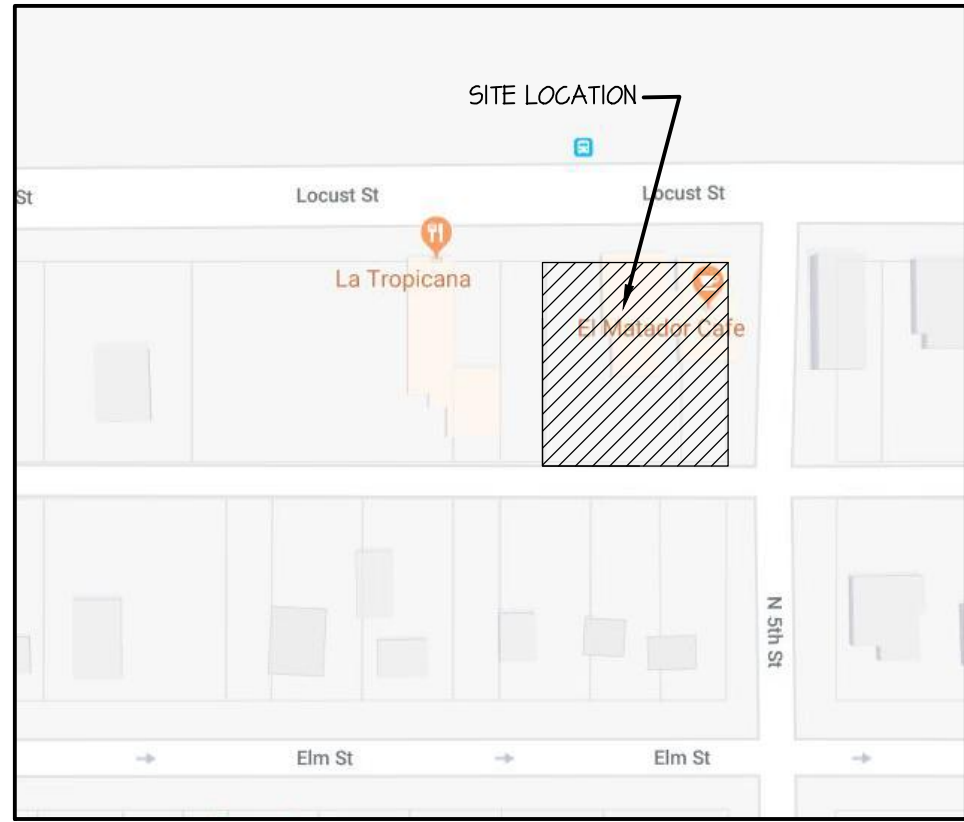




J:\Project\218-000\218-500\CAD & CAD PDF's\Site\CAD\PRELIMINARY SITE\CONCEPTS\218-500 concept.dwg, 6/12/2018 11:41:28 AM, DWG To PDF.pc3



LOCATION MAP:



LEGAL DESCRIPTION:

444 LOCUST - NORTH LAWRENCE LOCUST STREET LTS 201,209 & 211 (N06648,49 & 50 COMBINED 1988)  
446 LOCUST - NORTH LAWRENCE LOCUST STREET LT 213

PROJECT SUMMARY:

- 1.1 CURRENT ZONING: CS  
1.2 PREVIOUS USE: RESTAURANT QUALITY & ACCESSORY BAR  
1.3 PROPOSED USE: RESTAURANT QUALITY & LICENSED DRINKING ESTABLISHMENT

GENERAL NOTES:

- 2.1 ALL GROUND MOUNTED MECHANICAL UNITS SHALL BE SCREENED IN ACCORDANCE WITH SECTION 20-14A04 .  
2.2 ALL ACCESSIBLE SIDEWALK RAMP BY A.D.A. STANDARDS.  
2.3 SITE PLAN HAS BEEN DESIGNED TO COMPLY WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES (ADAAG) FOR BUILDINGS AND FACILITIES, APPENDIX A TO 28CFR PART 36.  
2.4 THE CITY OF LAWRENCE WILL NOT BE HELD RESPONSIBLE FOR DAMAGE CAUSED BY TRASH TRUCKS.  
2.5 PLAN FOR CITY APPROVAL ONLY! CONSTRUCTION DOCUMENTS TO BE FURNISHED AT THE REQUEST OF OWNER.  
2.6 INFORMATION TAKEN FROM AERIAL PHOTOS, AVAILABLE DOCUMENTS AND ON SITE INVESTIGATIONS.  
2.7 SIGN APPROVAL AND PERMITTING IS NOT PART OF THE SITE PLAN APPROVAL. SEPARATE APPROVAL IS REQUIRED THROUGH NEIGHBORHOOD RESOURCES.  
2.8 THIS SITE PLAN PROVIDES AN ACCESS DRIVE/EASEMENT FOR MT. BLUE ADDITION. ANY FUTURE IMPROVEMENTS TO THE SITE WILL BE SUBMITTED WITH A REVISED SITE PLAN.

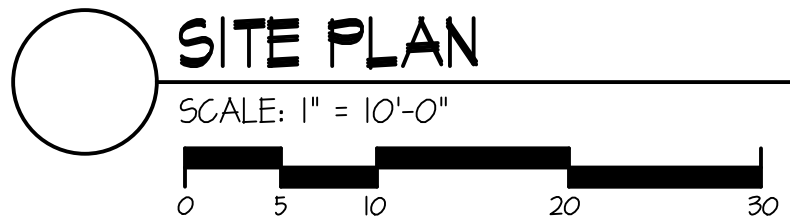
IMPERVIOUS SURFACE SUMMARY:

PROJECT SITE: 444 LOCUST LOCUST				PROPOSED CONDITIONS:			
EXISTING CONDITIONS:		SQ. FT.	%			SQ. FT.	%
LAND AREA:		11,000		LAND AREA:		11,000	
BUILDING FOOTPRINT:		4,215	38%	BUILDING FOOTPRINT:		4,215	38%
PAVEMENT AREAS:		5,585	51%	PAVEMENT AREAS:		5,585	51%
TOTAL IMPERVIOUS:		9,800	89%	TOTAL IMPERVIOUS:		9,800	89%
TOTAL PERVIOUS:		1,200	11%	TOTAL PERVIOUS:		1,200	11%

NO INCREASE TO IMPERVIOUS SURFACE

PARKING INFORMATION:

- 4.1 PARKING REQUIRED: 1 PER 100 SQFT OF CUSTOMER SERVICE AREA PLUS 1 PER EMPLOYEE BASED ON THE LARGEST SHIFT 1/3 OCC. + 9 PER EMPLOYEE ON LARGEST SHIFT
- 4.2 446 1200 sqft @ 1/100 = 12+4=16  
444 113 OCC & MAX PARKING REQUIRED = 45+3+48  
TOTAL 64
- | TYPE: | REGULAR | ACCESSIBLE | TOTAL: | REQUIRED: | PROVIDED: |
|-------|---------|------------|--------|-----------|-----------|
|       |         |            |        |           |           |
|       |         |            |        | 61        | 6         |
|       |         |            |        | 3         | 2         |
|       |         |            |        | 64        | 8         |
- 4.3 BICYCLE 5 5 SPACES
- 4.4 PAVEMENT: APPROACHES: 7" - 4000 PSI CONCRETE W/ #5 BARS 12" O.C.B.W.  
DRIVES: MIN. 6" ASPHALT ON 4" GRAVEL OR 5" CONCRETE  
PARKING AREAS: MIN. 5" ASPHALT ON 4" GRAVEL OR 4" CONCRETE
- 4.5 24" CURB & GUTTER AT ENTRANCE.



paulwerner  
ARCHITECTS

123 W. 8TH STREET  
SUITE B2  
LAWRENCE, KS 66044

OFFICE: 785.832.0804  
FAX: 785.832.0890  
INFO@PAULWERNERARCHITECTS.COM

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444/446 LOCUST  
LAWRENCE, KANSAS

PROJECT # 218-500  
JUNE 8, 2018

RELEASE: I.O. DATE: 6.11.18

SP-1



**From:** Diana Kitsmiller [mailto:dianakitsmiller@ymail.com]

**Sent:** Monday, July 2, 2018 6:46 PM

**To:** PlanningEmail <PlanningEmail@lawrenceks.org>

**Cc:** kawvalleygroup@gmail.com

**Subject:** Kaw Valley Public House

Lawrence Board of Zoning Appeals Committee members,

I would like to write in support of the Kaw Valley Public House opening in our neighborhood. We hope you consider and approve the request for their parking variance. We look forward to the new addition that will bring new faces to North Lawrence.

Sincerely,

Diana Kitsmiller

Grew up on Lincoln St and continue being a customer of North Lawrence businesses.

**From:** Shannon Portillo [mailto:shannon.k.portillo@gmail.com]  
**Sent:** Tuesday, July 3, 2018 9:39 AM  
**To:** PlanningEmail <PlanningEmail@lawrenceks.org>  
**Cc:** Kris Beckland (via Google Sheets) <krisbeckland@gmail.com>; kawvalleygroup@gmail.com  
**Subject:** Letter of Support for Kaw Valley Public House

July 3, 2018

Lawrence Douglas County Metropolitan Planning Office  
6 East 6th Street  
P.O. Box 708  
Lawrence, KS 66044  
<Submitted Electronically>

Dear Lawrence Board of Zoning Appeals Committee Members:

Having moved to North Lawrence over five years ago, I am thrilled to see a continuing interest in the development of the area. Today, I am writing in support of the Kaw Valley Public House opening in our neighborhood. My husband and I are in favor of family friendly businesses that will attract more people to explore the great neighborhood. We love to see more businesses that we can walk to from our home, and the infill process of development, continues to connect NoLaw to the downtown area with businesses that are within easy walking distance. We are particularly supportive of seeing this small business, owned by local community members and led by a Latina entrepreneur. We hope you will approve their request for a parking variance.

Sincerely,

Shannon Portillo

Kris Beckland

736 N. 3rd St.

-----Original Message-----

From: Jeff Johnston [mailto:modfan@gmail.com]

Sent: Tuesday, July 3, 2018 11:10 AM

To: PlanningEmail <PlanningEmail@lawrenceks.org>

Subject: Parking variance

Lawrence Board of Zoning Appeals Committee members,

I would like to write in support of the Kaw Valley Public House opening in our neighborhood. We hope you consider and approve the request for their parking variance. We look forward to the new addition that will bring new faces to North Lawrence.

Sincerely,

Jeff Johnston

**From:** Cathy Reyes [mailto:reyes.cathy1@gmail.com]  
**Sent:** Wednesday, July 4, 2018 5:17 PM  
**To:** PlanningEmail <PlanningEmail@lawrenceks.org>  
**Subject:** Kaw Valley Public House

Lawrence Board of Zoning Appeals Committee members,

I would like to write in support of the Kaw Valley Public House opening in our neighborhood. We hope you consider and approve the request for their parking variance. We look forward to the new addition that will bring new faces to North Lawrence.

Sincerely,  
Catherine Reyes  
809 Elm Street  
Lawrence, KS 66044

**From:** jeff hahn [mailto:hahnjeff@hotmail.com]  
**Sent:** Wednesday, July 4, 2018 1:00 PM  
**To:** PlanningEmail <PlanningEmail@lawrenceks.org>  
**Cc:** kawvalleygroup@gmail.com  
**Subject:** Kaw Valley Public House

I would like to write in support of the Kaw Valley Public House opening in my neighborhood. I hope you consider and approve the request for their parking variance. I look forward to the new addition that will bring new faces to North Lawrence.

Sincerely,  
Jeff Hahn  
217 N. 9th St.

Lawrence Douglas County Metropolitan Planning Office  
6 East 6<sup>th</sup> Street P.O. Box 708  
Lawrence, KS 66044

Lawrence Board of Zoning Appeals Committee members,

As a long time North Lawrence resident, I would like to write in support of the Kaw Valley Public House opening in our neighborhood. We hope you consider and approve the request for their parking variance. We look forward to the new addition that will bring new faces to North Lawrence.

Sincerely,

Rayne McLean  
EL Margarita Cafe  
446 East Locust St



Lawrence Douglas County Metropolitan Planning Office  
6 East 6<sup>th</sup> Street P.O. Box 708  
Lawrence, KS 66044

Lawrence Board of Zoning Appeals Committee members,

As a long time North Lawrence resident, I would like to write in support of the Kaw Valley Public House opening in our neighborhood. We hope you consider and approve the request for their parking variance. We look forward to the new addition that will bring new faces to North Lawrence.

Sincerely,

*Evelyn Ray*  
*Vandy Ray*  
*447 Elm St*

**From:** M M [mailto:mmills4122@gmail.com]

**Sent:** Thursday, July 5, 2018 9:20 AM

**To:** PlanningEmail <PlanningEmail@lawrenceks.org>; Jeff Crick <jcrick@lawrenceks.org>

**Subject:** Neighbor Comments on Agenda Item No. 4-July 5 (B-18-00278)

Dear Lawrence Board of Zoning Appeals Committee members,

I am writing ahead of the Board of Zoning Appeals meeting this evening that will discuss a proposed parking variance for the property located at 444/446 Locust Street. I am a neighbor and I have also been asked to convey some concerns from the owner and operator of the neighboring La Tropicana Restaurant (434 Locust Street), Severina Del Campo and Laura Del Campo. It is my understanding that the current recommendation from the Board of Zoning Appeals staff is to deny the request based on not meeting the five conditions in Section 20-1309(g)(1) of the Land Development Code. We are in favor of that denial and would like to address the second and fourth conditions in the report to include our experiences.

2. Off street parking is already an issue along Locust street. In particular, the large off-street lot at La Tropicana is often used by patrons of El Matador Cafe and Frank's North Star down the street. Although the current occupancy at 444/446 Locust has not caused a huge issue due to differing operating hours, we are definitely concerned that an added bar next door will put a burden on our customers and our business since parking will be much harder to find, even in our own lot. When El Matador Cafe is open, their customers use all of the on-street parking in front of both businesses, so any amount of added customers will put a burden on the on-street parking as well. La Tropicana's lot almost always fills up during business hours, with overflow customers parking on the street.

4. We are very concerned about the lack of parking adversely affecting the neighborhood and believe it is a significant change in use, as it will become primarily a drinking establishment. As stated above, the customers of El Matador Cafe, when it is open, use all of the on-street parking. The added customers will need to park somewhere, and that will be shifted onto both residential on-street parking and surrounding businesses. We have had serious issues with surrounding bar patrons using the La Tropicana lot overnight and leaving bottles and cans of alcohol beverages around the property as well, which puts a burden on the business owners and is detrimental to the well-being of our neighborhood. The space will primarily be used as a bar, which is indeed a large shift from its use right now as a banquet space. We are concerned that the same issues we have now will become worse with the closer proximity if they do not have their own parking.

We urge you to deny this variance request in agreement with the recommendations in the report. We do not feel that parking is sufficient with even the current occupancy and a large added bar and patio space (which is actually added space on top of the existing building footprint-it was used as gardening space before) will put a huge burden on La Tropicana's existing parking and hurt its business. It is also concerning that the site plan they have provided does not seem to match the construction for the patio that we've seen so far, which extends the patio into the neighboring 400 and 436 lots.

We wanted to make sure our concerns were heard prior to the meeting this evening because we are aware that the new business has asked people to write in favor of granting the variance. They

do not seem to understand that the parking situation is already difficult, and any added customers will push the burden directly onto the neighborhood unless they can add significant off-street parking. My understanding is that La Tropicana was required to build their parking lot when they added a patio, so 444/446 Locust should also be required to add parking spaces to reduce the burden on the on-street parking when they significantly change the function of the building, even though it is an existing space.

The owners of La Tropicana and myself will not be able to attend the meeting this evening, but I would be happy to answer any questions and can put you in contact with them if you'd like to discuss any of our concerns.

Sincerely,

Morgan Mills  
785-393-4842