

Updated:

2/22/17 @ 11:30am

Added Revised Staff Report for Item 4 - Special Use Permit for Bullwinkle's Added Draft January Planning Commission Minutes

2/14/17 @ 5:00pm

LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION CITY HALL, 6 EAST 6TH STREET, CITY COMMISSION MEETING ROOM AGENDA FOR PUBLIC & NON-PUBLIC HEARING ITEMS WEDNESDAY, FEBRUARY 22, 2017 6:30PM - 10:30PM

GENERAL BUSINESS:

PLANNING COMMISSION ACTION SUMMARY

Receive and amend or approve the action summary (minutes) from the Planning Commission meeting of January 25, 2017.

COMMITTEE REPORTS

Receive reports from any committees that met over the past month.

COMMUNICATIONS

- a) Receive written communications from the public.
- b) Receive written communications from staff, Planning Commissioners, or other commissioners.
- c) Receive written action of any waiver requests/determinations made by the City Engineer.
- d) Disclosure of ex parte communications.
- e) Declaration of abstentions from specific agenda items by commissioners.

AGENDA ITEMS MAY BE TAKEN OUT OF ORDER AT THE COMMISSION'S DISCRETION

REGULAR AGENDA (FEBRUARY 22, 2017) MEETING PUBLIC HEARING ITEM:

Recess LDCMPC

Convene Joint Meeting with Baldwin Planning Commission

ITEM NO. 1 COUNTY B-1 TO COUNTY R-1; .58 ACRES; 697 E 1725 RD (BJP)

Z-17-00022: Consider a request to rezone approximately 0.58 acres from County B-1 (Neighborhood Business) District to County R-1 (Single-Family Residential) District, located at 697 E 1725 Rd, Baldwin City. Submitted by Vinland Preservation LLC, property owner of record. *Joint meeting with Baldwin Planning Commission.*

Adjourn Joint Meeting Reconvene LDCMPC

NON-PUBLIC HEARING ITEM:

ITEM NO. 2 PRELIMINARY PLAT FOR PAXTON PLACE ADDITION; SE CORNER 31ST & MICHIGAN (MKM)

PP-16-00544: Consider a Preliminary Plat for Paxton Place Addition, a two lot residential subdivision, on approximately 49 acres located at the southeast corner of W. 31st St and Michigan St. (future address of 1101 W 31st St). Submitted by BG Consultants, for Castle Rock LC, property owner of record.

RESUME PUBLIC HEARING:

ITEM NO. 3 PCD TO CS; 1.07 ACRES; 3215 OUSDAHL RD (MKM)

Z-16-00545: Consider a request to rezone approximately 1.07 acres located at 3215 Ousdahl Rd from PCD-[Pine Ridge Plaza] (Planned Commercial Development) District to CS (Commercial Strip) District. Submitted by Paul Werner Architects on behalf of Jayhawk Acquisitions LLC, property owner of record.

ITEM NO. 4 SPECIAL USE PERMIT; BULLWINKLE'S; 1340 TENNESSEE ST (BJP)

SUP-16-00547: Consider a Special Use Permit to allow a building addition for Bullwinkle's, located at 1340 Tennessee Street, to expand onto property in a MU (Mixed Use) zoning district. Submitted by Paul Werner Architects on behalf of Sorrentino Investments LLC, property owner of record.

ITEM NO. 5 VARIANCE; 1144 E 1200 RD (MKM)

CSU-17-00004: Consider a variance request per Section 20-804 of the Subdivision Regulations to allow a Certificate of Survey on property containing less than 20 acres, located at about 1144 E 1200 Rd. Submitted by Grob Engineering Services LLC on behalf of Brian E & Cheri L Ezell, property owners of record.

DEFERRED

ITEM NO. 6 TEXT AMENDMENT TO DEVELOPMENT CODE; COLUMBARIUMS (BJP)

TA-16-00388: Consider a Text Amendment to the City of Lawrence Land Development Code, Articles 4, 5, & 17, regarding Funeral and Interment Services as defined in Section 20-1729. The requested amendment would allow Columbariums as Accessory Uses to established Religious Assembly Institutions. Submitted by Corpus Christi Catholic Church. Initiated by City Commission on 9/20/16. Deferred by Planning Commission on 1/25/17.

DEFERRED

ITEM NO. 7 TEXT AMENDMENT TO COUNTY ZONING REGULATIONS; RADIO, TELEVISION, TELECOMMUNICATION, & MICROWAVE TOWERS (MKM)

TA-16-00511: Consider a Text Amendment to Chapter 12 of the County Code, *Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas* to revise Section 12-319-4.31, *Radio, television, telecommunication, and microwave towers,* to bring the standards and definitions into compliance with State law. *Initiated by County Commission on 11/30/16.*

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

ADJOURN

CALENDAR

January 2017						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

February 2017						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

Marc	2017					
Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

PCCM Meeting:

(Generally 2nd Wednesday of each month, 7:30am-9:00am)

Sign up to receive the Planning Commission agenda or weekly Planning Submittals via email: http://www.lawrenceks.org/subscriptions

2017 LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION MID-MONTH & REGULAR MEETING DATES

Mid-Month Meetings, Wednesdays	Mid-M	Planning Commission Meetings 6:30 PM,		
7:30 – 9:00 AM			Monday and	Wednesday
Jan 11	C	Jan 23	Jan 25	
Feb 8	Douglas County Natural A	reas Assessment – Kelly Kindscher		Feb 222
Mar 8	East Lawrence Rezoning	Dg Co Food System Assessment & Plan	Mar 13	Mar 15
Apr 12			Apr 24	Apr 26
May 10			May 22	May 24
Jun 14	APA Conference recap		Jun 26	Jun 28
Jul 12		·	Jul 24	Jul 26
Aug 9			Aug 21	Aug 23
Sep 13			Sep 25	Sep 27
Oct 11			Oct 23	Oct 25
Nov 1			Nov 13	Nov 15
Dec 6			Dec 18	Dec 20
	PC Or	ientation – all day (tbd)	•	

Suggested topics for future meetings:

How City/County Depts interact on planning issues
Stormwater Stds Update – Stream Setbacks
Overview of different Advisory Groups – potential overlap on planning issues
Joint meeting with other Cities' Planning Commissions
Joint meeting with other Cities and Townships – UGA potential revisions
New County Zoning Codes
Tour City/County Facilities
Water Resources

Communication Towers – Stealth Design, # of co-locations, notice area WiFi Connectivity & Infrastructure Planning Oread Overlay Districts & Design Guidelines Comprehensive Plan – Goals & Policies Affordable Housing Retail Market Impacts Case Studies

Meeting Locations

The Planning Commission meetings are held in the City Commission meeting room on the 1^{st} floor of City Hall, 6^{th} & Massachusetts Streets, unless otherwise noticed.

Planning & Development Services | Lawrence-Douglas County Planning Division | 785-832-3150 | www.lawrenceks.org/pds

	Jan 25 2017	Feb 22 2017	Mar 15 2017	April 26 2017	May 24 2017	June 28 2017
Britton	Yes					
Butler	No					
Carpenter	Yes					
Culver	Yes					
Kelly	Yes					
Sands	Yes					
Struckhoff	Yes	No				
von Achen	Yes					
Weaver						
Willey	No					
	Jan 11 2017	Feb 8 2017	Mar 8 2017	April 12 2017	May 10 2017	June 14 2017
Britton					_	1
	2017	2017			_	1
Butler	2017	2017 Yes			_	1
Butler Carpenter	2017	Yes No			_	1
Butler Carpenter Culver Kelly	2017	Yes No Yes			_	1
Butler Carpenter Culver Kelly	2017 - - - -	Yes No Yes Yes Yes			_	1
Butler Carpenter Culver Kelly Sands	2017 - - - - -	Yes No Yes Yes Yes Yes			_	1
Britton Butler Carpenter Culver Kelly Sands Struckhoff von Achen	2017 - - - - -	Yes No Yes Yes Yes Yes No			_	1
Butler Carpenter Culver Kelly Sands Struckhoff	2017 - - - - - -	Yes No Yes Yes Yes Yes No Yes Yes			_	1



PLANNING COMMISSION MEETING January 25, 2017 Meeting Action Summary

January 25, 2017 – 6:30 p.m.

Commissioners present: Britton, Carpenter, Culver, Kelly, Sands, Struckhoff, von Achen

Staff present: McCullough, Stogsdill, Day, Larkin, M. Miller, Pepper, Ewert

GENERAL BUSINESS

PLANNING COMMISSION ACTION SUMMARY MINUTES

Receive and amend or approve the action summary (minutes) from the Planning Commission meeting of December 12, 2016.

Motioned by Commissioner von Achen, seconded by Commissioner Britton, to approve the December 12, 2016 Planning Commission action summary minutes.

Unanimously approved 7-0.

COMMITTEE REPORTS

No reports from any committees that met over the past month.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- Received Staff Memo requesting deferral of Item 4 Text Amendment Columbariums
- No ex parte.
- Abstentions:
 - Commissioner Kelly said he would abstain from Item 3 because his employer was the school district and they wrote a letter regarding Item 3.

PC Minutes 1/25/17

ITEM NO. 1 CONDITIONAL USE PERMIT FOR PRIVATE AIRSTRIP; 1123 E 2000 RD (MKM)

CUP-16-00489: Consider a revision to the Conditional Use Permit for the private airstrip at 1123 E 2000 Road, approved with CUP-3-1-85, to allow additional users of the airstrip. Submitted by BG Consultants, Inc. for Milton D. and Joan M. Bland, property owners of record. *Joint meeting with Eudora Planning Commission.*

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Mr. Milton Bland said he did not foresee any actual change in the activity at the airstrip. He said the airstrip would not be used very often.

PUBLIC HEARING

Mr. Mark Neis, 12775 County Line Rd, said he farmed property to the north. He inquired about the building near the airstrip.

Ms. Miller said the Federal Aviation Administration (FAA) had an approach zone.

Mr. Neis inquired about installing a hotwire fence and if a plane/parachute would interfere. He expressed concern about his cattle getting onto the runway.

Mr. Bland said when the airstrip was approved in 1985 there was a fence at that time and the FAA still thought there was a fence there so the distances were based on that. He said when landing pilots make a pass first to check for deer or other obstacles on the airstrip.

COMMISSION DISCUSSION

Commissioner von Achen asked staff to address the letter from the Eudora Planning Commission regarding combined access to the road.

Ms. Miller said the county did not allow for shared driveways but a variance could be requested to allow it.

Commissioner Britton asked if neighbors would be restricted on what they could build due to the airstrip.

Ms. Miller said no, there would not be restrictions on the neighbor's property.

Commissioner Culver said he would support adding a note to request pilots take off and land from the north when permitted.

Commissioner Kelly asked the applicant how he felt about that condition.

Mr. Bland said that was not a problem at all. He said from a safety standpoint going to the north would be preferred.

Complete audio & video from this meeting can be found online: http://www.lawrenceks.org/boards/planning-commission/agendas

Commissioner Sands said he did not want the condition to be too strict. He wanted pilots to be able to take off and land in the safest way possible.

ACTION TAKEN

Motioned by Commissioner Britton, seconded by Commissioner von Achen, to approve the Conditional Use Permit, CUP-16-00489, for an airstrip located at 1123 E 2000 Road to allow additional users of the airstrip, and forwarding to the County Commission with a recommendation for approval, based upon the findings of fact presented in the body of the staff report and subject to the following conditions: (Language added by Planning Commission shown in **bold**.)

- 1) The applicant shall execute a Use Agreement with the other users of the airstrip and provide a copy to the FAA and to the Planning Office, prior to the release of the Conditional Use Permit.
- 2) The CUP shall expire at the end of 10 years, (Calendar year 2027) unless an application for renewal, submitted prior to the expiration date, is approved by the County Commission.
- 3) Provision of a revised plan with the following changes:
 - a) Label the distance of the west side of the 60 ft wide runway from the east property line.
 - b) Addition of the following notes:
 - i) "The permit shall expire at the end of 10 years (Calendar year 2027) unless an application for renewal, submitted prior to the expiration date, is approved by the County Commission.
 - ii) "The airstrip is limited to the private use of the owners of property which contain the airstrip and occasional use by their guests, but may not be used for commercial purposes."
 - iii) "Any change in ownership shall require the submittal of a revised Use Agreement to the FAA."
 - iv) "Take-offs and landings shall occur to and from the north, whenever the wind permits, to reduce the impact on residential uses to the south."

Unanimously approved 7-0.

PC Minutes 1/25/17

ITEM NO. 2 MINOR SUBDIVISION VARIANCE FOR 3101 IOWA ST (SLD)

Minor subdivision, MS-16-00507, variance request per Section 20-813(g) of the Subdivision Regulations to allow reduced right of way for W. 31st Street and S. Iowa Street as required by Section 20-810(e) of the Subdivision Regulations. The Minor Subdivision (lot split) is located at 3101 Iowa St. Submitted by Landplan Engineering for Central Bank of the Midwest, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. CL Maurer, Landplan Engineering, was present for questioning.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Britton, seconded by Commissioner Sands, to approve the variance from Section 20-810(e)(5) from the requirement to dedicate additional right-of-way for W. 31st Street and S. Iowa Street subject to the following condition:

1. The plat shall be revised to include the following note: On January 25, 2017 the Lawrence/Douglas County Planning Commission approved a variance from right-of-way requirements in Section 20-810 (e)(5) of the Subdivision Regulations to allow the right-of-way to remain at 70 feet for W. 31st Street and 65 feet for S. Iowa Street within this Minor Subdivision in Lieu of the 150 feet required for a Principal Arterial Street.

Unanimously approved 7-0.

PC Minutes 1/25/17

ITEM NO. 3 FINAL DEVELOPMENT PLAN FOR TRU HOTEL BY HILTON AT BAUER FARM; 510 WAKARUSA DR (SLD)

FDP-16-00498: Consider a Final Development Plan for TRU Hotel by Hilton at Bauer Farm, a new multi-story hotel, located at 510 Wakarusa Drive. Submitted by Bartlett & West Inc on behalf of Apollo Hospitality Firm, contract purchaser. Free State Group LLC is the property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. Darron Ammann, Bartlett & West, said the owner picked this location because the preliminary plan was already approved with a hotel. He said he did not have any issues with the conditions.

COMMISSION DISCUSSION

Commissioner Sands inquired about the intersection traffic.

Ms. Day said it was a four way stop.

Commissioner Sands asked if it would increase the traffic density in that area.

Commissioner Britton asked if Planning Commission was the approving body on this item.

Ms. Day said that was correct.

Commissioner von Achen asked staff to comment on the letter from the school district.

Ms. Day said the hotel was discussed during the preliminary plan. She said a hotel probably made sense due to the many events at the high school and Rock Chalk Park. She said the hotel use would dovetail nicely with other uses in the area. She said the City's traffic engineer would prefer to see a roundabout at that intersection. She said it was not in the Capital Improvement Plan yet but that it probably would be in the next few years.

Mr. McCullough said traffic as a whole would need to be looked at in the future.

Commissioner Sands said additional development along Wakarusa could increase traffic in the coming years.

Mr. McCullough said as the road system evolved so would the reviews and improvements. He said this was pretty typical for a street system.

Commissioner von Achen inquired about the concern regarding transient traffic versus retail traffic.

Mr. McCullough said he could not speak on behalf of the school district and that their letter spoke to the concerns they had.

Commissioner Carpenter said the school districts letter stated the field would become a parking lot.

Complete audio & video from this meeting can be found online: http://www.lawrenceks.org/boards/planning-commission/agendas Commissioner Britton appreciated the school district letter but felt at this stage in the process the decision had been made and now the discussions were about the final development plan as opposed to the use itself. He said a hotel sounded like a reasonable use.

Commissioner Struckhoff said he would support the plan. He said the amount of parking added by this development was minor. He was surprised to hear about more parking being added to Free State High.

Commissioner Culver felt better flow and ways to access the property were an improvement over the preliminary plan so he would support the final plan.

Commissioner von Achen agreed with Commissioner Culver and said this was an upgrade to what was proposed with the preliminary plan.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Britton, seconded by Commissioner Culver, to approve the Final Development Plan, FDP-16-00498, for TRU Hotel by Hilton, based upon the findings of fact presented in the body of the Staff Report subject to the following conditions:

- 1. Prior to recording the Final Development Plan with the Register of Deeds Office the applicant shall provide a revised drawing with the following notes and changes:
 - a. Revise landscape plan to note planting size and species for all shrubs proposed for use in development.
 - b. Revise landscape plan to show additional plant groupings along Overland Drive and along the private drive to screen the parking lot, per staff approval.
 - c. Revise drawing to include the following note: "Prior to release of the Final Development Plan for issuance of a building permit the applicant shall submit a revised building elevation sheet to staff for review and approval demonstrating compliance with the Commercial Design Guidelines."

Motion carried 6-0-1, with Commissioner Kelly abstaining.

PC Minutes 1/25/17

ITEM NO. 4 TEXT AMENDMENT TO DEVELOPMENT CODE; COLUMBARIUMS (BJP)

TA-16-00388: Consider a Text Amendment to the City of Lawrence Land Development Code, Articles 4, 5, & 17, regarding *Funeral and Interment Services as defined in Section 20-1729. The requested amendment would allow Columbariums as Accessory Uses to established Religious Assembly Institutions.* Submitted by Corpus Christi Catholic Church. *Initiated by City Commission on 9/20/16. Deferred by Planning Commission on 11/16/16.*

STAFF PRESENTATION

Mr. McCullough said in their previous discussion they wanted to know what would happen if a church closed and left a wall of urns. He said that would be a civil matter but that cemeteries would be different.

Mr. Larkin said there were some kinks in the Kansas law that may make it difficult. He said staff wanted more time to look at whether conditions should put on a cemetery accessory use.

Mr. McCullough said there may be liability of the City taking over a cemetery use.

ACTION TAKEN

Motioned by Commissioner Carpenter, seconded by Commissioner Britton, to defer the item.

Commissioner Britton wondered if they could condition a Columbarium use if it was considered a civil matter.

Mr. McCullough said staff would look at that.

Motion carried 7-0.

PC Minutes 1/25/17

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

MISC NO. 1 2017 MID-MONTH TOPICS

Discuss 2017 Planning Commission Mid-Month Topics.

Commissioner von Achen said a county inventory had been conducted of natural areas. She said they had lost 47% of native prairie since 1988. She felt this was something urgent that needed to be looked at. Dovetails into Chapter 16 of Horizon 2020 and the need to protect native prairie. She suggested Kelly Kindscher talk to Planning Commission about their role and creative ways to move the discussion forward.

Mr. McCullough said they also need to consider the City's Strategic Plan and the Comprehensive Plan update.

Commissioner Britton said he would be interested in looking at how other advisory groups work and potential overlap, and how the County and City act on planning issues. He stated local water resources would also be a good topic.

Commissioner Carpenter suggested the topic of background information on how the Kansas water office works and where drinking water comes from, siltation factors of Clinton Lake, and the long term supply of water.

Commissioner Sands said he was interested in knowing numbers regarding the hotel room supply and apartments.

Mr. McCullough said staff could provide Planning Commission with the lot inventory report so they could see trends.

Commissioner Culver suggested the topic of transportation planning and how it effects Planning Commission decision making. He also suggested the topic of downtown parking.

ADJOURN 7:44pm

Planning Commission Key Links



Plans & Documents

- o Horizon 2020
- o Sector/Area Plans
- o Transportation 2040
- o 2015 Retail Market Study

Development Regulations

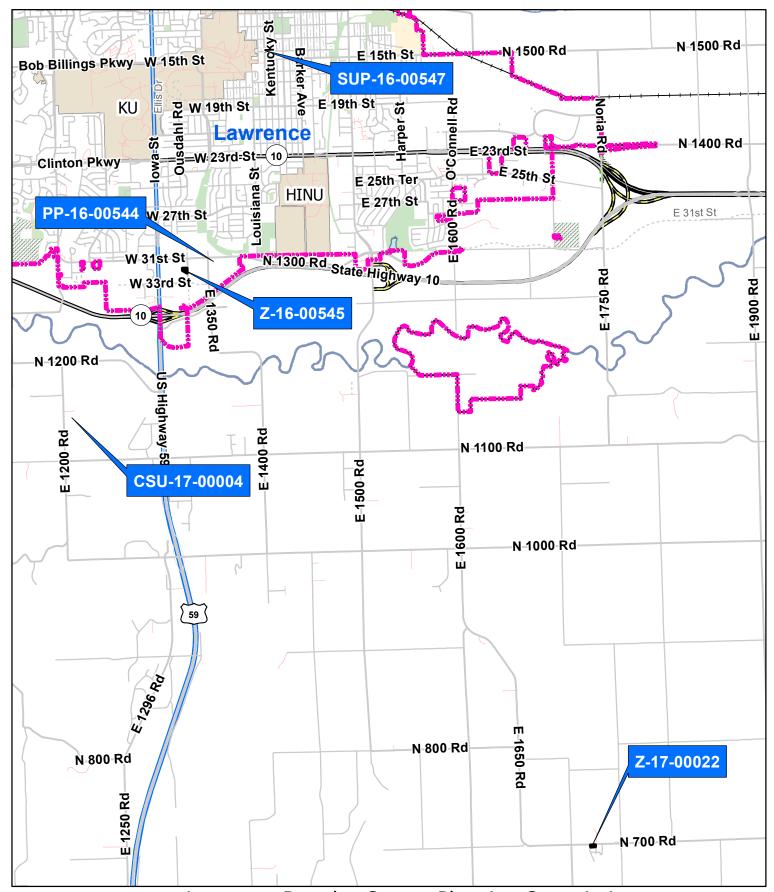
- o Community Design Manual
- o County Zoning Regulations
- o <u>City Land Development Code</u>
- o Subdivision Regulations

Online Mapping

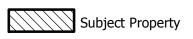
- o City of Lawrence Interactive GIS Map
- o <u>Douglas County Property Viewer</u>
- o Submittals to the Planning Office

Planning Commission

- o <u>Bylaws</u>
- o Mid-Months & Special Meetings
- o <u>Minutes</u>
- o <u>Planning Commission Schedule/Deadlines</u>



Lawrence-Douglas County Planning Commission February 2017 Public & Non-Public Hearing Agenda Items





PLANNING COMMISSION REPORT Regular Agenda — Public Hearing Item

PC Staff Report 2/22/2017

ITEM NO. 1 COUNTY B-1 TO COUNTY R-1; .58 ACRES; 697 E 1725 RD (BJP)

Z-17-00022: Consider a request to rezone approximately 0.58 acres from County B-1 (Neighborhood Business) District to County R-1 (Single-Family Residential) District, located at 697 E 1725 Rd, Baldwin City. Submitted by Vinland Preservation LLC, property owner of record. *Joint meeting with Baldwin Planning Commission.*

STAFF RECOMMENDATION: Staff recommends forwarding the rezoning request for approximately 0.58 acres from B-1 (Neighborhood Business) District to R-1 (Single-Family Residential) District to the Board of County Commissioners with a recommendation for approval based on the findings of fact found in the body of the staff report.

Applicant's reason for request:

"The property is zoned B-1, but has never been used as B-1. Use has been agricultural and, since 1982, single-family residential. A change to agriculture/single family residential would conform with the current and intended future use.

Vinland was platted in 1884 and is not incorporated. The Vinland Presbyterian Church building was built in 1879 and was listed on the National Register of Historic Places in 2003. Use as a church ceased in 1943 and the property was sold to a neighbor in 1955. The 1910 Sunday School Addition to the sanctuary building was converted to a residence in 1982.

The current owners are a group of 17 neighbors who have worked for the past 16 years to put the building on the National Register of Historic Places and to restore and preserve it, with the desire to limit possibilities of future alterations to the exterior of the historic building. This group now wants to find a buyer who shares a concern for the historic preservation of the building and for its importance to the community of Vinland, a buyer whose intent for future use does not adversely impact the quality of life of Vinland residents (i.e. a high-traffic commercial use)."

KEY POINTS

- The subject property is the vacant Vinland Presbyterian Church, located on the south side of N 700 Road.
- The proposed request would accommodate development of the church with a single-family use.

OTHER ACTION REQUIRED

Approval of rezoning by Board of County Commissioners and publication of resolution.

PUBLIC COMMENT

No public comment was received prior to the printing of this staff report.

GENERAL INFORMATION

Current Zoning and Land Use:

B-1 (Neighborhood Business) District; vacant single-family residence and church.

Surrounding Zoning and Land Use:

To the north and east:

A (Agricultural) District; Agriculture and rural

residences.

To the south:

A (Agricultural) District; Unincorporated town

of Vinland.

To the west:

A (Agricultural) District; Existing airstrip for Vinland Airport and McFarlane Aviation

Manufacturing.

I-1 (Limited Industrial) District; Vinland Airport

and McFarland Aviation Manufacturing.

Project Summary:

This request is to rezone approximately 0.58 acres from B-1 (Neighborhood Business) District to R-1 (Single-Family Residential) District. The subject property contains the vacant Vinland Presbyterian Church building. The church use was abandon in 1943.

In 1972, the property was zoned from A (Agricultural) District to its current zoning of B-1 District. The rezoning was to accommodate the renovation of the abandon church building and convert the structure into an antique shop and law office. The rezoning was approved however the commercial and office uses never came to fruition.

A portion of the building was converted to a single-family residence in 1982, however the entire structure is vacant at this time.

The current owners approached Planning Staff with the request to rezone the property to a zoning district that best fit their desire for the property to be developed with a residential use. Staff and the Owners discussed the possibility of rezoning the property to either the A District, to provide a uniform zoning with the surrounding area, or to the R-1 District to align with the desired use. After researching the Code and conferring with the Douglas County Zoning and Codes office, Staff determined that the R-1 District would be the most appropriate zoning district for the property based on the desired use and the lot area of the property. The property contains approximately 25,000 square feet. The minimum lot area permitted in the A District is 3 acres, while the minimum lot area permitted in the R-1 District is 10,000 square feet. The subject property would therefore conform with the lot area size requirement of the R-1 District, but would be noncompliant if zoned to the A District.



Figure 1. Subject property zoning and land use.

I. ZONING AND LAND USES OF SURROUNDING PROPERTIES

The surrounding area is zoned A (Agricultural) and I-1 (Limited Industrial) Districts. The property is located in the unincorporated town of Vinland, on the south side of N 700 Road. This area is a platted rural, low density development. The area was platted long before the County established zoning regulations in 1966. Other land uses located in the A District include agricultural uses and rural residences to the north and east, and the Vinland School site and the Vinland fairground located at the northwest corner of N 700 Road and E 1750 Road.

The nearby properties that are zoned I-1 District contain the Vinland Airport and McFarland Aviation Manufacturing.

Staff Finding – The primary purpose of the R-1 District is to provide for the single-family residential development. While there is not R-1 zoning in the area, the existing development to the south of the property aligns with primary purpose of the R-1 District. Therefore, the R-1 District would be compatible with the surrounding uses.

II. CHARACTER OF THE AREA

This is a rural residential and agricultural area with a concentration of residential uses in the vicinity of the subject property. There are also industrial uses located west of the subject property.

Staff Finding – The subject property is in the unincorporated town of Vinland. The properties to the south are small platted lots that contain single-family uses similar to the residential use desired for the subject property. The rezoning is consistent with the existing land development to the south of the property.

III. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED

Applicant's Response:

"The B-1 zoning might allow commercial uses that are not compatible with the site, the preservation of this historic property, and with the neighborhood. Agricultural/single family residential zoning is more suitable."

The property is currently zoned B-1 (Neighborhood Business) District. The primary purpose of this zoning district is for retail shopping and personal services to serve the needs of nearby residential neighborhoods. The property was rezoned B-1 District from A (Agricultural) District in 1972 to accommodate the development of an antique shop and law offices. However, since the rezoning to B-1 District, the property has never contained any type of business development.

The property is currently owned by a group of surrounding properties owners that have worked to restore the existing structure and have it listed on the National Register of Historic Places. The owners now wish to sell the property for its development as a single-family residence, which led to the rezoning request. Rezoning the property to the R-1 (Single-Family Residential) District will provide perspective buyers a better understanding of their development options and seller expectations. The rezoning also provides protections to the surrounding property owners.

Staff Finding –With the small, low density lots to the south, the subject property is suited to the uses which are permitted in the R-1 District.

IV. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

Staff Finding – The property was zoned to B-1 (Neighborhood Business) District in 1972 to accommodate the development of the property with an antique shop and law office. Development of the property for those uses, however, never occurred. A portion of the existing church building was converted to a single family residence in 1982, however that use has since been abandon and the property is vacant.

V. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY

Applicant's response:

"Zoning as agricultural/single family residential is compatible with the current use of this property and other nearby properties."

The rezoning request was submitted by the surrounding property owners that currently own the subject property. As they intend to sell the property, their request is to rezone the property to a zoning district that restricts commercial development and encourages development of a single-family residence.

Staff Finding – The primary purpose of the R-1 District is to provide for the single-family residential development. This type of development will be compatible with the existing land uses found in the unincorporated town of Vinland and will protect the existing character of the

area. Therefore, a small area of R-1 District zoning should have minimal detrimental effect on nearby properties.

VI. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE PETITIONER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNERS

Applicant's response:

"If B-1 zoning is retained, this could result in a request for B-1 use that is not compatible with the neighborhood and the historical integrity of this property. Aside from the one-room classroom that was added in 1910 and later converted to a two-story residence, the majority of the building retains its original design since it was built in 1879. Denial of rezoning may make it easier for future owners to negatively alter this original design and not maintain the results of preservation investments by our group, and by public agencies and private donors. This would make it more difficult to preserve the building and market/sell the property for solely residential use. Many of the owners of adjoining and nearby properties are among the group making this rezoning request and are desirous of maintaining the non-commercial usage the property has sustained for 138 years."

Evaluation of these criteria includes weighing the benefits the denial of the rezoning request would provide for the public versus the hardship the denial would impose on the owner of the subject property. Benefits are measured based on the anticipated impacts of the rezoning request on the public health, safety and welfare.

The surrounding property owners that currently own the property would like to sell it for the development as a single-family residence. The rezoning request facilitates that intent. If the rezoning request were denied, the property could be developed with commercial uses, which could be detrimental to the area.

Approval of the rezoning request would protect the surrounding area from potentially detrimental commercial development of the property. Approval would provide protections to nearby property owners, as well as inform potential property buyers on the type of development expected.

Staff Finding – There are no detrimental impacts associated with the approval of the rezoning anticipated on nearby properties.

VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"The comprehensive plan identifies Vinland as agricultural/single family or rural residential use."

The following section of *Horizon 2020* relates to this rezoning request (staff comments are in italics):

CHAPTER FIVE. RESIDENTIAL LAND USE

Unincorporated Douglas County – Rural Area

"The basic zoning district standards in the Rural Area shall be designed to permit non-farm residential development in a manner that is consistent with conservation of the rural character and pattern of land use in Douglas County." (Page 5-6)

This rezoning will preserve the rural character and pattern of land use for the unincorporated town of Vinland. The rezoning will encourage the development of a single-family residence on the property, which will be consistent with the existing land development and land uses to the south of the property.

Policy 2.1: Consider Land Use Relationships

(b) "Encourage the clustering of new residential lots to consolidate utility and public services and to conserve large, contiguous acreage for agricultural purposes." (Page 5-14)

This rezoning will retain the character of the rural area by providing limited residential development. The intent of the rezoning is to encourage the development of a single-family residence on a site that has previously contained this use. Development of a single-family residence at this location will not decrease the amount of agricultural land in the area. Rather, development at this location will be consistent with the low-density rural development that exists south of the property.

VIII. PROFESSIONAL STAFF RECOMENDATION

Staff recommends approval of the request to rezone approximately 0.58 acres from B-1 (Neighborhood Business) District to R-1 (Single-Family Residential) District as it is the appropriate zoning district for the subject property.



Z-17-00022: Rezone Approximately 0.58 acres from County B-1 District to County R-1 District the Property Located at 697 E 1725 Road





PLANNING COMMISSION REPORT Regular Agenda — Non-Public Hearing Item

PC Staff Report 02/22/17

ITEM NO. 2: PRELIMINARY PLAT FOR PAXTON PLACE ADDITION; SE CORNER 31ST & MICHIGAN (MKM)

PP-16-00544: Consider a Preliminary Plat for Paxton Place Addition, a two lot residential subdivision, on approximately 49 acres located at the southeast corner of W. 31st St and Michigan St. (future address of 1101 W 31st St). Submitted by BG Consultants, for Castle Rock LC, property owner of record.

STAFF RECOMMENDATION:

Staff recommends approval of the Preliminary Plat of Paxton Place Addition subject to the following conditions:

- 1. Applicant shall provide a revised preliminary plat with the following changes:
 - a. Show the SLT/K10-TC Overlay District boundary on the plat.
 - b. Show and label the sidewalks on the adjacent roadways. The sidewalk on W 31st Street should also be labeled 'proposed'.
 - c. Provide dimensions for the Westar Easement.

Reason for Request: Subdivision is required prior to development of property.

KEY POINT

• The subject property was annexed into the City limits and rezoned to the RM15 and RM15-FP Zoning Districts in 2016. The Preliminary Plat is the next step in the development approvals required prior to development.

SUBDIVISION CITATIONS TO CONSIDER

• This application is being reviewed under the Subdivision Regulations for Lawrence and Unincorporated Douglas County, effective Jan 10, 2012.

ASSOCIATED CASES

- A-16-00305, annexation of subject property into the City of Lawrence. Approved by the City Commission on November 1, 2016 with the adoption of Ordinance No. 9297.
- Z-16-00306, rezoning of 30.05 acres of the subject property from A (Agriculture) to RM15 (Multi-Dwelling Residential) District. Approved by the City Commission on November 1, 2016 with the adoption of Ordinance No. 9298.
- Z-16-00307, rezoning of 25.13 acres of the subject property from A (Agriculture) to RM15-FP (Multi-Dwelling Residential with Floodplain Management Regulations Overlay) District. Approved by the City Commission on November 1, 2016 with the adoption of Ordinance No. 9299.

OTHER ACTION REQUIRED

- Submittal and administrative approval of Final Plat.
- City Commission acceptance of dedications of easements shown on the Final Plat.
- Submittal and approval of Public Improvement Plans and means of assurance of completion.
- Recording of the Final Plat with the Douglas County Register of Deeds.
- Submittal of site plan for administrative approval.

- Floodplain Development Permit obtained prior to development on parcels containing floodplain or floodplain zoning.
- Application submittal and issuance of Building Permits prior to development.

PLANS AND STUDIES REQUIRED

- Downstream Sanitary Sewer Analysis The analysis provided on May 23, 2016 by Landplan Engineering was accepted by the City Utilities Department.
- Drainage Study A drainage study is not required for properties where downstream flooding is entirely confined within the limits of the 100-year floodplain per Section 1.6 of the City Stormwater Management Criteria

PUBLIC COMMENT

No public comment was received prior to the printing of this staff report.

GENERAL INFORMATION

Current Zoning and Land Use:

RM15 (Multi-Dwelling Residential) and RM15-FP (Multi-Dwelling Residential with Floodplain Management Regulations Overlay) District. Agriculture.

Surrounding Zoning and Land To the north: Use:

CR-FP (Regional Commercial with Floodplain Management

Regulations Overlay); Undeveloped

OS-FP (Open space with Floodplain Management Regulations Overlay) District, City parkland.

To the west:

RM15 (Multi-Dwelling Residential) and OS (Open Space) Districts; Multi-Dwelling Structures, and Undeveloped.

To the east:

County Zoning: B-2 (General Business), A (Agricultural) and (Floodway Fringe Overlay) Districts and V-C (Valley Channel) District to the southeast; Amusement Place, Steve's Place, an event center/reception hall; Agriculture, and the K10 Highway/South Lawrence Trafficway (SLT))

To the south:

County Zoning: A (Agricultural), F-F (Floodway Fringe Overlay) and V-C (Valley Channel) Districts; Agriculture, the K10 Highway (SLT), and Baker Wetlands (Figures 1 and 2)

STAFF REVIEW

The subject property contains approximately 49 acres and is bordered on the north by W 31st Street, on the west by Michigan Street, and on the south by the SLT/K10 Highway. The property is bounded on the east by commercial development located outside the City limits. Development had been proposed for this property in the past but, as the location of the SLT (South Lawrence Trafficway) was unsure, development had not moved forward. The SLT was completed in 2016 and applications for multi-dwelling residential development on the subject property were submitted. The property was annexed and rezoned in 2016. This application is the first step in the platting of the property. Following platting, a site plan will be submitted for the multi-dwelling development on Lot 1. No development is proposed on Lot 2 at this time.

The property is heavily encumbered with regulatory floodplain and a portion was rezoned to the FP (Floodplain Management Regulations) Overlay District. While some development is possible in this district, the applicant indicated with the rezoning application that a large portion of the –FP Overlay would remain as Open Space.

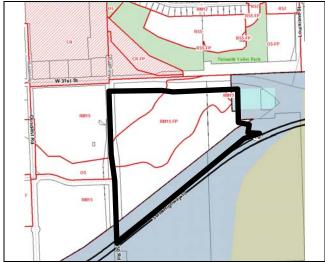


Figure 1a. Zoning in the area. City zoning labeled, County zoning shaded: blue-Agriculture, olive green-Valley Channel.

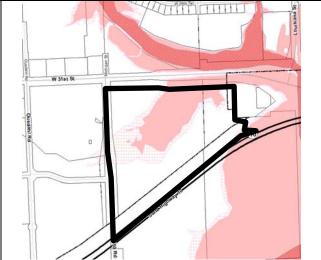


Figure 1b. Floodplain in the area. Light pink -- Floodway Fringe and hatched, darker pink -- Floodway.



Figure 2. Land Use/Development Pattern in the area.

Compliance with Zoning Regulations for the RM15 District

As required in Section 20-809(d)(2) of the Development Code, each lot resulting from the division will conform with the minimum lot size and other dimensional requirements applicable to the property through the Zoning District regulations. As shown in the table below, the proposed lots comply with the Dimensional Standards in Section 20-601(b).

Dimensional Standards—RM15	Required	Lot 1	Lot 2
Lot Area	6,000 sq ft	940,322 sq ft	1,175,990 sq ft
Lot Width	60 sq ft	948.92 ft	938.44 ft

Streets and Access

The subject property is located on the southeast corner of the intersection of W 31st Street, classified as a Principal Arterial, and Michigan Street, a Minor Arterial. Access to arterial streets, such as W 31st Street, is prohibited except in redevelopment or infill situations where the subject property has no other reasonable access to the street system and the City Engineer determines that access onto the arterial street, based on the street's ultimate design, can be safely accommodated. Access is prohibited to W 31st Street in this location except as required by Fire/Medical for emergency access. This is noted on the plat and the access restriction is shown graphically. The plan also notes that the access restriction on W 31st Street would not apply to access determined to be necessary by the Fire/Medical Department for emergency access.

A sidewalk was installed along the east side of Michigan Street when the street was constructed. A 6 ft wide sidewalk is required within the W $31^{\rm st}$ Street right-of-way adjacent to the subject property. The sidewalks should be shown on the plat and the plat should note that the sidewalk on W $31^{\rm st}$ Street is to be constructed with this project.

The property is bounded on the south by the recently completed South Lawrence Trafficway (SLT)/K10 Highway, which is classified in the City Major Thoroughfares Map as a Freeway. Per Section 20-307 of the Development Code, the SLT/K10-TC, a Major Transportation Corridor Overlay District is located adjacent to the highway. The overlay is designed to create an aesthetically pleasing corridor along the Trafficway. The District extends 500 ft on either side of the centerline of the SLT/K10 right-of-way within the city limits of Lawrence. This section contains development standards for this overlay district and the plat notes this; however, the boundary of the overlay district should be shown on the plat.

Utilities and Infrastructure

The subject property is bounded by the City limits on the south and east but is adjacent to a developed portion of the city. City water mains and sanitary sewer mains have been extended through the area. A 36" sanitary sewer main runs diagonally through the property from Michigan Street to W 31st Street and other utilities are located in the right-of-way. Public Improvement plans will be required for the extension of utilities, water and sanitary sewer, throughout the multi-dwelling lot.

Easements and Rights-of-way

A 20 ft wide utility easement is provided to accommodate the existing 36" sanitary sewer main. The City Utilities Engineer indicated that additional easement may be necessary when the project is site planned, depending on the final grade in the area of the easement. If additional easement is found to be necessary, it will be dedicated by separate instrument. Gas lines run through the southwest corner and north to south through the center of the property. A 66' Southern Star Gas Line

easement has been dedicated by separate instrument for each gas line. The easements and a 100 ft 'no build' setback, centered on the easements, are shown on the plat. In addition, an existing Westar Easement is shown along a portion of the south property line for overhead transmission lines. Dimensions should be included for this easement.

SLT/K10 Highway was recently constructed to the south of the property. KDOT purchased the right-of-way needed for construction. 150 ft of right-of-way is required for a Principal Arterial and the minimum width of the SLT/K10 right-of-way in this location is approximately 750 ft. Some of this right-of-way is being held by KDOT and contains mitigated wetlands and a wetland visitor center which were a part of the SLT project. KDOT indicated that a portion of this right-of-way will be transferred to the County. Adequate right-of-way is provided and a shared use path was installed along the north side of the right-of-way with the construction of the highway.

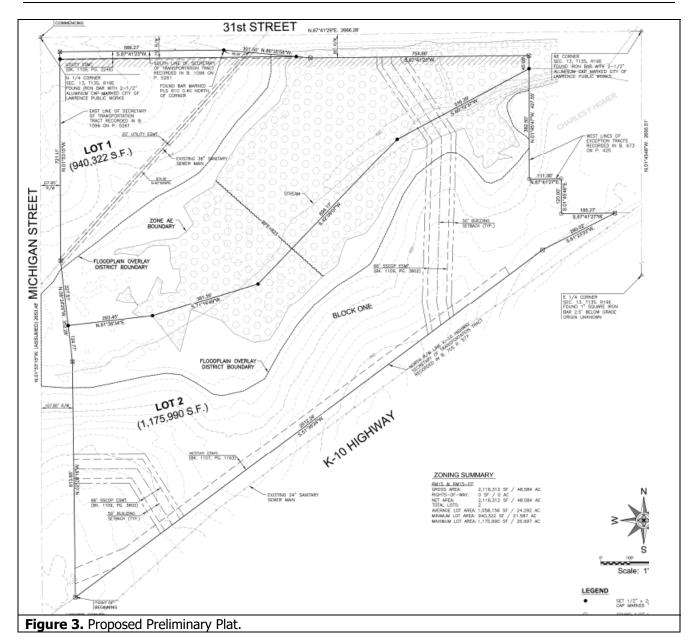
W 31st Street, a Principal Arterial, has a varied right-of-way width adjacent to the subject property. Additional right-of-way is being dedicated with this plat to provide a uniform right-of-way width of 75 ft along the south side of the 31st Street centerline. This is one-half of the required 150 ft of right-of-way required for a Principal Arterial. Adequate right-of-way was provided for Michigan Street when it was constructed, with the minimum width to the centerline of the road in this area being approximately 67 ft, which is more than one-half of the 100 ft of right-of-way required for a Minor Arterial.

Floodplain

As shown in Figure 1b, the property is heavily encumbered with the Regulatory Floodplain. The floodplain was included in the –FP (Floodplain Management Regulations Overlay) Zoning District. While development is possible in the –FP District with approval of a Floodplain Development Permit, the Comprehensive Plan recommends Open Space in this area. No development is proposed in the floodplain at this time. The applicant indicated that any development in the Floodplain area is expected to be minor.

Preliminary Plat Conformance

The preliminary plat is the first step in platting the existing parcel into two lots to allow development of *Multi-Dwelling Residential Structures*. The preliminary plat is in conformance with the recommendations in *Horizon 2020* and, as conditioned, is also in conformance with the standards and requirements of the Subdivision Regulations.



DAVID J. HAMBY, P.E. (KS #15594)

BM #DG43 - CONCRETE WITH REBAR AND DOUGLAS COUNTY CAP LOCATED 2.5 MILES WEST OF US HWY. 59 AND K-10 (INTERSECTION OF IOWA ST AND 23RD ST) AND 1/2 MILE NORTH ON

A PORTION OF THE SUBJECT PROPERTY IS LOCATED WITHIN ZONE AE AS SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP, MAP NUMBER

- 1. TOPOGRAPHIC INFORMATION SHOWN HEREON WAS DERIVED FROM 2006 DOUGLAS COUNTY
- 6. THE SOILS ON THIS PROPERTY CONSIST OF WABASH SILTY CLAY LOAM, GYMER SILT LOAM
- 8. NO ACCESS WILL BE PERMITTED TO 31st STREET EXCEPT FOR LIMITED EMERGENCY ACCESS
- DISTRICT. DEVELOPMENT STANDARDS SHALL APPLY TO ALL SIGNIFICANT DEVELOPMENT
- 3. THE SUBDIVISION WILL CONNECT TO THE CITY OF LAWRENCE SANITARY SEWER SYSTEM VIA CONNECTION TO THE EXISTING SANITARY SEWER MAINS THAT CROSS THE PROPERTY OR ARE
- 4. PURCHASERS OF THE LOTS IN THE SUBDIVISION MAY OR MAY NOT BE SUBJECT TO SPECIAL ASSESSMENTS OR OTHER COSTS OF STREETS, ROADS, WATER LINES AND TREATMENT
- 5. THE PROVISION OF IMPROVED ROADS, WATER SERVICE, AND/OR WASTEWATER SERVICE WILL NOT DEPEND IN ANY WAY ON A VOTE, PETITION OR OTHER COLLECTIVE ACTION OF

A TRACT OF LAND IN THE NORTHEAST QUARTER OF SECTION 13. TOWNSHIP 13 SOUTH. RANGE 19 EAST OF THE 6TH P.M. IN DOUGLAS COUNTY, KANSAS, MORE PARTICULARLY

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 13; THENCE ALONG THE

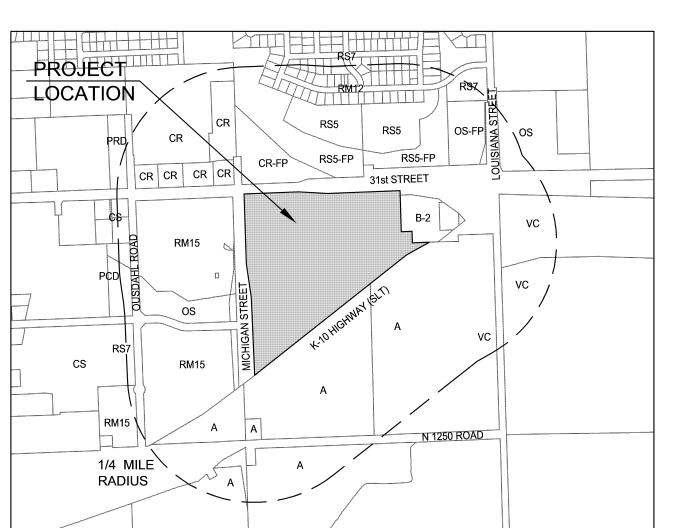
S.1°53'15"E. (BEING AN ASSUMED BEARING) 2019.97 FEET TO A POINT 633.51 FEET N.1°53'15"W. OF THE CENTER OF SAID SECTION 13, SAID POINT BEING ON THE SOUTHERLY MOST POINT OF A TRACT FOR RIGHT-OF-WAY ACQUIRED BY THE KANSAS SECRETARY OF TRANSPORTATION CONVEYED IN BOOK 1096 ON PAGE 5261 AND THE NORTHWEST CORNER OF A TRACT CONVEYED TO THE KANSAS SECRETARY OF TRANSPORTATION FOR K-10 HIGHWAY RIGHT-OF-WAY RECORDED IN BOOK 705 ON PAGE 577 AT THE DOUGLAS COUNTY REGISTER OF DEEDS; THENCE ALONG A SOUTHERLY LINE OF THE SAID KANSAS SECRETARY

N.51°39'24"E. 143.81 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG THE EAST AND SOUTH LINES OF THE SAID SECRETARY OF TRANSPORTATION TRACT (IN BOOK

(6)N.87°41'23"E. 754.86 FEET TO A SOUTHEAST CORNER IN THE SAID KANSAS SECRETARY OF TRANSPORTATION TRACT AND THE WEST LINE OF TRACTS DESCRIBED AS EXCEPTIONS RECORDED IN BOOK 673 ON PAGE 425 AT THE DOUGLAS COUNTY REGISTER OF DEEDS; THENCE ALONG THE WEST LINES OF THE SAID EXCEPTION TRACTS THE FOLLOWING FOUR

(4)N.87°41'27"E. 185.27 FEET TO THE NORTH RIGHT-OF-WAY LINE OF SAID K-10 HIGHWAY (IN BOOK 705 ON PAGE 577); THENCE ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID K-10

(2)S.51°39'24"W. 2012.24 FEET TO THE POINT OF BEGINNING, CONTAINING 48.584 ACRES.

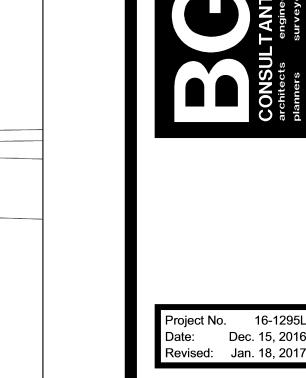


LOCATION MAP

DOUGLAS COUNTY REGISTER OF DEEDS

BEARING USED HEREON ARE ASSUMED

BEARINGS



SHEET NO.

Dec. 15, 2016

Δ

PLANNING COMMISSION REPORT Regular Agenda — Public Hearing Item

PC Staff Report 02/22/17

ITEM NO. 3: PCD TO CS; 1.07 ACRES; 3215 OUSDAHL RD (MKM)

Z-16-00545: Consider a request to rezone approximately 1.07 acres located at 3215 Ousdahl Rd from PCD-[Pine Ridge Plaza] (Planned Commercial Development) District to CS (Commercial Strip) District. Submitted by Paul Werner Architects on behalf of Jayhawk Acquisitions LLC, property owner of record.

STAFF RECOMMENDATION:

Staff recommends approval of the rezoning request for approximately 1.07 acres from PCD-[Pine Ridge Plaza] (Planned Commercial Development) District to CS (Commercial Strip) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.

REASON FOR REQUEST

Applicant's Response:

"This lot is being redeveloped with Lot 1 (1700 W. 31st Street) and Lot 3 (1717 W. 31st Street) of Colt Subdivision to the North which are both zoned CS. The rezoning is being requested so the entire storage development will be under the same zoning designation which allows the same criteria to apply to all lots."

KEY POINTS

- The subject property is currently included in the Pine Ridge Plaza Planned Commercial Development Zoning District. This rezoning will remove the property from the Planned Development District; however, the property is not needed to meet any density or open space requirements of the Planned Development.
- The subject property is located within the boundaries of the *Revised Southern Development Plan*. The proposed zoning is consistent with the recommendations of the plan.
- Infrastructure to accommodate the proposed development is immediately available.

OTHER ACTION REQUIRED

- City Commission approval of rezoning request and adoption/publication of ordinance.
- Submittal and approval of a site plan application for any proposed site improvements.
- Submittal of construction plans to Development Services for processing of building permits. Building Permit must be obtained prior to construction activity.
- Floodplain Development Permit obtained prior to development on parcels containing floodplain.

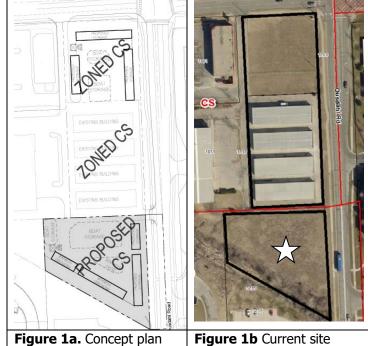
PUBLIC COMMENT

No public comment was received prior to the printing of this staff report.

Project Summary

The subject property is within the City limits and is currently a part of the Pine Ridge Plaza Planned Commercial Development. Approval of this rezoning request will remove this property from the Planned Development. This removal should impact the Planned not Development as the property does not provide any required open space for the planned development.

The rezoning will accommodate the expansion of the storage use at 1717 Ousdahl on to the subject property. The new storage use will consist of both boat storage and enclosed mini-storage. A concept plan and a graphic indicating the the current development are included in Figure 1.



The mini-storage use is classified in the Development Code as a *Mini-Warehouse* use and Boat Storage is classified as RV and Boat Storage. Both uses are permitted in the CS Zoning District with site plan approval. Rezoning the subject property to the CS District will allow the site to be developed under the same standards as the two lots to the north and will result in a more consistent development pattern and streetscape. The concept plan shows mini-storage buildings along the exterior of the site with the boat storage occurring within the interior.

The proposed uses are permitted under the current zoning as well as the proposed zoning. The property was zoned PCD prior to the adoption of the 2006 Development Code. This zoning designation converted to PD-[Pine Ridge Plaza] with the adoption of the 2006 Code; however, the standards of the PCD District remain applicable. A Final Development Plan for the subject property was approved in 2008 for a contractor's shop with exterior storage. The plan listed the permitted use groups and noted the specific uses which were not permitted. Uses which had a parking ratio of 1 space per 100 to 300 net sq ft of building area were excluded. The proposed uses were included in Use Groups 13 and 14 in the pre-2006 Code. The Boat Storage use had a parking requirement of 1 space per 500 sq ft of floor area and the *Mini-Warehouse* use required parking based on the number of storage units provided.

The proposed development is possible under the current zoning; however, rezoning to the CS District will provide one consistent zoning district for the three lots included in the project. The applicant indicated that a Minor Subdivision will be submitted to combine the three lots into one. The rezoning will provide one uniform zoning district for the proposed development.

REVIEW & DECISION-MAKING CRITERIA

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"The Revised Southern Development Plan shows the area at the southwest corner of 31st and Ousdahl as Commercial Use on the Future Land Use Map located on Page 22."

Recommendations in *Horizon* 2020 are discussed below, with staff comments in red.

The land use recommendations for this area are provided in the *Revised Southern Development Plan*, which will be discussed in Section 4 of this report.

While the South Iowa area contains a variety of commercial zonings, it functions as a Regional Commercial Center. The Comprehensive Plan notes, "S. Iowa Street is considered an existing Regional Commercial Center. S. Iowa is a strip development that is intensely developed between 23rd Street and K-10. ...

Horizon 2020 identifies commercial development goals in Chapter 6. Goals for established commercial areas include the retention, redevelopment and expansion of established commercial areas in the community. (Page 6-24)

The area is identified for commercial zoning and land uses in the comprehensive plan and is currently zoned for commercial uses. The request is to update the zoning to a current commercial zoning district so it can develop under the standards of the 2006 Development Code.

<u>Staff Finding</u> – The proposed rezoning and development of the property is compliant with the recommendations of the Comprehensive Plan.

2. ZONING AND USE OF NEARBY PROPERTY, INCLUDING ANY OVERLAY ZONING

Current Zoning and Land Use: PD-[Pine Ridge Plaza] (Planned Commercial

Development) District: Undeveloped

Surrounding Zoning and Land Use: To the north:

CS (Commercial Strip) District; Mini-Warehouse

and Active Recreation

To the west:

PD-[Pine Ridge Plaza] (Planned Commercial

Development) District: General Retail Sales

To the east:

RM15 (Multi-Dwelling Residential) District; Multi-

Dwelling Structure

To the south:

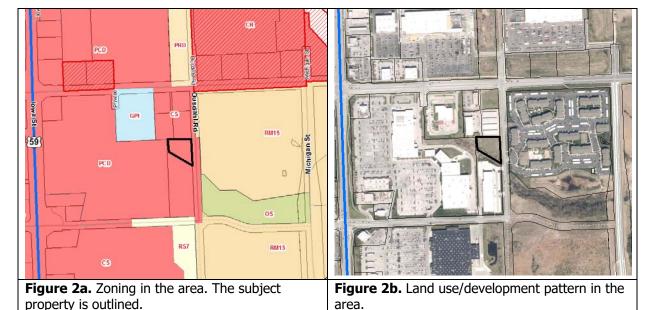
PD-[Pine Ridge Plaza] (Planned Commercial

Development) District: Office and Wholesale

Storage and Distribution, Light

(Figure 2)

Staff Finding – The area contains a mix of uses with retail, warehousing, and apartments being the predominate uses. The retail uses are located west of the subject property and are oriented toward the west, away from the subject property. The properties along Ousdahl Road are primarily office and warehouse uses which serve as a buffer between the more intense retail uses to the west and the multi-dwelling residential use to the east. The proposed rezoning and uses are compatible with the zoning and land uses in the area.



3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response:

"The neighborhood consists of a commercial and multi-family area. To the north is mini-storage and a kids sport training business, to the south is a large drainage ditch that drains the area to the west. On the south side of the drainage area is an electrical supply company. To the east are apartments and to the west is the loading area for the Pine Ridge Plaza retail area."

area.

The term 'neighborhood' refers to the area surrounding the subject property. The neighborhood is located near the southern border of the city and contains a mix of uses. Iowa Street and W 31st Street have been developed with intense commercial uses such as a shopping center, department stores, and car dealerships. Ousdahl Road marks the eastern boundary of the commercial development south of W 31st Street. The west side of Ousdahl Road is partially developed with a mini-storage facility and an electrical equipment supply and apartments are located east of



Figure 3. Neighborhood Area.

Ousdahl. The area east of Ousdahl is partially developed with retail and apartment uses. Undeveloped properties include vacant pad sites associated with the Menards Store and a second phase of the apartments. The proposed rezoning would remove the restriction on the uses which was applied with the PCD Zoning; however, the zoning requested matches the zoning designation of the lots to the north which will be included with this lot in the proposed storage development.

The neighborhood is well served by a network of higher classification roads. Iowa Street, on the west, is classified as a 'Principal Arterial/Freeway' in the City Future Thoroughfares Map. W 31st Street, a principal Arterial, provides connection through the area. The subject property is located on Ousdahl, a Collector Road. The road network is illustrated in Figure 4.

Staff Finding — This is a mixed use neighborhood with the predominate uses being retail, warehouse, and apartments. In addition, the neighborhood contains a mix of higher classification roads. The proposed rezoning and use is compatible with the character of the neighborhood.



Figure 4. Major thoroughfares in the area: blue-freeway; red-principal arterial; green-minor arterial; and gold- collector.

4. PLANS FOR THE AREA OR NEIGHBORHOOD, AS REFLECTED IN ADOPTED AREA AND/OR SECTOR PLANS INCLUDING THE PROPERTY OR ADJOINING PROPERTY

The property is located within the boundaries of the Revised Southern Development Plan. The plan recommends 'Commercial' as the future land use on the subject property. (Figure 5) The plan notes that the commercial area is intended to "allow for retail and service type uses geared toward the community as a whole and auto-related uses geared toward traffic from Hwy 10." (Page 20, Revised Southern Development Plan) The plan recommends CC and PD zoning for the commercial uses; however, as the adjacent properties are zoned CS and PCD, the undeveloped lot would not be a suitable candidate for CC zoning. The CC zoning is intended for development of a Community Commercial Center and is expected to occur at the intersection of Collector/Arterial Streets or Arterial/Arterial Streets. The subject property is not suited for CC zoning, but the CS zoning complies with the intent of the plan to have commercial uses in this area. The overall commercial development, with the mix of

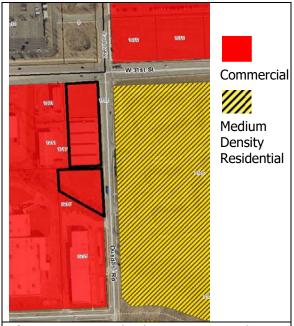


Figure 2. Future land use recommendations from *Revised Southern Development Plan.* Properties included in the project are outlined, with the subject property marked with a star.

commercial zonings, functions as a commercial center. The proposed rezoning and development is compliant with the recommendations in the *Revised Southern Development Plan.*

Staff Finding — The proposed rezoning and development comply with the land use recommendations of the *Revised Southern Development Plan*.

5. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED UNDER THE EXISTING ZONING REGULATIONS

Applicant's Response:

"The subject property has been part of PCD for many years. However, this property has not developed likely due to the PCD restrictions placed on the property which greatly limit the available uses for development."

The property is well suited to many of the uses permitted within the PD-[Pine Ridge Plaza] (Planned Commercial Development) District and the proposed use would also be permitted within this district. The rezoning request seeks to provide a uniform zoning designation for the three lots under common ownership and proposed to be developed as one project. The applicant indicated a Minor Subdivision application to merge the three lots into one will be submitted shortly. The rezoning will provide one zoning designation for the property rather than having a Planned Development on the southern portion and Commercial Strip zoning on the northern portion. The unified zoning designation will provide one set of standards for the development of the property.

Staff Finding – The subject property is well suited to the uses to which it is restricted with the current zoning. The proposed use is a permitted use in the zoning district. The rezoning request is not intended to add additional uses to the site, but to provide one zoning district for the overall project being proposed.

6. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

Applicant's Response:

"The property has never been developed."

Staff Finding – There are no records of development on this property.

7. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicants Response:

"Approving this zoning will allow the vacant site to develop appropriately by removing from the PCD which has currently been a detriment to allowing the property to develop."

The storage uses which are being proposed are also permitted in the PCD District. The permitted uses in the CS District may vary from those permitted in the PCD District; however, the permitted uses will match those of the adjacent properties to the north.

The removal of restrictions will allow the subject property to develop under the design standards of the 2006 Development Code, rather than the standards of the Planned Development included in the previous Code. The 2006 Development Code provides additional measures to insure compatibility with adjacent properties; therefore, Planned Development

Overlays are needed less frequently. Features included in the Development Code to insure compatibility between commercial development and nearby properties include:

- A landscaped bufferyard between properties that are zoned commercially and those that are zoned residentially; therefore, a bufferyard will be required along the Ousdahl frontage.
- Compliance with the Commercial Design Guidelines which are intended to insure aesthetically pleasing developments in the Commercial districts.
- Additional measures may be applied by the Planning Director as determined to be necessary to insure compatibility with nearby residential properties.

Staff Finding – The removal of the restrictions will allow the property to be developed with site plan approval in compliance with the design standards of the 2006 Development Code. The design standards and other requirements in the Development Code, implemented through the site plan review should result in compatible development which would not detrimentally affect nearby properties.

8. THE GAIN, IF ANY, TO THE PUBLIC HEALTH, SAFETY AND WELFARE DUE TO THE DENIAL OF THE APPLICATION, AS COMPARED TO THE HARDSHIP IMPOSED UPON THE LANDOWNER, IF ANY, AS A RESULT OF DENIAL OF THE APPLICATION

Applicants Response:

"The gain would be the site could be developed per the Southern Development Plan. The hardship imposed upon the owner would be the continued vacancy of the property."

When determining the benefit to the health, safety, and welfare of the public by the denial of a rezoning request the negative impacts that would be avoided are evaluated. As discussed in Section 7 of this report, this development is not expected to negatively impact the area. If the application were denied, the property would remain undeveloped. The rezoning will allow a simpler approval process of a site plan rather than the two-step development plan which includes a public hearing before the Planning Commission, City Commission approval, and recording of the approved plan with the Register of Deeds. Rezoning will provide a more direct approval process and will also allow the property to be developed under the same standards as the other property in this project.

Denial of the request would not provide any benefit to the public health, safety, or welfare as the proposed use is permitted under the current zoning and the Development Code provides design standards which, when implemented with site plan review, result in compatible development.

Staff Finding — Denial of the rezoning request would have no public benefit as the proposed uses would be permitted under the existing zoning. Denial may deter the project as it would be difficult to plan the project under two zoning districts which require compliance with two separate codes.

PROFESSIONAL STAFF RECOMMENDATION

This staff report reviews the proposed rezoning request for its compliance with the Comprehensive Plan, adopted plans for the area, the Golden Factors, and compatibility with surrounding development.

Staff recommends approval of the rezoning request for approximately 1.07 acres from the PD-[Pine Ridge Plaza] (Planned Commercial Development) District to the CS (Commercial Strip) District based on the findings of fact listed in this report.



Z-16-00545: Rezone Approximately 1.07 acres from PCD [Pine Ridge Plaza] District to CS District Located at 3215 Ousdahl Road





PLANNING COMMISSION REPORT **Regular Agenda – Public Hearing Item**

PC Staff Report 2/22/2017

ITEM NO. 4 SPECIAL USE PERMIT; BULLWINKLE'S; 1344 TENNESSEE ST (BJP)

SUP-16-00547: Consider a Special Use Permit to allow a building addition for Bullwinkle's, located at 1344 Tennessee Street, to expand onto property in a MU (Mixed Use) zoning district. Submitted by Paul Werner Architects on behalf of Sorrentino Investments LLC, property owner of record.

Revised language highlighted in **Bold Blue**.

STAFF RECOMMENDATION: Planning Staff recommends approval of a Special Use Permit to allow a building addition for Bullwinkle's, located at 1344 Tennessee Street, and forwarding the request to the City Commission with a recommendation of approval, subject to the following conditions:

- 1. Provision of a site plan performance agreement.
- 2. Filing of Minor Subdivision with the Douglas County Register of Deeds prior release of building permits for development.
- 3. Applicant shall provide a revised plan that includes the following notes and changes:
 - a. Add a note that identifies the maximum occupant load for Bullwinkle's. Add the following note regarding the maximum occupant load for Bullwinkle's: "The Design Occupancy of the space (total of interior and both patios) at its maximum configuration shall not exceed 269 people."
 - b. The label in the building footprint for 314 W 14th Street indicates that structure contains 7 bedrooms. However, Note 1.2 lists it as a 5 bedroom Multi-Dwelling Structure. Update whichever one is in error with the correct information.

Request:

Applicant's Reason for The application is being submitted for Bullwinkle's which is proposing an expansion of the existing building located at 1344 Tennessee. The existing building is small and the expansion will occur on 1340 and will provide an indoor area for table and chairs to serve customers.

ASSOCIATED CASES/OTHER ACTION REQUIRED

Active Cases:

- SP-16-00546: A site plan for 1340 Tennessee (*Congregate Living* use) Completed Cases:
 - SP-15-00403: A site plan for a food window for Bullwinkle's located at 1344 Tennessee
 - SP-13-00226: Site Plan for patio, fence and façade changes to Bullwinkle's
 - DR-13-00176: Design Review for Bullwinkle's approved 6/26/2013
 - SUP-3-2-11: Special Use Permit for a *Bar or Lounge* use
 - Z-1-2-11: A rezoning from RM32 (Multi-Dwelling Residential) to MU (Mixed Use) District

Other Action Required

- Submittal and approval of a Minor Subdivision application to combine the Lots 214 and 216.
- Recording of Minor Subdivision with the Douglas County Register of Deeds.

• Submittal of 1 copy of the approved site plan for release to Development Services for building permits in a digital format.

KEY POINTS

- A request to rezone the property from RM32 District to MU District was approved by the City Commission on April 26, 2011 (Z-1-2-11, Ordinance 8626). The rezoning included establishing a Bar or Lounge use as an automatic Special Use Permit (SUP) for Bullwinkle's located at 1344 Tennessee, which had previously been a nonconforming use.
- The SUP was approved by the City Commission on July 19, 2011 (SUP-3-2-11, Ordinance 8627).
- Per Section 20-1306(b) any alteration or expansion of the use is subject to the Special Use amendment procedures of Section 20-1306.
- The SUP includes a 570 square foot building addition on the north side of the existing structure. The addition will provide more space for tables and chairs.
- An increase in the Maximum Occupant Load is not permitted with the approval of this SUP.
- The building addition will extend across the north lot line. A Minor Subdivision is required to combine Lot 214 (1340 Tennessee) and Lot 216 (1344 Tennessee) so that Bullwinkle's is fully contained on one lot. The property to the north, 1340 Tennessee, and the subject property are under single ownership.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

One inquiry via phone regarding proposed development.

ATTACHMENTS

- 1. Site Plan
- 2. Maximum Occupant Load Certificate

GENERAL INFORMATION

Current Zoning and Land Use: MU (Mixed Use) District; Bar or Lounge and Multi-Dwelling

Structure

Surrounding Zoning and Land Use: To the north:

MU (Mixed Use) District; Multi-Dwelling Structure

To the south:

RM32 (Multi-Dwelling Residential) District; Multi-Dwelling

Structure
To the east:

RM32 (Multi-Dwelling Residential) District; Detached Dwelling

To the west:

MU (Mixed Use) District; Multi-Dwelling Structure

Summary of Request

The Bullwinkle's bar is located at 1344 Tennessee and is zoned MU (Mixed Use) District. The *Bar or Lounge* use is permitted in the MU District with the approval of a Special Use Permit (SUP). The previous SUP (SUP-3-2-11) was approved by the City Commission on July 19, 2011.

The applicant is proposing a 570 square foot building addition to be located on the north side of the building, which will extend across the north lot line. A Minor Subdivision will be required to combine Lot 214 (1340 Tennessee) and Lot 216 (1344 Tennessee) so that the Bullwinkle's is contained entirely on one lot. Lot 214 and Lot 216 are under single ownership.

At the time of this report, a Minor Subdivision application had not been submitted, however the site plan submitted with the SUP assumes future submittal and approval of the Minor Subdivision. The site plan contains all of the uses associated with the properties, which include a proposed *Congregate Living* use at 1340 Tennessee, and the *Bar or Lounge* and *Multi-Dwelling Structure* uses at 1344 Tennessee. However, the Special Use Permit pertains only to the *Bar or Lounge* use as the two residential uses are permitted in the MU District by right. As such, the focus of this staff report is the *Bar or Lounge* use and does not include the residential uses. A site plan application was submitted for the proposed *Congregate Living* use at 1340 Tennessee and a separate administrative review of that use is currently underway (SP-16-00546).

The purpose of the proposed Bullwinkle's building addition is to provide more interior space for tables and chairs. While the footprint of the building is increasing, an increase to the Maximum Occupant Load provided by the Fire Marshal is not permitted with this SUP. The previously approved Special Use Permit (SUP-3-2-11) did not require parking for Bullwinkle's. The current occupancy limits were established under the existing conditions. The proposed addition will increase the size of the building, however by maintaining the current occupancy limits the existing conditions are not changing.

There are separate occupancy limits for the interior area and the exterior patio area, as shown in Table 1 below. The occupancy limits permitted in the patio vary depending on the configuration of the area and will not change with this project. Likewise, the interior occupancy limit will remain at 95 occupants. The total maximum number of occupants allowed is 269 people. This includes the combined total of the interior occupancy limit of 95 people and the standing room occupancy limit for the patios. The SUP will include a note stipulating that the design occupancy of the space, at its maximum designed configuration, shall not exceed the 269 people.

Occupancy Limit		
95 Occupants		
Upper Patio	Lower Patio	
71	103	
51	73	
24	34	
	95 Occupants Upper Patio 71 51	

Review and Decision-Making Criteria (Land Development Code Section 20-1306(i))

1. WHETHER THE PROPOSED USE COMPLIES WITH ALL APPLICABLE PROVISIONS OF THIS DEVELOPMENT CODE

Applicant's Response: The proposed use is allowed on this MU zoned property with the approval of a Special Use Permit.

The proposed use of *Bar or Lounge* is allowed in the MU District with approval of a Special Use Permit. The following is a review of the change proposed with this project for compliance with the Development Code.

A. Site Summary

The site summary below assumes the approval of the Minor Subdivision to combine Lot 214 (1340 Tennessee) and Lot 216 (1344 Tennessee). Recording of the Minor Subdivision with the Douglas County Register of Deeds is required prior to the release of building permits for development.

Site Summary:					
Total area: 11,700 sq ft	Existing	Proposed			
Lot Size: (sq ft)	11,700 sq ft	11,700 sq ft			
Building: (sq ft)	3,395 sq ft	4,034 sq ft			
Impervious Cover: (sq ft) %	5,366 sq ft 46%	8,475 sq ft 72%			
Pervious Cover: (sq ft) %	6,334 sq ft 54%	3,225 sq ft 28%			

B. Access and Parking

Per the previously approved Special Use Permit (SUP-3-2-11), parking is not required for Bullwinkle's. The proposed addition would increase the size of the building; however the occupancy limits established for the existing conditions are not changing. Given this, the parking requirements established by the previously approved SUP are still applicable. Any future increases in the occupancy limits for Bullwinkle's would require a variance from parking standards by the Board of Zoning Appeals.

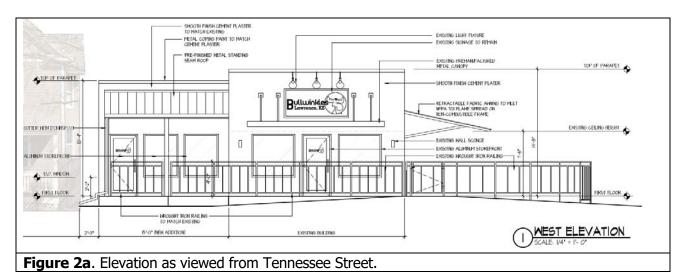
The site plan shows that the parking requirement for the *Congregate Living* use at 1340 Tennessee is exceeded by one space. This additional space is designated for Bullwinkle employee parking on the site plan.

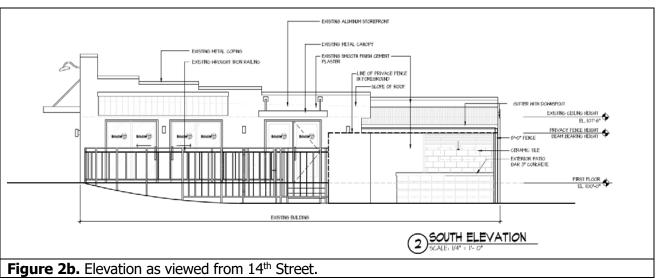
There are no changes to access associated with this project. The main entrance to the interior portion of Bullwinkle's is provided from Tennessee Street and the patio can be accessed from 14th Street.

C. Design Standards

The property is included in the Oread Design Guidelines. A design review will be assigned with the building permit review for compliance with Chapter 6, Commercial & Mixed Use, of the Guidelines.

The proposed building addition is setback from the existing façade along Tennessee Street. This meets the requirement of the Oread Design Guidelines that facades greater than 40 feet wide shall have the building setback.





D. Landscaping and Screening

Street trees were approved and provided with the site plan, SP-13-00226.

Per the previously approved Special Use Permit (SUP-3-2-11), the site provides landscaping in the right-of-way of Tennessee Street. A right-or-way agreement signed with the SUP for maintenance of this landscaping remains applicable. The site plan, SP-13-00226, provided additional landscaping at the corner of the patio area and along the fence of the patio area to the east in order to discourage congregation of people along the sidewalk on the outside of the patio. There are no changes proposed to the existing landscaping.

The site plan proposes adding 10 shrubs along Tennessee, extending the existing landscaped area north to include the area adjacent to the building addition.

E. Lighting

A photometric plan is not required for this special use as no changes are proposed to the existing site or lighting.

F. Floodplain

The property is not located within the regulatory floodplain and is not subject to a local floodplain development permit.

Staff Finding – This use complies with the applicable provisions of the Development Code.

WHETHER THE PROPOSED USE IS COMPATIBLE WITH ADJACENT USES IN TERMS 2. OF SCALE, SITE DESIGN, AND OPERATING CHARACTERISTICS, INCLUDING HOURS OF OPERATION, TRAFFIC GENERATION, LIGHTING, NOISE, ODOR, DUST AND OTHER EXTERNAL IMPACTS

Applicant's Response: The proposed addition is compatible with the adjacent Bullwinkle's building and will be compatible with the setbacks of the house to the north.

The interior and exterior occupancy limits for Bullwinkle's are not permitted to change with approval of this Special Use Permit (SUP). As such, the surrounding neighborhood should not be affected by this proposed building addition. The operating characteristics of the *Bar or Lounge* use are not changing with this SUP. As such, the traffic generation, lighting, noise, and other external impacts should remain consistent to what existed prior to the building addition.

A design review will be assigned for the building addition with the building permit. The addition will be reviewed with the Oread Design Guidelines for compatibility with the neighborhood and surrounding uses. The proposed building addition is setback from the existing façade along Tennessee Street. This meets the requirement of the Oread Design Guidelines that facades greater than 40 feet wide shall have the building setback.

Staff Finding – The proposed use is compatible with the adjacent uses in terms of size, massing, orientation, hours of operation and other external impacts.

3. WHETHER THE PROPOSED USE WILL CAUSE SUBSTANTIAL DIMINUTION IN VALUE OF OTHER PROPERTY IN THE NEIGHBORHOOD IN WHICH IT IS TO BE LOCATED

Applicant's Response: The proposed expansion of Bullwinkle's will not cause lessening of property values in the neighborhood. The remodel of Bullwinkle's a couple of years ago has been a big improvement for the neighborhood and the small expansion to better serve customers will also have a positive impact on this corner of Tennessee.

The *Bar or Lounge* use has existed on the property for several years. The previous Special Use Permit was approved by the City Commission in 2011 when the use became regulated as a Special Use with the property's rezoning to the MU District.

The building addition will be reviewed with the Oread Design Guidelines during the building permit process for compatibility with the surrounding area.

Staff Finding – Substantial diminution of other property values in the area is not anticipated.

4. WHETHER PUBLIC SAFETY, TRANSPORTATION AND UTLITY FACILITIES AND SERVICES WILL BE AVAILABLE TO SERVE THE SUBJECT PROPERTY WHILE MAINTAINING SUFFICIENT LEVELS OF SERVICE FOR EXISTING DEVELOPMENT

Staff Finding – Adequate public facilities and transportation access exist for this development, and the use is currently operating. The proposed use does not preclude the ability to service the existing uses in respect to public safety, transportation, and utilities.

5. WHETHER ADEQUATE ASSURANCES OF CONTINUING MAINTENANCE HAVE BEEN PROVIDED

The proposed request provides an enforceable tool to address the use and continued maintenance of the property with regard to landscaping, exterior activity, and off-street parking.

Staff Finding – Adequate assurances of continued maintenance are inherent in the use and the Special Use Permit approval process.

6. WHETHER THE USE WILL CAUSE SIGNIFICANT ADVERSE IMPACTS ON THE NATURAL ENVIRONMENT

Applicant's Response: The proposed use will not cause adverse impacts to the existing natural environment in this mixed use and multi-dwelling residential area. The landscaping provided for Bullwinkle's will be preserved with this expansion and more landscaping will be added to the newly expanded site as well.

The property is located within an existing urban area. The site is developed with buildings and pavement. Only a small area of the property is pervious. There are no existing natural elements such as mature trees or floodplain that are affected by the change of use represented in this application.

Staff Finding – The proposed use will not cause significant adverse impacts on the natural environment.

7. WHETHER IT IS APPROPRIATE TO PLACE A TIME LIMIT ON THE PERIOD OF TIME THE PROPOSED USE IS TO BE ALLOWED BY SPECIAL USE PEMRIT AND, IF SO, WHAT THAT TIME PERIOD SHOULD BE

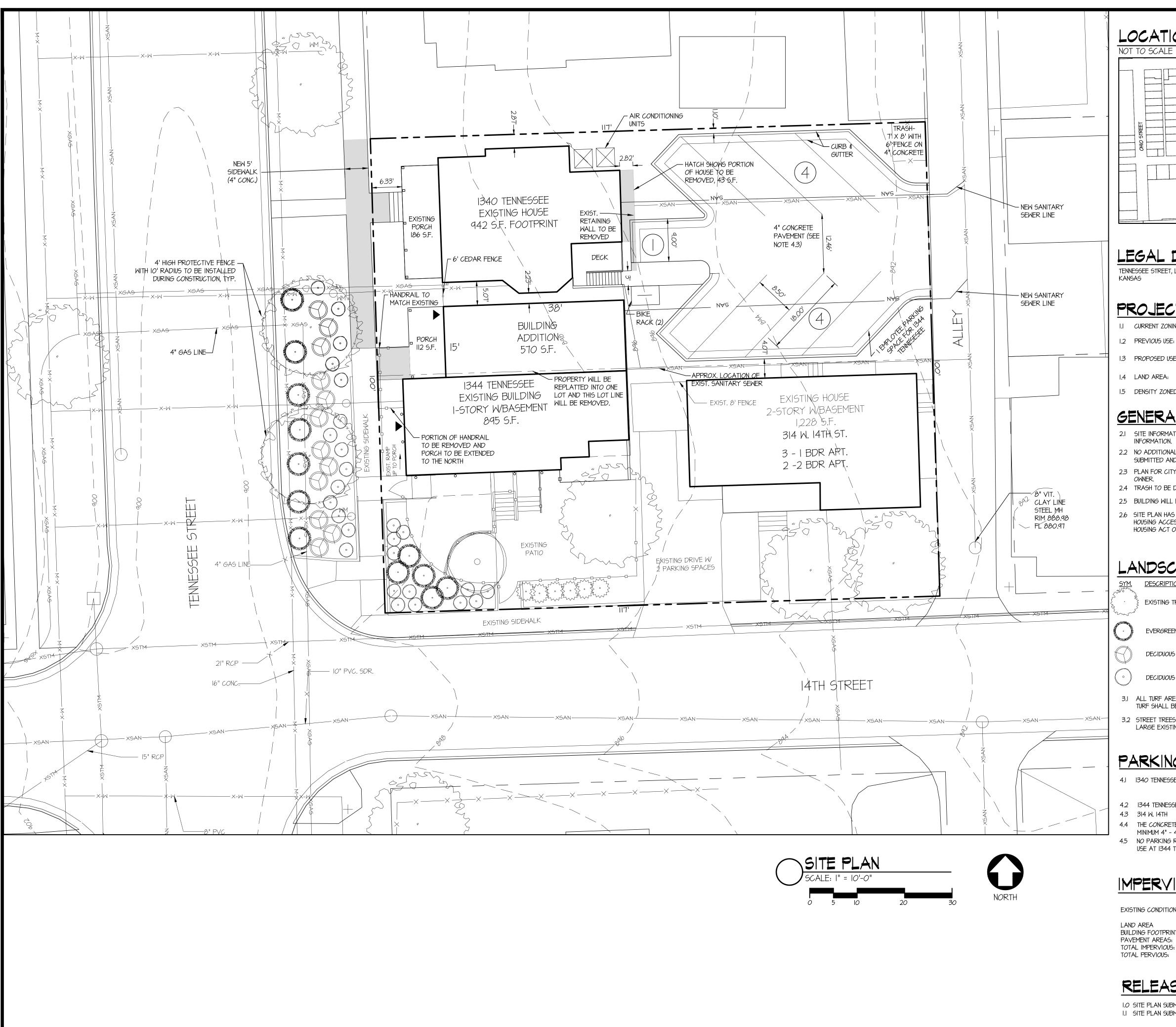
There was not a time limit associated with the previously approved Special Use Permit.

The Development Code, Section 20-1305 (I), includes a process to revoke an approved Special Use Permit. Other than non-compliance with the scope or conditions of approval reasons for revocation could include nuisance complaints from adjacent property owners or some future incompatibility with the neighborhood. This provision provides an opportunity to monitor the use as needed.

Staff Finding – Staff does not recommend a time limit on the Special Use Permit.

CONCLUSION

Section 20-402 of the Land Development Code requires a Special Use Permit for the *Bar or Lounge* use in the MU District. The use, as planned, is compatible with this location. Staff recommends approval of the Special Use Permit as conditioned.



LOCATION MAP:

NOT TO SCALE 13TH STREET

LEGAL DESCRIPTION:

TENNESSEE STREET, LOT 214 AND 216, 100'X117', CITY OF LAWRENCE, DOUGLAS COUNTY,

PROJECT SUMMARY:

I.I CURRENT ZONING: MU

BAR OR LOUNGE, 5 BEDROOM MULTI-DWELLING STRUCTURE (314 W. 14TH) 6 BEDROOM MULTI-DWELLING STRUCTURE (1340 TENNESSEE)

BAR OR LOUNGE, 5 BEDROOM MULTI DWELLING STRUCTURE (314 W. 14TH) 8 BEDROOM, CONGREGATE RESIDENCE (1340 TENNESSEE)

0.295 ACRES (11,700 SQ. FT. +/-)

1.5 DENSITY ZONED: MU (PRIMARY ZONE - 32 UNITS PER ACRE)

GENERAL NOTES:

- 2.1 SITE INFORMATION WAS INCLUDED FROM SITE MEASUREMENTS AND CITY OF LAWRENCE GIS
- 2.2 NO ADDITIONAL EXTERIOR LIGHTING TO BE PROVIDED. ANY CHANGES TO EXTERIOR LIGHTING WILL BE SUBMITTED AND REVIEWED PER 20-1103(c). LIGHTING TO BE LESS THAN 150 WATT INCANDESCENT.
- 2.3 PLAN FOR CITY APPROVAL ONLY! CONSTRUCTION DOCUMENTS TO BE FURNISHED AT THE REQUEST OF
- 2.4 TRASH TO BE DEPOSITED IN CARTS TO BE KEPT IN TRASH AREA AS SHOWN ON PLAN.
- 2.5 BUILDING WILL BE EQUIPPED WITH A FIRE ALARM AND SPRINKLER SYSTEM.
- 2.6 SITE PLAN HAS BEEN DESIGNED TO COMPLY WITH THE MINIMUM PROVISIONS OF THE FINAL FAIR HOUSING ACCESSIBILITY GUIDELINES, 24 CFR, CHAPTER I, SUBCHAPTER A, APPENDIX II, OF THE FAIR HOUSING ACT OF 1968, AS AMENDED.

LANDSCAPING NOTES:

	— /	IND SOFTI	110	110 50.			
	<u>SYM.</u>	DESCRIPTION	<u>QTY.</u>	APPROVED TYPES	BOTANICAL NAMES	<u>SIZE</u>	<u>CON</u>
XS	Same of the same o	EXISTING TREES	REFER	R TO SITE PLAN			CON
	A STATE OF THE STA	EVERGREEN SHRUB	2	SARGENT JUNIPER	JUNIPERUS CHINENIS 'SARGENTII'	3 <i>G</i> AL.	CON
		DECIDUOUS SHRUBS	3	ANTHONY WATERER SPIREA	SPIRAEA X BUMALDA 'ANTHONY WATERER'	3 <i>G</i> AL.	CON'
	\bigcirc	DECIDUOUS SHRUBS	5	CRIMSON PYGMY BARBERRY	BERBERIS THUNBERGII 'CRIMSON PYGMY"	3 <i>G</i> AL.	
				ED WITH DROUGHT TOLERANT (CITY COMMISSION PRIOR TO II	SRASS. ANY INSTALLATION OF ARTIFICIAL NSTALLATION.		
					3 TREES & 14TH STREET - 117 L.F./40=3 TRI O STREET TREES ARE PROVIDED.	EEES. DUE	T <i>O</i>

PARKING INFORMATION:

- 4.1 1340 TENNESSEE PARKING REQUIRED: 8 SPACES (I SPACE PER I BEDROOM), 2 BIKE PARKING (I PER 4 AUTO) PARKING PROVIDED: 9 SPACES, 2 BIKE PARKING
 - (I VEHICLE SPACE IS DESIGNATED FOR EMPLOYEE PARKING AT 1344 TENN.)
- 4.2 1344 TENNESSEE PARKING REQUIRED: NO PARKING REQUIRED PER PREVIOUSLY APPROVED SUP
- 4.3 314 W. 14TH PARKING PROVIDED: EXISTING HOUSE WITH 2 SPACES IN DRIVEWAY 4.4 THE CONCRETE PARKING AREA @ 1340 TENNESEE WILL BE IN COMPLIANCE WITH SURFACING STANDARDS IN 20-913(e).
- MINIMUM 4" 4,000 PSI REINFORCED CONCRETE 4.5 NO PARKING REQUIRED PER PREVIOUSLY APPROVED SUP/SP FOR BULLWINKLES. 2 SPACES EXIST FOR THE RESIDENTIAL
- USE AT 1344 TENNESEE

IMPERVIOUS SURFACE SUMMARY:

EXISTING CONDITIONS:			PROPOSED CONDITIONS:		
	SQ. FT.	AC		SQ. FT.	AC
LAND AREA	11,700	100%	LAND AREA	11,700	100%
BUILDING FOOTPRINT:	3,395	29%	BUILDING FOOTPRINT:	4,034	34%
PAVEMENT AREAS:	1,971	17%	PAVEMENT AREAS:	4,441	38%
TOTAL IMPERVIOUS:	5,366	46%	TOTAL IMPERVIOUS:	8,475	72%
TOTAL PERVIOUS:	6,334	54%	TOTAL PERVIOUS:	3,225	28%

RELEASES

I.O SITE PLAN SUBMITTAL I.I SITE PLAN SUBMITTAL

123 W. 8th STREET SUITE B2 LAWRENCE, KS 66049

OFFICE: 785.832.0804 FAX: 785.832.0890

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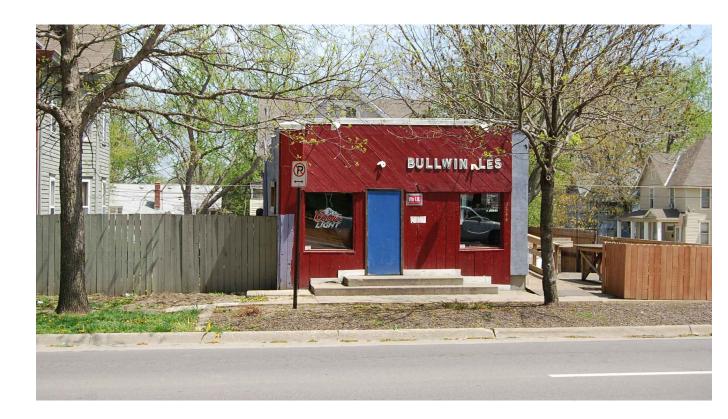
PROJECT # 216-710 DECEMBER 5, 2016

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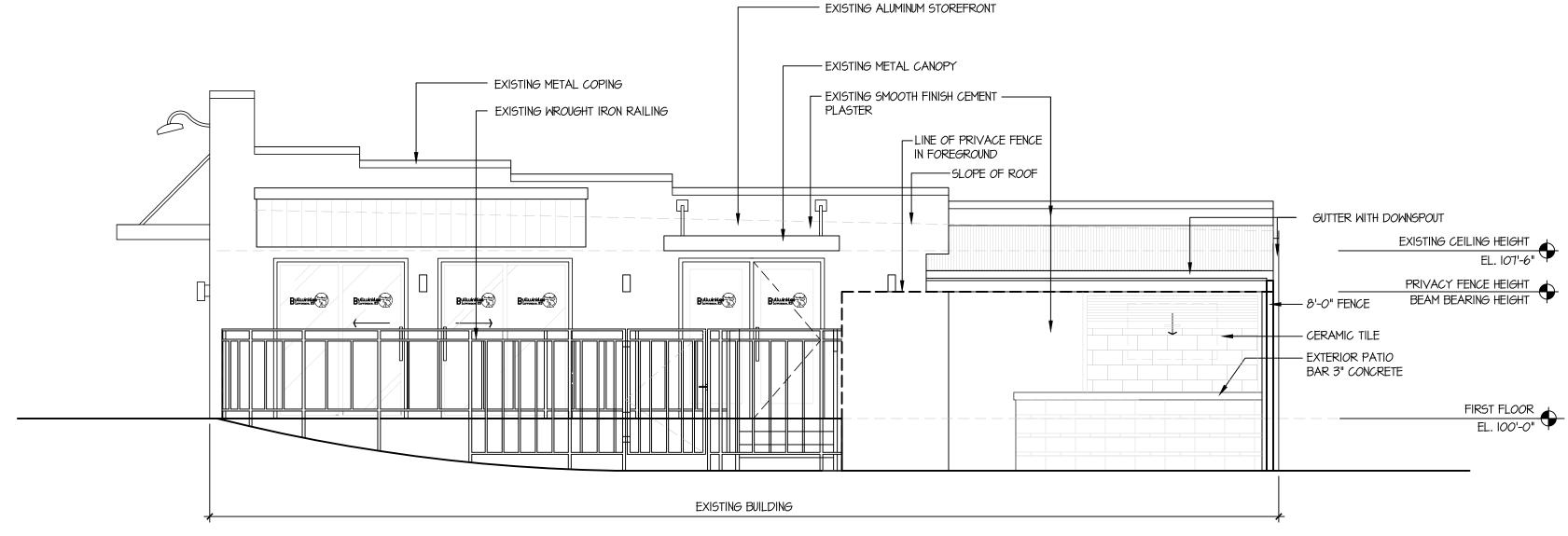


5 SOUTH ELEVATION BEFORE RENOVATION SCALE: 1/8" = 1'- 0"

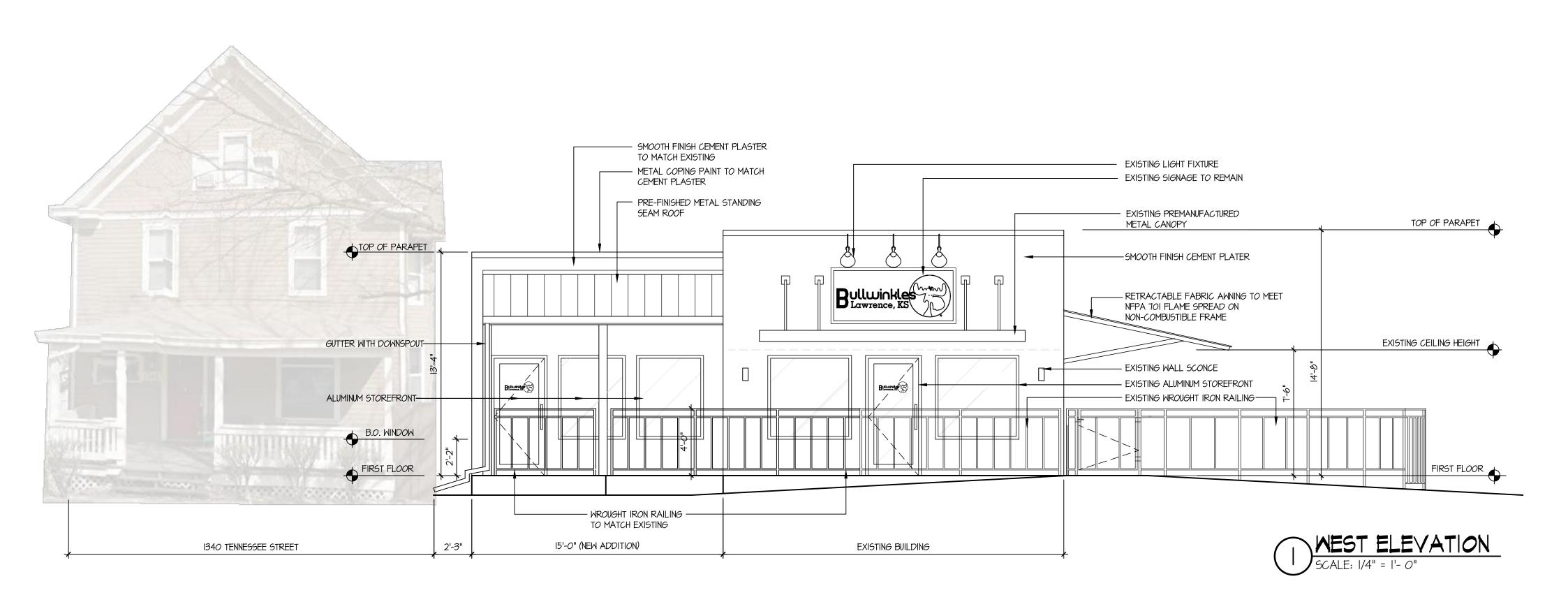


WEST ELEVATION BEFORE RENOVATION

SCALE: 1/8" = 1'- 0"



SCALE: 1/4" = 1'- 0"



paulwerner ARCHITECTS

123 W. 8th STREET SUITE B2 LAWRENCE, KS 66049 OFFICE: 785.832.0804 FAX: 785.832.0890

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40 TENNESSEE WINKLES ADDITIO

BUL

o

PROJECT # 216-710 DECEMBER 5, 2016

> DATE: 12.15.16

RELEASE: 1.0

A300

Pursuant to Chapter VIII of the Code of the City of Lawrence the

Maximum Occupant Load For

Bullwinkle's Bar (Interior 95)

1344 Tennessee Street Lawrence, KS 66044

	<u>Upper Patio</u>	<u>Lower Patio</u>		
Standing Room	71	103		
Barrel Tables	51	73		
Tables/Chairs	24	34		

Lawrence-I

Fire Marshall

03 · 28 · 2016 Date

Lawrence-Douglas County Fire Medical

1911 Stewart Ave.

Lawrence, KS 66046

(785) 830-7000 FAX: (785) 830-7090

Violations of the established occupant load are prohibited by law.



SUP-16-00547: Special Use Permit for Bullwinkle's Building Addition Located at 1340 Tennessee Street



PLANNING COMMISSION REPORT Regular Agenda — Public Hearing Item

PC Staff Report 02/22/17

<u>ITEM NO. 5:</u> VARIANCE; 1144 E 1200 RD (MKM)

CSU-17-00004: Consider a variance request per Section 20-804 of the Subdivision Regulations to allow a Certificate of Survey on property containing less than 20 acres, located at about 1144 E 1200 Rd. Submitted by Grob Engineering Services LLC on behalf of Brian E & Cheri L Ezell, property owners of record.

STAFF RECOMMENDATION:

Staff recommends approval of the variance request to allow a Certificate of Survey to occur on the subject property with less than the required 20 acres based on the findings of fact found in the body of the staff report and subject to the following condition:

- 1. The following note shall be added to the Certificate of Survey:
 - a. "The Planning Commission approved a variance from Section 11-104(b) of the Subdivision Regulations [Section 20-804(b) of the City Code] to allow land division through a Certificate of Survey to occur on a property with approximately 19.5 acres of area rather than the required 20 acres based on the fact that the reduction in land use occurred in, or prior to, 1920 and appears to have occurred in order to accommodate access to the property to the north."

Attachment: Applicant's request for variance

KEY POINTS

- Certificates of Survey are processed administratively but Planning Commission approval is required for variances from the Subdivision Design Standards.
- The Subdivision Regulations state that an applicant may request a variance from the Design Standards in the Regulations in accordance with the variance procedures outlined in Section 11-113(g) [20-813(g)/City Code]. This section lists the criteria that must be met in order for a variance to be approved. The requested variance is evaluated in this staff report for compliance with the approval criteria.
- The variance request was submitted prior to the submittal of the Certificate of Survey; however, a concept plan was provided to show the land division that is proposed.
- The subject property does not contain the required 20 acres. Deeds show that 16 ft of land along the north edge of the parcel, and the adjacent parcel to the east was not included with the subject property as early as 1920. A 1935 survey shows this configuration as well.

PUBLIC COMMENT

Two nearby property owners contacted the Planning Office in response to the notification letter. One was interested in the location and the other was concerned with additional residential development in the area. Staff outlined the public comment process to each caller.

Project Summary

The subject property takes access to, and has frontage on, E 1200 Road. It is located within the City of Lawrence Urban Growth Area south of the Wakarusa River and west of Highway 59. This area is primarily zoned A (Agricultural) and also contains A-1 (Suburban Home Residential) and V-C (Valley Channel) Districts. The area has been divided into large lot residential parcels and platted residential developments. Figure 1 shows the zoning and development pattern of the area.

The applicant is interested in dividing the land through the Cluster Development Certificate of Survey process per Section 11-104 of the Subdivision Regulations [Section 20-804, City Code]. Cluster Development land divisions require a minimum of 20 acres and that 40% of that area be set aside as Future Development Area. This area can be developed only after the property has been annexed into a city. The remainder can be divided into Residential Development Parcels with a minimum area of 3 acres outside the regulatory floodplain. The parcels must share a common access drive, unless an additional drive is necessary to protect environmentally sensitive lands or a second access point is deemed necessary for safety.

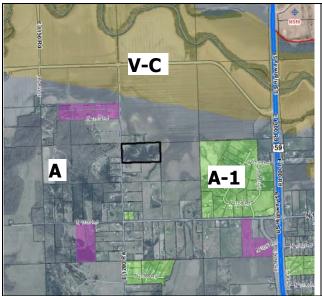


Figure 1. Zoning and development in the area. Subject property is outlined. Areas highlighted in pink have been divided through the Certificate of Survey process.

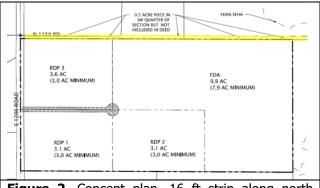


Figure 2. Concept plan. 16 ft strip along north boundary is highlighted.

The concept plan provided with this variance request shows 3 Residential Development Parcels with approximately 3 acres each with a common access point on E 1200 Road. (Figure 2)

The proposed development of 3 acre Residential Development Parcels is similar to other development in the area. The existing developed parcels in the immediate area range in size. The area of the nearby parcels (marked with dots on Figure 3) are listed below.

Area of nearby residential parcels (acres)							
To the North	2.9	2.1					
To the West	16.2	1.9	1.9	0.9	2.0	31.6	
To the South	4.9	15					
To the East							

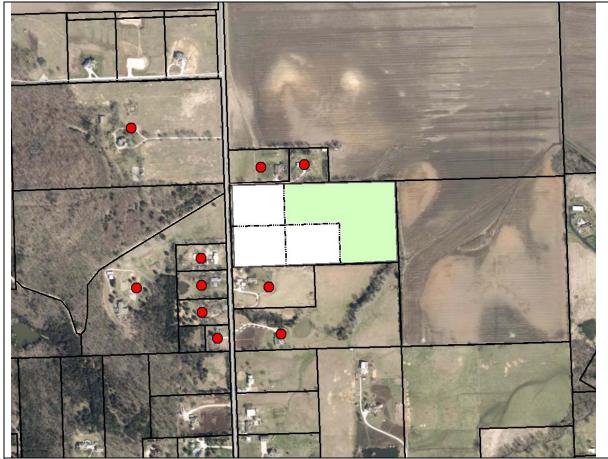


Figure 3. Development in area with proposed project. Proposed Residential Development Parcels shown in white and Future Development Area shown in green.

The proposed development would be similar to the development pattern in the area, with the added benefit of a common access point. (Figure 3)

VARIANCE REQUESTED: A variance has been requested to allow a land division through the Cluster Development Certificate of Survey process on property with less than the 20 acres of area required in Section 11-104(b) of the Subdivision Regulations [Section 20-804(b) of the City Code].

VARIANCE CRITERIA

Criteria 1. Strict application of these regulations will create an unnecessary hardship upon the Subdivider.

Applicant's response:

"My client recently purchased the property in good faith that it could be subdivided by the Cluster Development process so that he can establish buildable parcels for his three children. If this variance is denied, my client would either have to sell the property as is or attempt to acquire 0.3 to 0.5 acres from adjacent property in order to subdivide. The property qualifies for a building permit as a single residence, but is not financially feasible for his children." Strict application of these regulations would prohibit the further division of this property for residential development until the property has been annexed into the city. The parcel is a vested parcel, which means that it is eligible for a building permit for one use. The property could be developed with a residence, or with another use permitted in the A District, such as a church or school with site plan approval.

The hardship would be the limitation of development. This hardship may be considered unnecessary as the resultant development would be similar to the established development pattern in the area.

Staff Finding:

The strict application of these regulations would prevent the development of the subject property with 3 residential parcels. This may be seen as an unnecessary hardship as the development would be very similar to other residential properties in the area.

Criteria 2. The proposed variance is in harmony with the intended purpose of these regulations.

Applicant's response:

"The proposed variance is in harmony with the intended purpose of these regulations in that the proposed residential development parcels and future development areas will be in compliance with the applicable regulations."

The purpose of the Cluster Development Regulations as noted in Section 11-104(a) of the Subdivision Regulations [Section 20-804(a) City Code] is to allow an administrative approval procedure for divisions of land to accommodate rural residential development within the Urban Growth Area of cities in Douglas County. The Subdivision Regulations note that the parcels being created should be designed to allow for future divisions (following annexation) through a 'Build Out Plan'. These regulations are intended to result in Residential Development Parcels that retain their rural character for the immediate future, but will also allow for more efficient transition to urban density development upon annexation. The Regulations also note that the clustering of development parcels on parcels that contain at least 20 acres is intended to mitigate the strain on infrastructure and public services.



Figure 4. 1936 aerial showing the development on the property to the north and access to E 1200 Road.

The reduction of a property's area to accommodate access to a neighboring property, either by private agreement or through legal action, may be seen as good cause for the reduced area. The exact date the land division occurred is not clear in this case. The 16 ft along the northern border of the parcel was shown on a deed dated Jan. 20, 1920 and was shown on a survey in 1935. The historical aerials show a house and drive on the property to the north as early as 1936; no earlier aerial photos are available. (Figure 4) While staff has not found records stating that the 16 ft piece was removed to accommodate the drive shown in the historical photos, which later became a private road, N 1150 Road; it appears probable given the development on the property to the north and the location of the access drive.

The variance, if approved, will allow the proposed land division to occur on a parcel with less than the required 20 acres (approximately 19.5 acres). In this case, the reduced area may have been necessary to provide access to a landlocked parcel to the north. The proposed land division would be compatible with the development pattern in the area. As this area is within the Urban Growth Area, 40% of the property would need to be designated as Future Development Area. The concept plan in Figure 1 shows the proposed location of the Future Development Area. The proposed design and layout of the Certificate of Survey would meet the purpose of the Subdivision Regulations.

However, allowing land divisions on properties with less than 20 acres could set a precedent and open land divisions on additional properties in the unincorporated portion of the County. A minimum area was required for a land division in an effort to limit land divisions and development in the County. In this case, unique circumstances which are assumed to have led to the reduction in land area and the variance would set a precedent only to similar parcels which were slightly less than 20 acres due to a land division necessary to accommodate access on another parcel.

Staff Finding:

In staff's opinion, the variance is in harmony with the intent of the regulations in that it would allow clustering of residential development parcels in the Urban Growth Area.

Criteria 3: The public health, safety, and welfare will be protected.

Applicant's response:

"The public health, safety, and welfare will be protected as no other subdivision or code regulations are being relinquished. The proposed property takes access from a major collector road with adequate site distances being provided. The parcels will be in compliance with health department criteria.

Certificates of Survey in the Urban Growth Area require the Residential Development Parcels to use one shared drive. There would be no change in access with the Certificate of Survey if the variance is approved. One access point would be provided on E 1200 Road if the property were developed as it is, and as proposed with the Certificate of Survey. The proposed land division is very similar to, and would be compatible with, the development pattern in the area.

Staff Finding:

Granting of the variance will permit administrative approval of a Certificate of Survey that will result in the creation of 3 Residential Development Parcels using one shared access point on E 1200 Road. The 2 additional residences on the shared drive should not negatively impact the public health, safety, and welfare.

Conclusion:

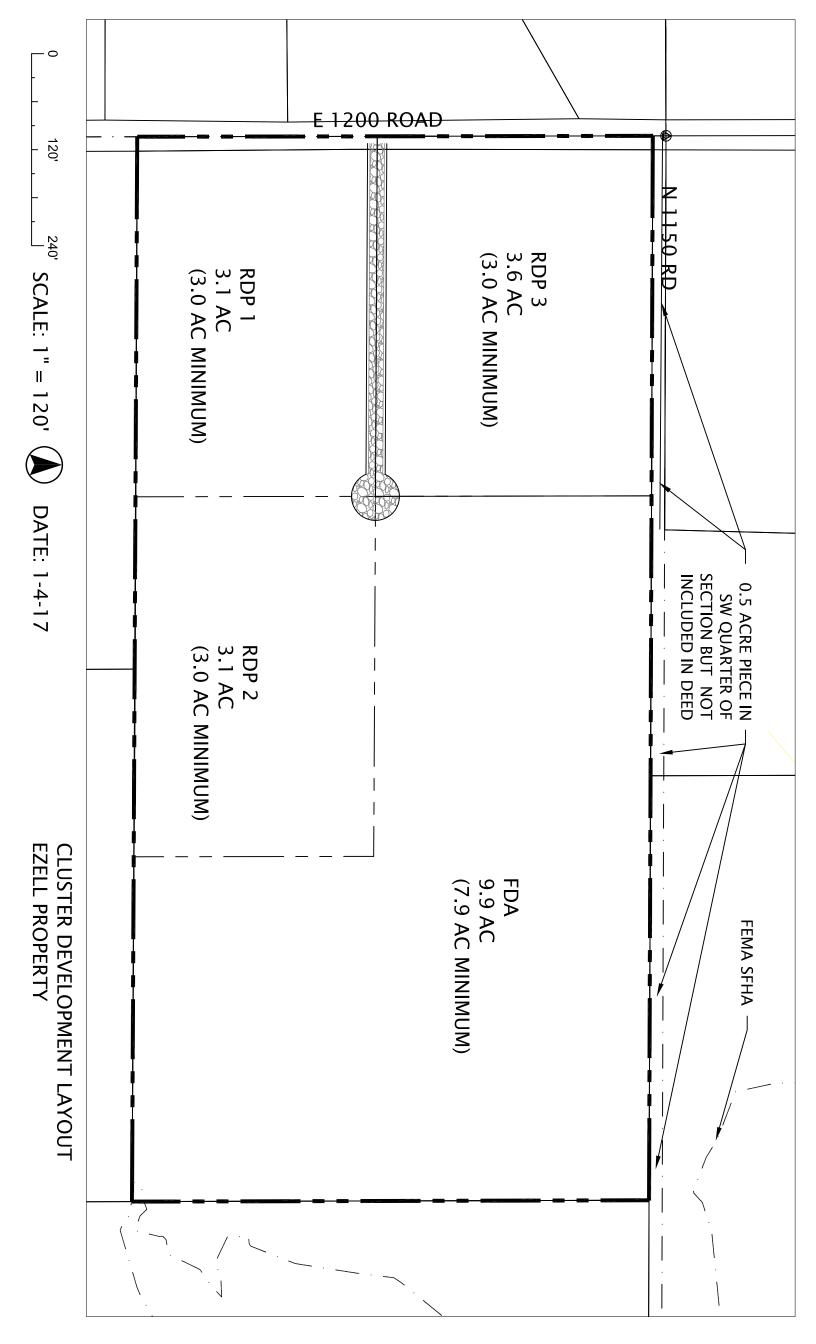
The requested variance meets the criteria provided in the Subdivision Regulations for approval of a variance.

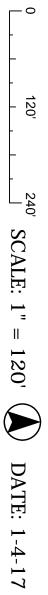
One concern with granting variances is the establishment of a precedent which would allow development of any parcel that has less than 20 acres in area. As the reduction in land area appears to have occurred to accommodate access on the adjacent property, the variance would establish a very narrow precedent which would only apply to other properties which were reduced in area, prior to the 2006 adoption of the Subdivision Regulations, to accommodate access on an adjacent property.

STAFF RECOMMENDATION:

Approve the variance requested from Section 11-104(b) of the Subdivision Regulations [Section 20-804(b) of the City Code] to allow a land division through Certificate of Survey on a parcel with less than the required 20 acres, subject to the following condition:

- 2. The following note shall be added to the Certificate of Survey:
 - b. "The Planning Commission approved a variance from Section 11-104(b) of the Subdivision Regulations [Section 20-804(b) of the City Code] to allow land division through a Certificate of Survey to occur on a property with approximately 19.5 acres of area rather than the required 20 acres based on the fact that the reduction in land use occurred in, or prior to, 1920 and appears to have occurred in order to accommodate access to the property to the north."





CLUSTER DEVELOPMENT LAYOUT EZELL PROPERTY